



Elements of the Philosophy of Right

GEORG WILHELM FRIEDRICH HEGEL

Musean Translation

MOUSEIA



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Translated by Michael Berardi

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TRANSLATOR

Michael Berardi

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GAPS AND UNCERTAINTIES

The German normalizes long s and typographical line-end word breaks; first-edition spelling is otherwise retained.

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Preface

The immediate occasion for publishing this outline is the need to place in my students' hands a guide to the lectures I give, in fulfillment of my office, on the *philosophy of right*. This textbook develops further, and in particular more systematically, the same fundamental concepts concerning this part of philosophy that are already contained in my *Encyclopedia of the Philosophical Sciences* (Heidelberberg, 1817), otherwise intended for my lectures.

The fact that this outline was to appear in print, and thus come before the wider public, prompted me to expand, here and there, the remarks that were initially meant to indicate briefly related or divergent conceptions, further consequences, and the like—matters that would receive their proper explanation in the lectures. I have done so to clarify at times the more abstract content of the text and to take fuller account of familiar conceptions current in our day that bear upon it. The result is a number of remarks more extensive than the purpose and style of a compendium ordinarily entail. A compendium in the strict sense, however, takes as its subject the compass of a science regarded as complete; what is peculiar to it, apart perhaps from a small addition here and there, is chiefly the arrangement and ordering of the essential moments of a content long since accepted and familiar, just as this form has its long-established rules and manners. One does not expect this pattern from a philosophical outline, if only because one imagines that what philosophy produces grows stale overnight, like Penelope's web, begun afresh every day.

This outline certainly differs from an ordinary compendium, first of all, in the method that governs it. But it is presupposed here that the philosophical manner of advancing from one subject to another and of providing scientific proof—this speculative manner of knowing in general—differs essentially from other ways of knowing. Insight into the necessity of such a difference alone can rescue philosophy from the shameful decline into which it has sunk in our time. The inadequacy, for speculative science, of the forms and rules of the former

logic—of defining, dividing, and drawing conclusions, which contain the rules of cognition by the understanding—has indeed been recognized, or rather felt more than recognized. These rules have then simply been thrown off as fetters, so that people might speak at will from the heart, the imagination, and contingent intuition. Yet reflection and relations of thought must enter in all the same, and so they proceed unconsciously by the despised method of quite ordinary inference and ratiocination.—I have developed the nature of speculative knowing at length in my *Science of Logic*; in this outline, therefore, an explanation of the procedure and method has been added only here and there. Given the concrete character of the subject and its manifold internal diversity, the logical progression has admittedly not been demonstrated and brought out in each and every detail. In part, familiarity with the scientific method being presupposed, this could be considered superfluous; in part, however, it will be apparent of itself that the whole, as well as the development of its members, rests on the logical spirit. It is chiefly from this side that I would wish this treatise to be understood and judged. For what it concerns is *science*, and in science the content is essentially bound to the *form*.

We may indeed hear from those who seem to take things most thoroughly that form is something external and indifferent to the matter: only the matter counts. We may further locate the writer's business, especially the philosophical writer's, in discovering truths, speaking *truths*, and spreading *truths* and correct concepts. When we consider how this business is actually conducted, we see, on the one hand, the same old cabbage boiled up again and again and served on every side—a business that may well have its merit in educating and awakening minds, although it might rather be regarded as a busily superfluous activity —“for they have Moses and the prophets; let them hear them.” Above all, there is frequent occasion to marvel at the tone and pretension displayed, as though the world had lacked only these zealous disseminators of truths; as though reheated cabbage brought new and unheard-of truths, particularly deserving to be taken to heart “at the present time.” On the other hand, we see what one side issues as such truths displaced and swept away by similar truths dispensed from other sides. What in this throng of truths is neither old nor new, but

enduring—how is it to emerge from these formless reflections that wander back and forth? How else is it to distinguish and vindicate itself than through *science*?

In any case, truth concerning *right, ethical life, and the state* is as old as its open exposition and recognition in *public laws, public morality, and religion*. What more does this truth need, insofar as the thinking spirit is not content to possess it in this immediate manner, than also to *comprehend* it, and to win for a content already rational in itself a rational form as well? It would then appear justified to free thinking, which does not stop at what is given, whether supported by the external, positive authority of the state or human agreement, or by the authority of inward feeling and the heart and the spirit's immediately assenting testimony. Rather, free thinking proceeds from itself, and thereby demands to know itself united with truth in its innermost being.

The simple conduct of an unprejudiced mind is to hold with trusting conviction to publicly acknowledged truth and, on this firm foundation, to build its way of acting and its settled position in life. Against this simple conduct there already arises, perhaps, the supposed difficulty of distinguishing and discovering, among infinitely *different opinions*, what is universally recognized and valid in them; this perplexity can easily be taken for a right and genuine seriousness about the matter. Yet those who pride themselves on this perplexity are in fact unable to see the forest for the trees. The perplexity and difficulty exist only because they themselves contrive them; indeed, their perplexity and difficulty are rather proof that they want something other than what is universally recognized and accepted, other than the substance of right and ethical life. For if they truly cared about this, and not about the *vanity and particularity* of opinion and being, they would hold to substantial right—to the commands of ethical life and the state—and order their lives accordingly.—The further difficulty, however, arises because the human being *thinks*, and seeks freedom and the ground of ethical life in thinking. This right, however lofty and divine, is perverted into wrong when only a thinking that departs from what is *universally recognized and valid*, and has managed to invent something *particular* for itself, counts as thinking and knows itself to be free.

In our time, the notion that freedom of thought, and of spirit generally, proves itself only through departure from, indeed hostility toward, what is publicly recognized has become most firmly rooted in relation to the *state*. Accordingly, a philosophy of the state in particular seems to have as its essential task the invention and presentation of a *theory*, a new and peculiar theory at that. When one sees this notion and the activity that accords with it, one might suppose that no state or constitution had ever existed in the world, or existed now; that we must begin entirely afresh *now*—and this now goes on forever—and that the ethical world had merely been waiting for just such present-day thinking up, fathoming, and grounding. In the case of nature, it is conceded that philosophy must know it *as it is*: that the philosophers' stone lies hidden *somewhere within nature itself*; that nature is *rational in itself*; and that knowledge must investigate and comprehend this *actual* reason present within it—not the configurations and contingencies that appear on the surface, but its eternal harmony, as its *immanent* law and essence. Yet the ethical world, the state—reason as it actualizes itself in the element of self-consciousness—is not to enjoy the good fortune that reason has in fact attained force and power within this element, maintains itself there, and dwells within it. The spiritual universe is instead to be abandoned to contingency and arbitrary choice; it is to be *forsaken by God*. According to this atheism of the ethical world, truth lies *outside* it; and at the same time, since reason is nevertheless supposed to be within it, truth is only a problem