

# SPQR

## On Duties, Book III

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MARCUS TULLIUS CICERO

*Plain English Translation*

MOUSEIA

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*Plain English Translation*

Translated by Michael Berardi

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## **THIS EDITION**

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## **TRANSLATOR**

Michael Berardi

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## **GAPS AND UNCERTAINTIES**

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# Book III



- <sup>1</sup> Marcus, my son, Cato tells us something Publius Scipio used to say. This was the first Scipio called Africanus, and Cato was about his age. Scipio said he was never less idle than when he had nothing to do. And he was never less alone than when he was by himself. That's a splendid saying, worthy of someone as great and wise as he was. It shows how he thought about business in his free time and talked to himself when alone. That way he never stopped working, and sometimes didn't need anyone else to talk to. Free time and being alone make other people sluggish. They sharpened his mind. I wish I could honestly say the same about myself. I may not be able to match his remarkable mind by following his example. Still, my wish to do so certainly brings me very close. Armed force in a wicked cause has kept me out of politics and the courts. So I'm seeking a life away from work. That's also why I've left Rome and travel around the countryside, often alone.
- <sup>2</sup> But my free time isn't anything like Africanus's, nor is my time alone. He sometimes took a break from serving his country in its finest offices. Sometimes he left the crowded gatherings of people and went off alone, as if entering a harbor. My free time, though, comes from having no work, not from wanting a rest. The senate has been wiped out, and the courts have been destroyed. What can I do in the senate house or the Forum that would be worthy of me?

- <sup>3</sup> I once lived among huge crowds, in the full view of my fellow citizens. Now I hide as much as I can and am often alone. I'm trying to stay out of sight of the criminals who are everywhere. But learned people have taught us something. We shouldn't just choose the least of our troubles. We should also pick out whatever good those troubles may contain. That's why I'm making use of my free time. It isn't, of course, the sort of rest someone deserves who once won peace for his country. And I won't let my time alone go to waste. It's been forced on me; I didn't choose it.
- <sup>4</sup> Even so, I think Africanus deserves more credit. No written record of his thinking survives. There's no work he produced in his free time, nothing he made while alone. That tells us something about his active mind. He kept exploring the things his thoughts led him to, and so was never idle or alone. I don't have enough mental strength to keep myself company just by thinking quietly. Instead, I've put all my effort and attention into this writing. Since the republic's collapse, I've written more in a short time than during many years when it stood.
- <sup>5</sup> My dear Cicero, philosophy as a whole is fertile and bears fruit. No part of it lies neglected or abandoned. But no ground in it produces a richer or fuller crop than the study of duties. That's where we get our rules for living steadily and doing what's right. I'm sure you keep hearing and learning these things from our friend Cratippus. He's the leading philosopher of our time. Still, I think it helps to have words like these sounding in your ears from every side. If possible, you shouldn't hear anything else.
- <sup>6</sup> Everyone planning to live decently should do this. But perhaps no one has more reason to do it than you. People have considerable expectations that you'll work as hard as I have. Their expectations for your public career are high, and perhaps they also expect you to live up to my name. You've also taken on a heavy responsibility toward both Athens and Cratippus. You've gone there as if on a trading trip to bring back worthwhile learning. Coming home empty-handed would be deeply shameful. It would discredit both that city's standing

and your teacher's. So make every effort you can, in both determination and hard work. That is, if learning is work rather than pleasure. I've given you everything you need. Don't let it look as though you've let yourself down. But that's enough of that. I've often written you plenty to encourage you. Now let's return to the remaining part of the plan we set out.

- 7 Panaetius studied duties with exceptional care; nobody disputes that. He's been my main guide, though I've made some corrections. He divided our usual thinking about duty into three questions. We may be unsure whether a proposed action is decent or shameful. Or we may ask whether it will do us good or harm. Then there's a third question: what if an apparently decent action clashes with something that looks useful? How do we tell which to choose? His three books explained the first two questions. He said in writing that he'd take up the third afterward. That was a promise he never fulfilled.
- 8 I find that all the more surprising because of something his pupil Posidonius wrote. Panaetius lived for thirty years after publishing those books. I'm also surprised that Posidonius only touched briefly on this subject in some notes. After all, he writes that no subject in all philosophy is more essential.
- 9 Some people say Panaetius didn't overlook this subject. He deliberately left it out, they say, and shouldn't have written about it at all. Their reason is that what's useful can never clash with what's right. I don't agree with them at all. One question is open to debate. Should this third kind of question in Panaetius's plan have been included or left out altogether? But there's no doubt about the other point. Panaetius undertook to discuss it, then left it unfinished. If someone finishes two parts of a three-part plan, the third must still remain. Besides, at the very end of his third book, he promises to discuss this part next.
- 10 There's also strong evidence from Posidonius. In one of his letters he reports a saying of Publius Rutilius Rufus, who'd studied with Panaetius. No painter could be found to finish the part of the Venus of Cos that Apelles had left

incomplete. The face was so beautiful that nobody hoped to match it in the rest of the body. In the same way, nobody followed up what Panaetius had left out [and hadn't finished]. What he'd completed was simply too good.

- 11 There's therefore no uncertainty about Panaetius's intention. What we might debate is whether adding this third question was the right way to investigate duty. Consider the two views. For the Stoics, moral rightness alone counts as good. For your Peripatetics, it counts for so much that everything else on the opposite side barely weighs anything. Whichever view we take, usefulness can't compete with doing right. We've heard that Socrates cursed the first people to split apart in their thinking what nature holds together. The Stoics agreed completely with him. They judged every right action useful, and refused to call anything useful if it was wrong.
- 12 Suppose Panaetius had said that we should practice virtue because it produces benefits. That's the position of people who judge what we should seek by pleasure or freedom from pain. Then he could have said that what's useful sometimes clashes with what's right. But that isn't his view. He thinks that only what's right is good. Other things may seem useful and so pull us in the opposite direction. Yet gaining them doesn't make life better, and losing them doesn't make it worse. Given that, he apparently shouldn't have introduced this sort of choice. It sets what seems useful against what's right.
- 13 The Stoics call "living in agreement with nature" the greatest good. As I understand it, they mean this: always act in line with virtue. Choose other things that fit our nature only if they don't conflict with virtue. Since that's so, some people think this comparison shouldn't have been introduced. They think there shouldn't have been any guidance about this kind of question at all. Now, only wise people have what's right in the strict, true sense. It can never be separated from virtue. People whose wisdom isn't complete can't have that fully developed moral goodness at all. What they can have are things resembling it.

- <sup>14</sup> The Stoics put the duties we're discussing in these books in an "intermediate" class. They're shared by everyone and apply widely. Many people fulfill them through their natural goodness and through progress in learning. But there's another kind of duty, which the Stoics also call a "right action." It's perfect and complete. As they put it, it has every part in place. No one but a wise person can perform it.
- <sup>15</sup> When someone does something that shows these intermediate duties, people think it's completely perfect. That's because most people don't really understand what's missing from perfection. As far as they can tell, nothing has been left out. The same thing happens with poems, paintings, and plenty of other things. People who don't know the subject enjoy and praise things that don't deserve praise. I think that's because these things contain something worthwhile that appeals to an untrained audience. But those same people can't judge what's wrong with each work. Once experts explain it to them, they readily change their minds. So the duties we're discussing in these books are said to be a second level of moral goodness. They aren't restricted to the wise. They're shared by the whole human race.
- <sup>16</sup> That's why these duties stir everyone who has the beginnings of virtue. We talk about the bravery of the two Decii or the two Scipios. We speak of Fabricius or Aristides as just. But we don't take the former as models of courage, or the latter as models of justice, as if they were wise. None of them was wise in the sense we're giving that word. Neither were Marcus Cato and Gaius Laelius, who were thought wise and called wise. Not even the seven sages were. Still, they regularly carried out these intermediate duties. That gave them something of the likeness and appearance of wise people.
- <sup>17</sup> So we mustn't weigh what's truly right against some advantage that conflicts with it. Nor should we ever weigh what we usually call right against personal gain. That's the sort of right conduct practiced by people who want to be thought decent. We have to protect and preserve this rightness that we can understand. Wise people have the same responsibility toward what's strictly

and truly right. Otherwise, we can't hold on to whatever progress we've made toward virtue. But so far I've been talking about people thought decent because they keep to their duties.

- 18 Some people judge everything by their gains and personal convenience. They won't accept that doing right should carry more weight. When making decisions, these are the people who set rightness against supposed usefulness. Decent people don't think that way. So I take Panaetius's words quite literally. He said people often hesitate over this comparison. He didn't say they ought to. It's thoroughly shameful to rank apparent usefulness above doing right. Even treating them as competing choices, even hesitating between them, is shameful. What is it, then, that sometimes leaves us uncertain and calls for thought? When uncertainty arises, I believe we're unsure what kind of action we're actually considering.
- 19 Circumstances often show that something isn't wrong, although people usually think it is. Let's take an example with wider implications. What crime could be worse than killing someone—not just anyone, but a close friend? Then has someone committed a crime by killing a tyrant, even a tyrant who's a close friend? The Roman people don't think so. Of all outstanding deeds, they consider that the finest. Has usefulness won out over doing right, then? No. What was right followed from what helped. So we need to lay down a rule. Sometimes what we call useful will seem to conflict with what we understand as right. This rule will let us judge without making a mistake. If we follow it when weighing actions, we'll never stray from our duty.
- 20 This rule will fit most closely with the Stoics' thinking and teaching. In these books I'm following that teaching for this reason. The older Academics and your Peripatetics put what's right ahead of what seems useful too. The Peripatetics, in fact, once belonged to the same school as the Academics. But some thinkers hold that anything right is useful, and nothing useful can be wrong. They'll make this case more brilliantly than people who allow some-

thing right to be useless, or something useful to be wrong. My own Academic school gives me plenty of freedom. I'm entitled to defend whichever view strikes me as most convincing. But let's get back to the rule.

- 21 Taking something from someone else goes against nature. So does improving your own lot at their expense. Both go against it more than death, poverty, pain, or any other harm to your body or circumstances. For a start, it destroys our shared life and human society. Suppose our attitude is that everyone may rob or hurt someone else for personal gain. Human society is bound to fall apart. Yet that society is what best fits our nature.
- 22 Imagine each body part thinking it could be healthy by taking a neighboring part's health for itself. The whole body would inevitably weaken and die. It's the same if each of us grabs other people's advantages for ourselves. If we take whatever we can from anyone for our own gain, human society and shared life must collapse. We're allowed to prefer getting life's necessities for ourselves rather than for someone else. That doesn't conflict with nature. But nature won't let us increase our means, supplies, and wealth by robbing others.
- 23 Nature lays down this rule—that is, the law common to all peoples does. So do the laws that hold each people's state together. We aren't allowed to harm someone else for our own advantage. The laws aim at this; this is what they want: to keep the bond between citizens intact. They punish people who break it with death, exile, imprisonment, or fines. Nature's own rule enforces this much more strongly. It's the law for gods and humans. Anyone willing to obey it will never seek what's someone else's or keep for themselves what they've taken from another person. Everyone who wants to live according to nature will obey it.
- 24 A great spirit that aims high fits our nature far better than pleasure, life, or wealth. So do kindness, justice, and generosity. When the common good is at stake, it takes a great spirit with high aims to look down on those other things

and count them as nothing. [Taking something from someone else for your own benefit goes against nature more than death, pain, and other things of that kind.]

- <sup>25</sup> Taking on the hardest work and trouble to protect or help every nation, if possible, better fits our nature. It means following Hercules's example. People remembered his good deeds and placed him in the council of the heavenly gods. That's more natural than living alone, free of every trouble and enjoying the greatest pleasures. Even if you had every resource in abundance, and outstanding beauty and strength too. So people with the finest and most outstanding natural gifts far prefer the first life to the second. It follows that someone who obeys nature can't harm another person.
- <sup>26</sup> Someone who hurts another person for personal gain must believe one of two things. Either they're doing nothing against nature, or other things are more important to avoid than wronging anyone. Those things include death, poverty, pain, and even losing children, relatives, and friends. Suppose they think hurting people doesn't go against nature at all. What's there to discuss with someone who takes the humanity out of being human? Or suppose they think hurting others should be avoided, but death, poverty, and pain are much worse. Their mistake is thinking any harm to the body or to their circumstances outweighs faults in character. So everyone must have one goal: each person's benefit and everyone's benefit must be the same. If we each grab it for ourselves, all human fellowship will fall apart.
- <sup>27</sup> Nature also tells us to care for another person's welfare simply because they're human, whoever they are. Then that same nature must require everyone's interests to be shared. If that's so, we're all bound by one and the same law of nature. And if that's so, nature's law certainly forbids us to harm another person. The starting point is true. So the conclusion is true too.
- <sup>28</sup> Some people say they wouldn't take anything from a parent or brother for their own benefit. But other citizens are a different matter, they say. That's absurd. They're saying that no bond of law or shared interest links them to their fellow

citizens. That view tears apart the whole community of a state. Other people say we must care about fellow citizens, but not foreigners. They break up the shared society of the human race. Once it's gone, helpfulness, generosity, kindness, and justice are destroyed at their roots. People who destroy these things must also be judged guilty of wrongdoing against the immortal gods. They're tearing down the society those gods established among human beings. The tightest bond in that society is this belief: taking from someone else for your own gain goes against nature more than enduring every kind of hardship. That includes hardships in your circumstances, your body, or even your mind itself. For justice alone is the ruler and queen of all the virtues.

- <sup>29</sup> Someone might object: "Surely a wise person facing death from hunger would take food from a completely useless person?" No, not at all. Keeping myself alive isn't worth more to me than keeping this attitude: I won't hurt anyone for my own gain. "Then suppose a decent person could avoid freezing to death by taking the clothes off Phalaris, that vicious, monstrous tyrant. Surely he should do that?"
- <sup>30</sup> These cases are very easy to judge. Suppose you take something for your own benefit from a person who's no use in any way. You've acted inhumanely and broken nature's law. But suppose staying alive would let you do a great deal for the republic and human society. If you took something from another person for that reason, you wouldn't deserve blame. When that isn't the case, everyone must bear their own hardships rather than take away someone else's advantages. So illness, poverty, and similar troubles don't go against nature more than taking from others or seeking what's theirs. But abandoning the common interest does go against nature. It's unjust.
- <sup>31</sup> So nature's law, which protects and supports human welfare, will certainly rule as follows. Life's necessities may be transferred from an idle, useless person to someone wise, good, and brave. That person's death would mean a great loss to

everyone's welfare. But he mustn't let his high opinion of himself or self-love make this an excuse for wrongdoing. In this way, he'll always do his duty, looking after people's welfare and the human community I so often mention.

- 32 As for Phalaris, the judgment is very easy. We have no bond with tyrants. Instead, we're completely cut off from them. If it's right to kill someone, taking his possessions when you can isn't against nature. This whole destructive, godless breed must be wiped out of human society. Sometimes we cut off limbs when they've lost their blood and, so to speak, their life, and harm the body's other parts. In the same way, this savage, monstrous beast in human shape must be separated from humanity's shared body. All questions about how circumstances affect our duty belong to this kind of inquiry.
- 33 I believe Panaetius would have pursued questions like these if some accident or other demands hadn't upset his plan. The earlier books offer plenty of guidance for considering these very questions. They help us see what we must avoid because it's wrong, and what we needn't avoid because there's nothing wrong with it. But now we're putting something like a roof on a work already started and nearly finished. Mathematicians don't usually prove everything. They ask us to accept certain things so they can explain their points more easily. In the same way, my dear Cicero, I ask you to grant me this, if you can: nothing except what's right should be wanted for its own sake. If Cratippus won't let you accept that, you'll surely grant me this instead: what's right should be wanted for its own sake more than anything else. Either view is enough for me. Sometimes one seems more convincing to me, sometimes the other. No other view seems convincing at all.
- 34 First, we must defend Panaetius on one point. He didn't say that what benefits us can sometimes conflict with what's right. His principles wouldn't allow that. He spoke instead of things that seem beneficial. He often states that nothing is beneficial unless it's also right, and nothing is right unless it's also beneficial. He says no greater disaster has entered human life than the belief that separates these things. So he introduced an apparent conflict, not an actual one. He

didn't mean that we should sometimes put advantage ahead of doing right. He meant to help us judge such situations correctly whenever they arose. We'll therefore finish this part he left unfinished without outside help, fighting under our own Mars, as the saying goes. Of the discussions of this subject since Panaetius that have reached me, none has satisfied me.

- <sup>35</sup> When something apparently beneficial presents itself, it naturally attracts us. But suppose you examine it closely and see something wrong attached to that apparent benefit. Then you're not giving up a benefit. You're recognizing that where there's wrongdoing, there can be no benefit. Nothing is more against nature than wrongdoing. Nature calls for things that are right, harmonious, and consistent, and rejects their opposites. And nothing agrees with nature more than what benefits us. So benefit and wrongdoing certainly can't exist in the same thing. Also, suppose we're born to do what's right. Perhaps that alone is worth seeking, as Zeno thought. Or perhaps it must outweigh absolutely everything else, as Aristotle believed. Either way, what's right must be either the only good or the highest good. And whatever is good is certainly beneficial. So everything that's right is beneficial.
- <sup>36</sup> The faulty thinking of dishonest people therefore seizes on something that seems beneficial and immediately separates it from what's right. This gives rise to daggers, poisons, and forged wills; to theft, embezzlement, plunder, and the pillaging of allies and fellow citizens. It produces desires for excessive wealth, unbearable power, and even kingship in free states. Nothing more disgusting or shameful than these desires can be imagined. Their mistaken judgments show them the gains to be made. But they don't see the punishment—not the legal penalties, which they often break through, but the punishment of wrongdoing itself. That's the harshest punishment of all.
- <sup>37</sup> So let's remove this whole class of people from our discussion. Their thinking is thoroughly criminal and godless. They ask whether to follow what they recognize as right or knowingly stain themselves with a crime. The crime is already

there in their hesitation, even if they never carry it out. We shouldn't even consider questions when considering them is itself wrong.

38 We must also remove from every decision any hope or expectation of hiding what we do. If we've made any progress in philosophy, we should be thoroughly convinced of this: even if we could hide everything from all gods and humans, we still mustn't act greedily, unjustly, lustfully, or without self-control. That's why Plato introduces Gyges. After heavy rains split open the ground, Gyges climbed down into the opening. There, as the story goes, he noticed a bronze horse with doors in its sides. Opening them, he saw a dead man's body of extraordinary size, with a gold ring on its finger. He pulled off the ring and put it on himself. He was a royal shepherd, and he then returned to a gathering of the shepherds. There, whenever he turned the ring's setting toward his palm, nobody could see him, though 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. With her help, he killed the king, his master, and removed those he thought stood in his way. Nobody could see him committing these crimes. Thanks to the ring, he suddenly became king of Lydia. Now, if a wise person had that very ring, he wouldn't think himself any more entitled to do wrong than without it. Good people look for ways to do right, not ways to hide.

39 At this point, some philosophers, decent enough but not very sharp, say Plato has presented an invented, made-up story. As though he were claiming it really happened, or even could have happened! Here's the point of the ring and the example. Suppose you did something for wealth, power, control over others, or sexual pleasure. Nobody would know or even suspect it. It would remain forever unknown to gods and humans. Would you do it? They say that can't happen. Actually, it can. But I'm asking what they would do if the thing they say is impossible were possible. They keep hammering away rather clumsily. They insist it's impossible and stick to that, missing the point of the question. When we ask what they'd do if they could hide their actions, we're not asking whether they could hide them. Instead, we're putting them through a kind of torture. If

they answer that, with punishment ruled out, they'd do whatever helped them, they admit they're criminals. If they say they wouldn't, they admit that everything wrong must be avoided for its own sake. But let's return to our subject.

- 40 Many situations arise that confuse us by offering an apparent benefit. The question isn't whether to abandon what's right because the benefit is so great. That would be dishonest. Instead, it's whether we can do what seems beneficial without doing wrong. When Brutus stripped his colleague Collatinus of his authority, his action could have seemed unjust. Collatinus had shared Brutus's plans and helped him drive out the kings. But the leading men had decided to eliminate the family connection to Tarquin the Proud, the Tarquin name, and the memory of kingship. Protecting the country was beneficial, and it was so clearly right that even Collatinus himself should have approved. So the benefit prevailed because the action was right. Without that, it couldn't even have been beneficial.
- 41 Things were different with the king who founded Rome. The appearance of an advantage swayed him. He thought ruling alone would benefit him more than sharing power, so he killed his brother. He abandoned both family duty and basic humanity to get something that seemed beneficial but wasn't. Yet he offered the wall as his excuse. This gave his action an appearance of being right, but wasn't convincing or adequate. So he did wrong, if I may say so with all respect to Quirinus—or Romulus.
- 42 Still, we don't have to give up our own advantages and hand them to others when we need them ourselves. Everyone should look after their own interests, provided they don't harm anyone else. Chrysippus put this well, as he did many things: "Someone running a race should make every possible effort to win. But they must never trip a competitor or push them aside. In the same way, there's nothing unfair about seeking what you need in life. But you have no right to snatch it from someone else."

- <sup>43</sup> Friendship makes questions of duty especially confusing. It's wrong both to withhold what you could rightly give a friend and to give something unfair. But there's a short, simple rule covering this whole subject. Things that seem beneficial—public office, wealth, pleasures, and everything of that kind—must never come before friendship. Yet a decent person won't act against their country, their oath, or their word for a friend's sake. That holds even when they're judging their own friend's case. When they take on the judge's role, they set aside the friend's role. They can favor the friendship this much: they can hope their friend's case is sound. They can also allow their friend time to argue the case, as far as the law permits.
- <sup>44</sup> But when a judge must give a decision under oath, they should remember they're calling on a god as witness. By this I mean, as I see it, their own mind. God himself has given us nothing more godlike than that. Our ancestors therefore passed down an excellent custom, if only we followed it. When asking a judge for help, we ask only for what they can do without breaking their word. This request covers the things I just mentioned that a judge can rightly grant a friend. If we had to do everything our friends wanted, these relationships wouldn't be friendships. They would be conspiracies.
- <sup>45</sup> I'm talking about ordinary friendships. Nothing like this can arise between people who are wise and completely good. The Pythagoreans Damon and Phintias reportedly felt such loyalty to each other. The tyrant Dionysius had fixed a day for one of them to be executed. The condemned man asked for a few days to arrange care for his family. His friend guaranteed his return, agreeing to die himself if the other didn't come back. When the condemned man returned on the appointed day, the tyrant admired their loyalty. He asked them to accept him as a third member of their friendship.
- <sup>46</sup> So when an apparent advantage in friendship is weighed against what's right, dismiss the apparent advantage. Let what's right prevail. When friends ask for things that aren't right, duty to the gods and keeping your word must come first. This will give us the way of choosing our duty that we're looking for. But

apparent advantage very often leads to wrongdoing in public affairs. Our own people did wrong in destroying Corinth. The Athenians acted even more harshly. They voted to cut off the thumbs of the people of Aegina, whose naval strength was great. This seemed beneficial, since Aegina was so close to Piraeus that it posed a serious threat. But nothing cruel is beneficial. Nothing is more hostile to our human nature than cruelty. And we ought to follow that nature.

<sup>47</sup> Those who bar foreigners from cities and expel them also act wrongly. Pennus did this in our fathers' time, and Papius did it recently. It's right to forbid someone who isn't a citizen from passing as one. The very wise consuls Crassus and Scaevola introduced a law to that effect. But preventing foreigners from using the city is plainly inhumane. Actions that reject an apparent public advantage for the sake of what's right deserve admiration. Our country's history is full of examples, especially during the Second Punic War. After the disaster at Cannae, it showed greater courage than ever before in good times. There was no sign of fear and no mention of peace. What's right has such power that it overshadows apparent advantage.

<sup>48</sup> Athens had no way to hold back the Persian assault. Its people decided to leave the city, put their wives and children in safety at Troezen, and take to their ships. They'd use the fleet to protect Greek freedom. Cyrus urged them instead to stay in Athens and let Xerxes in. They killed him with stones. His advice looked useful. But because it conflicted with doing right, it offered no real use at all.

<sup>49</sup> After victory in the war against Persia, Themistocles addressed the public assembly. He said he had a plan that would keep the country safe, but it needed to remain secret. He asked the people to appoint someone he could share it with. They chose Aristides. Themistocles told him that the Spartan fleet, hauled ashore at Gythium, could be burned secretly. Doing this would inevitably break Spartan power. After hearing him, Aristides returned to the assembly, where everyone eagerly awaited his report. He said Themistocles' plan would be extremely beneficial, but was completely wrong. The Athenians

decided that because it was wrong, it couldn't benefit them either. On Aristides' advice, they rejected the whole proposal without even hearing what it was. They acted better than we do: we exempt pirates from taxes while making our allies pay. So let this principle stand: what's wrong can never be beneficial. This holds even when you get what you believe is an advantage. Merely thinking that something wrong is beneficial is itself disastrous.

- 50 But, as I said earlier, situations often arise where an advantage seems to conflict with what's right. We must examine whether it really conflicts or whether the two can fit together. Here is one question of that kind. Suppose a decent man brings a large shipment of grain from Alexandria to Rhodes. The people of Rhodes face shortages and famine, and grain prices are extremely high. Suppose he also knows that several merchants have sailed from Alexandria. He has seen their ships loaded with grain heading for Rhodes. Will he tell the people of Rhodes, or keep quiet and sell his grain for the highest possible price? We're imagining a wise, decent man. We're asking how he would think this through and reach a decision. He wouldn't hide the facts from the people of Rhodes if he thought doing so was wrong. But he isn't sure whether it might be acceptable.
- 51 In cases like this, Diogenes of Babylon and his student Antipater usually disagree. Diogenes was a leading, respected Stoic, and Antipater was an extremely sharp thinker. Antipater thinks everything must be disclosed. The buyer shouldn't be left unaware of anything the seller knows. Diogenes thinks the seller must disclose defects as far as civil law requires. Otherwise, he must avoid trickery, but he's entitled to seek the best price for his goods. "I've brought my grain here, put it out, and offered it for sale. I'm asking no more than the others, perhaps even less, since there's a larger supply. Who's being wronged?"
- 52 Antipater argues the other side: "What are you saying? You ought to look after other people and serve the human community. That's the rule you were born under. Nature gives you principles you're bound to obey and follow. Your benefit should be everyone's benefit, and everyone's benefit should, in turn, be

yours. Will you hide from people the supplies and relief coming their way?" Diogenes might answer like this: "Hiding something is different from keeping quiet. I'm not hiding anything from you now by not explaining what the gods are like or what's best in life. Knowing those things would help you more than cheap wheat. But I don't have to tell you everything it would help you to hear."

- 53 "Yes, you do," the other will say, "if you remember that nature has joined people together in a community." "I remember," Diogenes will reply. "But does that community mean nobody owns anything individually? If so, we shouldn't sell anything at all. We should give it away."

Notice what's being argued throughout this debate. Nobody says, "Although this is wrong, I'll do it anyway because it benefits me." One side says the action brings a benefit without being wrong. The other says it mustn't be done precisely because it's wrong.

- 54 Suppose a decent person is selling a house with defects he knows about but nobody else does. It's unhealthy, though people think it's healthy. Snakes appear in every bedroom, but people don't know that. It's built with poor timber and is close to collapse, but only the owner knows. Suppose the seller doesn't tell prospective buyers these things. He sells the house for far more than he expected. Has he acted unfairly or dishonestly? "Of course he has," says Antipater. "Athens publicly curses anyone who fails to show a lost traveler the way. What else is this, if not that? He lets a buyer rush ahead blindly and suffer a terrible loss through a mistake. It's worse than failing to show someone the way. He's knowingly leading another person into error."

- 55 Diogenes replies: "Did the seller force you to buy? He didn't even urge you to. He advertised something he didn't like, and you bought something you did like. People advertise 'a fine, well-built country house.' We don't consider them cheats even if the house is neither fine nor properly built. Still less should we blame people who haven't praised their house at all. Where the buyer makes his own judgment, how can the seller be guilty of fraud? If a seller doesn't have to guarantee everything he says, must he guarantee what he hasn't said? What's sil-

lier than a seller listing the faults of what he's selling? And what could be more absurd than an auctioneer announcing, on the owner's orders, 'I'm selling an unhealthy house'?"

- 56 So in certain doubtful cases, one side defends what's right. The other argues for what benefits us, but on these terms: doing what seems beneficial isn't merely right; failing to do it is wrong. This is the apparent conflict that often arises between what's beneficial and what's right. We need to settle these questions. I haven't presented them just to raise problems, but to resolve them.
- 57 So I don't think the grain merchant should have kept the Rhodians in the dark. Nor should the house seller have kept his buyers in the dark. Keeping quiet about something isn't always concealment. It becomes concealment when you want people to remain ignorant for your own gain, though knowing matters to them. Who can't see what this kind of concealment amounts to, or what sort of person practices it? Certainly not someone open, straightforward, upright, fair, or decent. Rather, someone devious, secretive, cunning, deceitful, malicious, crafty—a seasoned, slippery trickster. Isn't it against your interests to earn all these bad names, and many more?
- 58 If people who keep quiet deserve criticism, what should we think of those who actually lie? Gaius Canius, a Roman of the knightly class, was witty and fairly well read. He went to Syracuse, as he himself used to say, for leisure, not business. He kept saying he wanted to buy a small garden property. He could entertain friends there and enjoy himself without interruptions. Word of this spread. A man named Pythius, who ran a banking business in Syracuse, told him his garden property wasn't for sale. But Canius could use it as his own if he wished. At the same time, he invited Canius to dinner there the next day. Canius accepted. As a banker, Pythius had influence with people of every class. He called the fishermen together and asked them to fish in front of his garden the following day. He told them what he wanted them to do. Canius arrived for

dinner on time. Pythius had prepared a lavish meal, and a crowd of boats was in full view. Each fisherman brought in his catch, and the fish were tossed down at Pythius's feet.

- 59 "Please tell me, Pythius," Canius said, "what's all this? So many fish! So many boats!" "What's surprising about that?" Pythius replied. "All the fish in Syracuse are here. This is where they draw their water. Those men can't do without this property." Burning with desire, Canius pressed Pythius to sell it. At first Pythius acted reluctant. Why drag out the story? Canius got his way. Eager and rich, he paid whatever Pythius wanted, buying the property fully furnished. He recorded the debt and closed the deal. The next day Canius invited his friends over. He arrived early himself and didn't see so much as an oarlock. He asked the nearest neighbor whether the fishermen were having some holiday, since none were in sight. "Not that I know of," the neighbor replied. "But nobody normally fishes here. That's why I was wondering yesterday what had happened."
- 60 Canius grew angry—but what was he to do? At that point my colleague and close friend Gaius Aquilius hadn't issued his legal formulas for bringing fraud cases. Asked what fraud meant in those formulas, he answered: making one thing appear to happen while actually doing another. A very clear answer, as you'd expect from someone who knew how to define things. Pythius, then, was faithless, dishonest, and malicious. So is everyone who acts one way while putting on a different appearance. Their actions are stained with all these faults. That means none of those actions can bring a real benefit.
- 61 If Aquilius's definition is right, we must stop pretending and hiding things in every part of life. An honest person won't put on an act or keep something back to get a better price, whether buying or selling. Laws already punished this kind of fraud. The Twelve Tables dealt with guardians who cheated their wards. The Plaetorian law covered cheating young people. Even without a specific law, courts dealt with fraud in cases that included the words "in good faith." Other legal proceedings have some particularly important wording, too.

In settling a wife's claim to her property, it's "what's better and fairer." In a trust, it's "dealing fairly, as honest people do." Now, can there be any room for cheating in "what's better and fairer"? Can anyone act deceitfully or maliciously when the rule is "dealing fairly, as honest people do"? As Aquilius says, fraud includes putting on a false appearance. So we must get rid of every kind of lying in making agreements. Sellers mustn't plant someone to push up the bidding. Buyers mustn't plant someone to bid against them either. If either party comes to name a price, they should name it just once.

- <sup>62</sup> Take Quintus Scaevola, Publius's son. He was buying a farm and asked the seller to name his price once. The seller did. Scaevola said he thought it was worth more, and added a hundred thousand. Everyone agrees that he acted like an honest person. But they deny that he acted wisely. They'd say the same if he'd sold something for less than he could have gotten. That's the disastrous idea here: people think being honest and being wise are two different things. Hence Ennius's line: "A wise person's wisdom is useless if he can't help himself." That's true enough—if Ennius and I agree on what helping myself means.
- <sup>63</sup> I've read what Hecato of Rhodes says about this. He studied with Panaetius and wrote books on duty for Quintus Tubero. He says a wise person should look after his own finances, without breaking any customs, laws, or established rules. After all, we don't want wealth just for ourselves. We want it for our children, relatives, and friends, and especially for our country. Individuals' resources and supplies make up a country's wealth. There's no way he can approve of what Scaevola did, as I described just now. He says outright that, in pursuing his own profit, he'll draw the line only at what's forbidden.
- <sup>64</sup> He doesn't deserve much praise or thanks for that. But if both pretending and hiding the truth count as fraud, very few dealings are free of it. And if an honest person helps everyone he can and harms no one, such people are certainly hard to find. So doing wrong never helps us, because it's always shameful. Being an honest person is always right, so it always benefits us.

- <sup>65</sup> When it comes to real estate, our civil law requires sellers to say what defects they know about. The Twelve Tables had demanded only that sellers stand by their explicit spoken declarations. Denying those declarations brought a double penalty. The lawyers added a penalty for silence as well. Their decision was this: when a seller knows there's a defect in a property, he must specifically disclose it. Otherwise, he's responsible for that defect.
- <sup>66</sup> Here's an example. The omen-readers were going to take the omens on the citadel. Tiberius Claudius Centumalus owned a building on the Caelian Hill. They told him to pull down the parts whose height blocked their view of the signs. Claudius put his apartment building up for sale [and sold it]. Publius Calpurnius Lanarius bought it. The omen-readers gave him the same order. Calpurnius pulled those parts down, then learned something. Claudius had put the building up for sale after being ordered to pull them down. So he brought Claudius before an arbitrator to decide "whatever he should give me or do for me in good faith." Marcus Cato gave the ruling. He was our Cato's father. Other people are identified by their fathers, but this man should be identified by his son: he fathered that shining light. As judge, then, he ruled that the seller had known about the problem and hadn't disclosed it. He therefore had to cover the buyer's loss.
- <sup>67</sup> His ruling made this part of good faith: buyers must be told about defects the seller knows about. If he was right, that grain dealer was wrong to keep quiet. So was the seller of the unhealthy house. But civil law can't cover every case of keeping things back. Where it can, the rules are carefully enforced. My relative Marcus Marius Gratidianus sold Gaius Sergius Orata a house he'd bought from Orata himself a few years earlier. Other people had rights over the property. Marius hadn't mentioned them when formally transferring ownership. The case went to court. Crassus represented Orata, and Antonius defended Gratidianus. Crassus pressed the legal rule: "A seller must answer for defects he knew about but didn't disclose." Antonius argued for fairness: "Sergius knew about the defect, since he'd sold the house himself. So there was no need to

mention it. He hadn't been deceived: he knew the legal position of the property he was buying." Why tell you this? To show you that our ancestors didn't approve of sharp dealing.

- <sup>68</sup> But laws and philosophers tackle sharp dealing differently. Laws go as far as they can get a firm grip. Philosophers go as far as reason and understanding can reach. Reason therefore demands that we avoid traps, false appearances, and deception of any kind. Now, isn't setting out nets an act of trapping, even if you don't plan to flush animals out or drive them in? Wild animals often fall into them with no one chasing them. Will you do the same with a house? Will you put it up for sale and set out your notice like a net, [selling the house because of its defects,] so someone walks into it without knowing?
- <sup>69</sup> I realize our habits have become so corrupt that people don't regard this as shameful. Neither legislation nor civil law forbids it. Still, nature's law does. People are bound together—I've said this often, but it needs saying still more often. The widest bond joins every person to every other person. There's a closer one between people of the same nation, and a closer one still between fellow citizens. So our ancestors distinguished the law of all peoples from our own civil law. Something in our civil law doesn't necessarily belong to the law of all peoples. But something in the law of all peoples ought to belong to our civil law too. We don't have a clear, solid picture of true law and real justice. We work with shadows and images. If only we'd follow even those! They're drawn from the finest examples that nature and truth provide.
- <sup>70</sup> Think how much these words mean: "So that I won't be caught out or cheated by you or by trusting your word!" And this wording is worth its weight in gold: "As honest people should deal with each other, fairly and without cheating!" But it's a big question who counts as "honest" and what "dealing fairly" means. Quintus Scaevola, the chief priest, said the words "in good faith" carried enormous weight wherever they were included in arbitration. He thought good faith had an extremely wide reach. It applied to guardianships, partnerships, trusts, work done on someone's behalf, buying, selling, hiring, and renting.

These dealings hold our shared life together. It takes an outstanding judge, he said, to decide what each party owes the other in such cases. That's especially true because in most of them either side can bring a claim against the other.

- 71 So we must get rid of cunning and that kind of dishonesty that tries to pass for good judgment. They're actually worlds apart. Good judgment means choosing between what's good and what's bad. Dishonesty prefers the bad to the good, if everything shameful counts as bad. Our civil law takes its lead from nature in punishing dishonesty and fraud. This doesn't apply just to property. When people sell slaves, too, the law rules out every kind of cheating by the seller. Under the city magistrates' order, sellers must answer for what they should have known about a slave's health, running away, or thefts. People selling as heirs are in a different position.
- 72 Nature is the source of law. That makes this clear: it's in keeping with nature that no one should try to prey on someone else's ignorance. Nothing could do more damage to human life than dishonesty dressed up as intelligence. It produces countless situations where what helps us seems to clash with what's right. How many people could resist doing wrong if they were promised that no one would ever know and they'd never be punished?
- 73 Let's test this, if you like. We'll use cases where ordinary people might think nothing wrong was done. This isn't the place to discuss murderers, poisoners, will-forgers, thieves, or people who steal public money. They need the hardship of chains and prison, not philosophers' words and arguments. Instead, let's consider what supposedly honest people do. Some people brought a forged will from Greece to Rome. It was in the name of Lucius Minucius Basilus, a wealthy man. To make it easier to get the will accepted, they named Marcus Crassus and Quintus Hortensius as heirs alongside themselves. These were the two most powerful men of their time. Both suspected the will was forged. But since they hadn't taken part in any wrongdoing themselves, they didn't turn

down this little present from someone else's crime. Well, does that let us say they'd done nothing wrong? I don't think so. Yet I loved one of them while he was alive, and I don't hate the other now he's dead.

<sup>74</sup> Basilus had wanted his sister's son, Marcus Satrius, to take his name, and had made him his heir. I mean the patron of the Picene and Sabine territories—what a shameful mark of the times [their name]! It wasn't fair for leading citizens to get the property and Satrius to get nothing but the name. As I argued in the first book, someone acts unjustly if he can protect his own people against a wrong but doesn't stop it or drive it back. What should we think of someone who not only fails to stop a wrong, but helps it along? To my mind, even genuine inheritances are morally wrong if they're won through calculated flattery. The same goes when they're won by pretending to help, rather than really helping. In cases like these, people sometimes think one course is right and another pays. That's a mistake. The rule for what benefits us is the very same rule as for what's right.

<sup>75</sup> Anyone who doesn't see this clearly is capable of any fraud or crime. He'll think, "Yes, that's right, but this works to my advantage." That mistake will make him dare to pull apart things nature has joined together. It's the source of every fraud, every harmful act, every crime. Suppose an honest person could snap his fingers and get his name slipped into rich people's wills. He wouldn't use that power. Not even if he knew for certain that no one would ever suspect it. But give Marcus Crassus the power to get himself named as heir with a snap of his fingers, when he wasn't really an heir. Believe me, he'd dance in the Forum. A just person—the kind we mean by an honest person—won't take anything away from anyone to get it for himself. If that surprises someone, he should admit he doesn't know what an honest person is.

<sup>76</sup> But anyone willing to unfold the idea wrapped up in his own mind can teach himself this. An honest person helps everyone he can and harms no one, unless they've wronged him first. Now, isn't someone doing harm if he uses a kind of poison to push out the real heirs and take their place? Someone may ask, "So he

shouldn't do what helps him, what works to his advantage?" No. He should understand that nothing unjust helps him or works to his advantage. Until he's learned that, he can't be an honest person.

77 When I was a boy, my father told me about Gaius Fimbria, a former consul. He'd been appointed judge in the case of Marcus Lutatius Pinthia, a Roman knight with a very good reputation. Pinthia had made a legal wager on whether he was an honest person. Fimbria told him he'd never decide that case. Ruling against him would strip a respected person of his good name. Ruling for him would seem to declare someone an honest person, when that description involves countless duties and praiseworthy qualities. Now take this honest person, whom even Fimbria understood, not just Socrates. He simply can't think anything benefits him unless it's right. Someone like that won't dare do anything he wouldn't dare announce openly. He won't even dare think it. Isn't it shameful for philosophers to question what even country people don't doubt? They gave us the saying that's now worn smooth with age. When praising someone's trustworthiness and honesty, they say, "You could play a finger-counting game with him in the dark." What can that mean except this? Nothing that's wrong works to your advantage, even if you can get away with it and nobody can challenge you.

78 Do you see how this saying leaves no excuse for Gyges? It leaves none for that person I imagined just now, either, who could sweep up everyone's inheritances by snapping his fingers. Something shameful can never become right just because it's hidden. In the same way, something that isn't right can't be made beneficial. Nature stands firmly against it.

79 "But when the rewards are huge, there's a reason to do wrong." Gaius Marius had little hope of becoming consul. He was already in his seventh year of going nowhere after serving as praetor. It looked as though he'd never even run for consul. He was serving as deputy to Quintus Metellus, an outstanding man and citizen. Metellus, his commander, sent him to Rome. There Marius accused him before the Roman people of dragging out the war. He said that if

they made him consul, he'd soon put Jugurtha into their hands, dead or alive. He did become consul. But he abandoned honesty and justice. He'd stirred up hatred against a thoroughly decent, responsible citizen with a false charge—against the very man whose deputy he was and who'd sent him there.

<sup>80</sup> My relative Gratidianus didn't live up to an honest person's duty either. He was praetor at the time. The people's tribunes had brought the board of praetors into their discussions, to settle currency matters by a joint decision. Money's value was fluctuating so wildly then that nobody could tell what they owned. Together they drew up an edict, with a penalty and a process for trying cases. They agreed to go up to the speakers' platform together that afternoon. The others went off in different directions. Marius went straight from their meeting benches to the platform. Alone, he announced what they'd worked out together. And, I can tell you, it brought him enormous prestige. There were statues in every neighborhood, with incense and candles in front of them. Why say more? Nobody had ever been more loved by the public.

<sup>81</sup> Cases like these can sometimes confuse us when we're deciding what to do. The unfairness seems fairly small, while the gain it brings seems enormous. Marius thought there wasn't much shame in stealing his colleagues' and the people's tribunes' popularity. Becoming consul through it seemed a huge advantage—that was his aim at the time. But there's one rule for every case, and I want you to know it thoroughly. Either what seems helpful mustn't be shameful, or, if it's shameful, it mustn't seem helpful. Well, can we call either that Marius or this one an honest person? Unpack your understanding and examine it closely. Look at the [image,] shape, and idea of an honest person that you find there. Does that person lie, make accusations for personal gain, grab what's owed to others, or deceive? Absolutely not.

<sup>82</sup> Is anything worth so much, is any gain so desirable, that you'd give up both the standing and the name of an honest person? How could that so-called advantage bring you as much as it takes away, if it robs you of your good name, trust-

worthiness, and justice? What's the difference between turning from a human into a beast and keeping a human shape with a beast's cruelty inside?

And what about people who ignore everything right and decent, provided they get power? Aren't they doing what that man did who wanted a particular father-in-law so he could gain power through the other's recklessness? He thought he'd gain by holding enormous power while someone else took the heat. He didn't see how shameful this was, or how unjust to his country. That father-in-law himself was always quoting Greek lines from *The Phoenician Women*. I'll give them as best I can. They may sound rough, but at least their meaning will be clear:

"If the law must be broken, for the sake of ruling,  
Break it; in everything else, respect what's sacred."

What a menace Eteocles is—or rather, Euripides, who made an exception for the single most criminal act of all.

<sup>83</sup> Why collect petty cases of inheritances, trading, and fraudulent sales? Here's someone who wanted to become king of the Roman people and master of every nation—and did it. Anyone who calls that ambition right is out of his mind. He's approving the destruction of laws and freedom. He thinks crushing them, in all its ugliness and horror, is glorious. Another person admits that ruling as king is wrong in a country that's been free and ought to stay free. Yet he says it benefits someone who can do it. What scolding—or rather, what abuse—could I use to shake him out of such a terrible mistake? Immortal gods! Can anyone benefit from the foulest, most horrible murder of his country? Even if the citizens he's crushed call the man responsible their father? So we must use what's right as our guide to what benefits us. The two may seem different in wording, but their actual meaning must be one and the same.

<sup>84</sup> By ordinary people's standards, I can't think of a greater advantage than ruling as king. But once I start testing the idea against reality, I find nothing worse for someone who's gained that power unjustly. Can anyone benefit from anguish, worry, fears day and night, and a life packed with plots and dangers? Accius says, "A king has many hostile, faithless people, and few who wish him well."

But which kingship does he mean? One passed down from Tantalus and Pelops and held by right. How many more enemies do you think a king has who used the Roman people's army to crush the Roman people themselves? He forced a country to serve him that wasn't just free, but ruled other nations.

- <sup>85</sup> Think of the stains on that man's conscience, the wounds in his mind! And how can someone's own life benefit him when its terms are these: whoever takes it will win the greatest thanks and glory? These things look more beneficial than anything else. Yet they aren't, because they're full of disgrace and shame. That should convince us firmly enough that nothing benefits us unless it's right.
- <sup>86</sup> Our people have made that judgment often. One example came in the war with Pyrrhus, from Gaius Fabricius, then consul for the second time, and our Senate. King Pyrrhus had started a war against the Roman people. They were fighting for supremacy against a powerful king of noble birth. A deserter from his army came to Fabricius's camp and made him an offer. If Fabricius promised him a reward, he'd slip back into Pyrrhus's camp as secretly as he'd left it and poison the king. Fabricius had him taken back to Pyrrhus, and the Senate praised his action. Now, if we're looking only for what appears or is thought to help, that one deserter could have ended a major war and removed a dangerous rival for supremacy. But what disgrace, what an outrage, to defeat a rival in a contest for glory through crime instead of courage!
- <sup>87</sup> So which would have benefited Fabricius more: fighting his enemy with weapons or with poison? He was the same kind of person here as Aristides was at Athens. And which would have benefited our Senate, which never separated advantage from dignity? If we should seek power for glory's sake, crime has no place in it: crime can't bring glory. But if we want power itself, however we get it, it can't benefit us when it brings disgrace. So Lucius Philippus, Quintus's son, proposed something that wasn't beneficial either. Lucius Sulla had taken money from certain cities and granted them freedom under a Senate decree. Philippus wanted those cities to pay tribute again, without our returning the

money they'd paid for freedom. The Senate agreed with him. What a disgrace to our rule! Pirates keep their word better than the Senate. "But it increased revenue, so it was beneficial." How long will people dare to call anything beneficial when it isn't right?

<sup>88</sup> Our rule should rest on glory and our allies' goodwill. Can hatred and disgrace possibly help it? I often disagreed even with my friend Cato. I thought he defended the treasury and its revenue too stubbornly, refusing everything to the tax collectors and many things to our allies. We ought to have treated our allies generously. And we ought to have dealt with the tax collectors as we normally deal with our own tenant farmers. All the more so because keeping those social orders united was vital to our country's safety. Curio was wrong too. He said the people beyond the Po had a fair case, but always added, "Let advantage win." He should instead have argued that their case wasn't fair because it didn't benefit the country. He shouldn't have admitted it was fair while saying it wasn't beneficial.

<sup>89</sup> The sixth book of Hecato's work on duties is full of questions like these. Is it right for an honest person to stop feeding his slaves when food prices are extremely high? He argues both sides. In the end, though, he bases duty on what he thinks is advantageous rather than on human kindness. He asks this: if something must be thrown overboard at sea, should it be an expensive horse or a low-priced slave? Here financial interest pulls one way, human kindness the other. "If a foolish person gets hold of a plank after a shipwreck, will a wise person wrench it away if he can?" He says no, because that would be unjust. Well, will the ship's owner take back what's his? Certainly not. He shouldn't want to do that any more than throw a passenger off his ship at sea because the ship is his. Until it reaches the destination it was hired for, the ship belongs to the passengers, not its owner.

<sup>90</sup> But suppose there's one plank and two shipwrecked people, both wise. Should each try to grab it, or should one give way to the other? Yes, one should give way—to whoever has more reason to stay alive, for his own sake or his coun-

try's. What if they're equal on those points? They won't fight over it. One will step aside for the other, as though he'd lost a drawing of lots or a finger-counting game. What if a father robs temples or tunnels into the treasury? Should his son report him to the authorities? That would be a terrible wrong. He should even defend his father if he's charged. Doesn't your country come before every other duty, then? Of course. But the country itself benefits from citizens who show devotion to their parents. What if the father tries to seize absolute power or betray his country? Will the son keep quiet? No, he'll beg his father not to do it. If that gets nowhere, he'll accuse him, even threaten him. In the end, if the country's destruction is at stake, he'll put its safety ahead of his father's.

<sup>91</sup> He also asks about a wise person who unknowingly accepts counterfeit coins as genuine. Once he discovers this, should he use them as genuine coins to pay a debt? Diogenes says yes; Antipater says no. I'm more inclined to agree with Antipater. If someone knowingly sells wine that's going sour, must he disclose that? Diogenes thinks he needn't. Antipater thinks an honest person should. These are something like disputed points of law among the Stoics. When selling a slave, must you disclose his faults? I don't mean faults that legally entitle the buyer to return him unless they're disclosed. I mean that he's a liar, a gambler, a thief, or a drunk. One philosopher thinks these must be disclosed; the other doesn't.

<sup>92</sup> Suppose someone is selling gold but thinks he's selling brass. Should an honest person tell him it's gold? Or should he pay one denarius for something worth a thousand denarii? By now, my own view is clear, as is the disagreement between those philosophers I named. Must we always keep agreements and promises made without force or deliberate fraud, as the court magistrates usually put it? Suppose someone gives another person medicine for fluid buildup under the skin. They agree that, if it cures him, he'll never use that medicine again. He recovers, but some years later the same illness returns. The person he made the agreement with won't give him permission to use it again. What should he do? Anyone who refuses permission is being inhumane, and using it does him no wrong. The sick person should protect his life and health.

- 93 Now suppose someone makes a wise person his heir, leaving him 100 million sesterces. He asks him to dance publicly in the forum, in broad daylight, before claiming the inheritance. The wise person promises, since otherwise the man wouldn't name him as heir. Should he keep that promise? I wish he hadn't made it. Refusing would have shown dignity. But once he's promised, suppose he thinks dancing in the forum is shameful. Breaking his word is more honorable if he takes none of the inheritance than if he takes it. There's one possible exception: he might devote the money to some great national emergency. If he's going to help his country, even dancing needn't be shameful.
- 94 We shouldn't even keep a promise when it won't help the person we've promised. Let's return to the myths. The Sun promised his son Phaethon anything he wished for. The boy asked to be lifted into his father's chariot. Up he went, but before he could stand securely, lightning struck and burned him to death. Wouldn't it have been far better for the father to break that promise? Then there's Theseus, who insisted on collecting a promise from Neptune. Neptune had granted him three wishes. He suspected his son Hippolytus of a relationship with his stepmother and wished the boy dead. He got his wish—and was left in the deepest mourning.
- 95 And what about Agamemnon? He vowed to sacrifice to Diana the most beautiful thing born in his kingdom that year. So he sacrificed Iphigenia, since nothing more beautiful had been born that year. He should have broken his promise rather than committed such a horrible crime. So sometimes we shouldn't keep promises, and we shouldn't always return things left in our care. Suppose someone leaves a sword with you while he's sane, then demands it back when he's insane. Returning it would be wrong. Your duty would be to refuse. Or suppose someone leaves money with you and then wages war on your country. Should you return it? I don't think so. You'd be acting against your country, which should be dearest to you. Thus, circumstances make many things wrong that seem right in themselves. Keeping promises, honoring agreements, and

returning things entrusted to us become wrong when their effects are no longer beneficial. I think I've said enough about supposed benefits that violate justice under the cover of good judgment.

- 96 In the first book, we traced duties to four sources of what is right. Let's stay with those same sources as we show something else: how things that seem beneficial, but aren't, conflict with good character. We've discussed good judgment, which cunning tries to imitate. We've also discussed justice, which always benefits us. Two parts of what is right remain. One appears in the greatness and excellence of a strong spirit. The other appears in the discipline and restraint of self-control and moderation.
- 97 Ulysses thought something would benefit him—at least according to the tragic poets. Homer, our best authority, never suggests anything like this about him. But the tragedies accuse him of trying to avoid military service by pretending to be insane. Someone might say his plan wasn't right, but it was useful. He could rule Ithaca and live there peacefully with his parents, wife, and son. Do you think any glory earned through daily hardships can compare with that peaceful life? I think such peace should be scorned and thrown away. Since it wouldn't be right, I don't think it would benefit him either.
- 98 What do you think Ulysses would have heard if he'd kept up that pretense? Even after his great achievements in the war, Ajax still says this about him:  
“He himself took the lead in swearing that oath,  
But he alone, as you all know, broke his word.  
He kept pretending madness to avoid joining us.  
If Palamedes, with his sharp judgment,  
Hadn't seen through that man's shameless trick,  
He'd have kept evading his sacred oath forever.”
- 99 It was better for him to fight not only the enemy but the waves, as he did, than to desert the Greeks united for war against foreigners. But let's leave myths and foreign examples behind. Let's turn to something that really happened, here among our own people. During his second term as consul, Marcus Atilius

Regulus was captured in an ambush in Africa. Xanthippus the Spartan led the troops, with Hamilcar, Hannibal's father, in overall command. Regulus was sent to the Senate after swearing an oath. Unless certain high-ranking prisoners were handed back to the Carthaginians, he would return to Carthage himself. When he reached Rome, he saw an apparent benefit. But his actions show that he judged it false. It was this: he could stay in his country, at home with his wife and children. He could treat his wartime disaster as an ordinary turn in the fortunes of war. He could keep his standing as a former consul. Who denies that these things are beneficial? Who do you think? Greatness of spirit and courage deny it.

100 Do you want more trustworthy authorities? These virtues have their own defining qualities: fearing nothing, looking down on everything merely human, and considering nothing that can happen to a person unbearable. So what did Regulus do? He entered the Senate and explained his mission. He refused to give an opinion, saying he wasn't a senator while bound by his oath to the enemy. He also said that returning the prisoners wouldn't benefit Rome. "What a fool," someone may say, "to act against his own interests!" The prisoners, he explained, were young men and good commanders; he was already worn out with age. His influence prevailed, so the prisoners were kept, and he himself returned to Carthage. Neither love for his country nor love for his family held him back. He certainly knew he was going to an exceptionally cruel enemy and carefully devised tortures. But he thought he must keep his oath. So even as they killed him by keeping him awake, his position was better than the alternative. He could have stayed home, an old prisoner, a former consul who had broken his oath.

101 "But he was foolish. He didn't just oppose returning the prisoners; he argued against it." How was that foolish? Even if it benefited the country? Can something that harms the country benefit any citizen? People overturn nature's foundations when they separate what's beneficial from what's right. We all want what benefits us and feel drawn toward it. We simply can't do otherwise. Who avoids what's beneficial? Or rather, who doesn't pursue it with all possi-

ble eagerness? But real benefits come only from praiseworthy, fitting, morally right conduct. That's why we give such conduct the highest priority. We think of benefit as something necessary, rather than something glorious.

- 102 "What's so important about an oath, then?" someone may ask. "Are we afraid of an angry Jupiter? All philosophers agree that a god never gets angry or harms anyone. That includes both those who say a god has no troubles and causes none for others, and those who believe a god is always active and working on something. Besides, how could an angry Jupiter have hurt Regulus more than Regulus hurt himself? Religious obligation, then, had no force that could outweigh such a great benefit. Was it about avoiding shameful conduct? First, choose the lesser evil. The shame wasn't as great an evil as that torture. Then there's that passage in Accius:"

"Did you break your promise?

I never gave, and never give, my word to anyone untrustworthy."

An unholy king says it, but it's still very well said.

- 103 They add another argument. We say some things seem beneficial but aren't. In the same way, they say, some things seem right but aren't. Returning to torture to keep an oath seems right, for example. But it becomes wrong because an agreement forced on someone by an enemy shouldn't have been binding. They also say that anything highly beneficial becomes right, even if it didn't seem right before. Those are roughly the arguments against Regulus. But let's look at the first ones.

- 104 There was no reason to fear that Jupiter would get angry and hurt him. Jupiter doesn't get angry or harm anyone. But this argument works against every oath, not just Regulus's. With an oath, we need to understand its binding force, not the fear it causes. An oath is a solemn statement made before a god. When you've firmly promised something with a god as your witness, you must keep that promise. It's not about the gods' anger, since they have none. It's about justice and keeping your word. Ennius puts it beautifully:

"O Faith, who nurture us and have wings, and oath in Jupiter's name!"

Anyone who breaks an oath, then, breaks faith. As Cato says in his speech, our ancestors wanted Faith to have her home on the Capitol, next to Jupiter, Best and Greatest.

- 105 “But even an angry Jupiter couldn’t have hurt Regulus more than Regulus hurt himself.” Certainly—if pain were the only evil. But philosophers of the highest standing say pain isn’t the greatest evil, or even an evil at all. Please don’t criticize Regulus as a witness for their position. He’s no ordinary witness; perhaps he’s the strongest one of all. What stronger witness could we want than a leader of the Roman people who willingly faced torture to fulfill his duty? As for their advice to choose the lesser evil, they mean choosing disgrace over suffering. But is there any greater evil than disgrace? Even physical ugliness can offend us. How much worse must we consider the distortion and ugliness of a mind made shameful?
- 106 Those who argue this position more firmly dare to say that only what’s shameful is evil. Those who take a less strict approach still have no hesitation in calling it the greatest evil. As for “I never gave, and never give, my word to anyone untrustworthy,” the poet was right to write it. He was portraying Atreus and had to stay true to that character. But if people claim that a promise made to someone untrustworthy never binds them, they should beware. They may be looking for a hiding place for oath-breaking.
- 107 War, too, has its laws, and we must often keep an oath even to an enemy. If you swore with the intention that something ought to be done, you must do it. If your intention was otherwise, failing to do it isn’t breaking your oath. Suppose you don’t bring pirates the ransom you agreed to pay for your life. There’s no dishonesty in that, even if you swore to pay it. A pirate isn’t classified as a lawful enemy in war. He’s everyone’s common enemy. No bond of good faith or oath should exist between us and him.
- 108 Swearing something false isn’t in itself breaking an oath. What breaks an oath is failing to do what you swore with sincere intent. That’s the meaning of “according to your sincere intention” in our customary wording. Euripides puts it

neatly: “My tongue swore, but my mind remains unsworn.” Regulus, however, shouldn’t have broken his oath and disrupted the terms and agreements made with an enemy in war. He was dealing with a lawful, recognized enemy. Our entire body of religious law governing war applied to that enemy, along with many shared legal obligations. Otherwise, the senate would never have handed distinguished men over to enemies in chains.

109 Yet Titus Veturius and Spurius Postumius were handed over to the Samnites during their second terms as consuls. After a defeat at Caudium, our legions had been forced to pass under the yoke. The consuls then made peace with the Samnites, but without authorization from the people and senate. At the same time, Tiberius Numicius and Quintus Maelius, then tribunes of the people, were also handed over. They had authorized the peace agreement. Handing these men over allowed Rome to reject the peace with the Samnites. Postumius himself proposed and urged this surrender, although he was one of those being surrendered. Many years later, Gaius Mancinus did the same. He had made a treaty with the Numantines without the senate’s authorization. He therefore supported the bill to hand him over to them. Lucius Furius and Sextus Atilius introduced it under a senate decree. The bill passed, and Mancinus was handed over to the enemy. He acted more honorably than Quintus Pompeius. Pompeius was in the same position, but begged against the measure, and it didn’t pass. In his case, apparent benefit counted for more than doing right. For the earlier men, the authority of what was right overcame the false appearance of benefit.

110 “But something done under force shouldn’t have been binding.” As though a brave man could really be forced! “Why, then, did he go to the senate, especially when he intended to oppose returning the prisoners?” You’re criticizing the greatest part of his conduct. He didn’t simply stand by his own judgment. He took on the mission so the senate could decide. Without his own advice, the prisoners would certainly have been returned to the Carthaginians. Regulus would then have stayed safely in his country. But he thought that wouldn’t benefit his country. So he believed he was right both to take that position and

to suffer for it. As for their claim that something highly beneficial becomes right: no, it is right, rather than becoming right. Nothing is beneficial unless it's also right. And it isn't right because it's beneficial; it's beneficial because it's right. Among so many remarkable examples, it would be hard to name one more praiseworthy or outstanding than this.

<sup>111</sup> But of everything Regulus deserves praise for, one thing especially deserves admiration: his advice to keep the prisoners. His return seems amazing to us now. In those days, however, he couldn't have done otherwise. The credit there belongs to the times, not the man. Our ancestors wanted no bond to hold people to their word more tightly than an oath. The laws of the Twelve Tables show this, as do laws made sacred by oaths. Treaties show it too, since they bind us to keep our word even to enemies. So do the censors' investigations and punishments. They judged nothing more carefully than the keeping of oaths.

<sup>112</sup> Marcus Pomponius, a tribune of the people, brought charges against Lucius Manlius, son of Aulus. Manlius had served as dictator and added a few days to his term. Pomponius also accused him of sending his son Titus away from everyone and ordering him to live in the country. This was the Titus later called Torquatus. The young man heard that his father was facing trouble. The story goes that he hurried to Rome and reached Pomponius's house at daybreak. When his arrival was announced, Pomponius thought he was angry and bringing evidence against his father. He got out of bed, sent everyone else away, and ordered the young man admitted. As soon as Titus entered, he drew his sword. He swore he'd kill Pomponius immediately unless he promised under oath to drop the case against his father. Terrified, Pomponius took the oath. He reported the matter to the people and explained why he had to abandon the prosecution. Then he let Manlius go. That was how much an oath mattered in those days. This Titus Manlius got his surname by removing a Gaul's neck ring near the Anio River. The Gaul had challenged him, and Titus had killed him. During his third term as consul, the Latins were crushed and routed at the Veseris. He was an exceptionally great man, as indulgent toward his father as he was harshly strict with his son.

- <sup>113</sup> Regulus deserves praise for keeping his oath. By the same reasoning, ten men Hannibal sent to the Senate after the battle of Cannae deserve blame if they didn't return. They'd sworn to return to the camp held by the Carthaginians unless they won agreement to ransom the prisoners. The accounts of these men don't all agree. Polybius, an especially reliable historian, says nine returned after the Senate refused their request. They were ten men of the highest rank. The tenth stayed in Rome. Shortly after leaving the camp, he'd gone back as though he'd forgotten something. He argued that this return to camp had released him from his oath. That was wrong. Deceit tightens the bonds of perjury; it doesn't loosen them. His cunning was stupid, a twisted imitation of good judgment. So the Senate ordered this scheming trickster to be bound and taken to Hannibal.
- <sup>114</sup> But this was the most important point. Hannibal held eight thousand men who hadn't been captured in battle or scattered while fleeing the danger of death. They were men the consuls Paulus and Varro had left behind in camp. The Senate decided not to ransom them, although it would have cost very little. It wanted to instill in our soldiers the determination to win or die. The same historian writes that Hannibal's spirit broke when he heard this. Despite their desperate situation, the Senate and Roman people had shown such greatness of spirit. That's how things that seem beneficial lose out when compared with what's right.
- <sup>115</sup> Gaius Acilius, who wrote a history in Greek, gives another account. He says several men returned to camp using the same trick to free themselves from their oath. The censors branded them with every mark of disgrace. Let's end this discussion here. Actions driven by a timid, low, defeated, broken spirit clearly bring no benefit. Regulus would have acted that way if he'd recommended what he thought he needed concerning the prisoners, rather than what the country needed. The same goes if he'd wanted to remain at home. Such actions bring no benefit because they're disgraceful, foul, and shameful.

- 116 The fourth part remains: proper behavior, moderation, modesty, self-control, and restraint. Can anything benefit us if it conflicts with this whole chorus of virtues? Yet the philosophers who followed Aristippus, called Cyrenaics and Annicereans, put all good in pleasure. They thought virtue deserved praise because it produced pleasure. Those schools have faded away, but Epicurus is thriving. He supports and promotes much the same view. If we mean to defend and hold on to what's right, we must fight them with "men and horses," as the saying goes.
- 117 Metrodorus writes that not just our advantage, but our whole happiness, rests on a healthy body and the sure expectation of staying healthy. If that's true, this advantage—the greatest one, in their view—will certainly clash with what's right. To begin with, where will good judgment fit? Is its job to hunt down enjoyable sensations everywhere? What miserable service for virtue, working as pleasure's slave! And what task will good judgment have? To select pleasures intelligently? Suppose nothing could be more enjoyable. Could anything be more shameful? Then consider someone who calls pain the greatest evil. What place can courage have for him, when courage means disregarding pain and hardship? Epicurus does speak quite bravely about pain in many passages. But we shouldn't look at what he says. We should ask what someone can consistently say if he defines good by pleasure and evil by pain. And if I listen to him on self-control and restraint, he certainly has plenty to say in many places. But he gets stuck, like water that won't flow, as the saying goes. How can someone praise restraint when he places the greatest good in pleasure? Restraint opposes uncontrolled desires, while those desires chase pleasure.
- 118 Still, they find ways around these difficulties with the three virtues, and not without some cleverness. They introduce good judgment as knowledge that supplies pleasures and drives away pains. They also find some room for courage by explaining why we should disregard death and endure pain. They even bring in restraint—not easily, admittedly, but however they can. They say pleasure reaches its greatest extent when pain has been removed. Justice, though, totters—or rather lies flat. So do all the virtues expressed in our shared life and the

bonds between human beings. Kindness, generosity, and friendliness can't exist, any more than friendship can, unless we seek them for themselves. They can't exist if we measure them by pleasure or advantage.

- 119 Let's put this briefly. We've shown that nothing conflicting with what's right can benefit us. In the same way, we say that every kind of pleasure conflicts with what's right. That's why I find Callipho and Dinomachus especially blameworthy. They thought they'd settle the dispute by joining pleasure to what's right, like yoking a farm animal to a person. What's right won't accept that pairing. It rejects it and pushes it away. Nor can our ultimate standard of good and bad be mixed and blended from completely unlike ingredients. It must be one consistent thing. But this is an important subject, and there's more to say about it elsewhere. Now let's return to our topic.
- 120 We've already discussed sufficiently how to decide when an apparent advantage conflicts with what's right. But suppose someone says pleasure also has the appearance of an advantage. Even then, it can't be joined with what's right. To give pleasure some credit, it may add a little seasoning. It certainly adds no benefit.
- 121 Marcus, my son, you have a gift from your father. I think it's a great one, but its value will depend on how you receive it. You'll have to welcome these three books as guests among your notes from Cratippus. If I'd come to Athens myself, you'd have listened to me too from time to time. I would have come if my country's loud call hadn't brought me back in midjourney. Now my voice has reached you through these books instead. Give them as much time as you can—and you can give as much as you want. Once I know you enjoy this kind of learning, I'll talk with you in person soon, I hope. And while you're away, I'll speak to you from a distance. Goodbye, then, my dear Cicero. Be sure that you're very dear to me already. But you'll be far dearer if you take pleasure in writings and teachings like these.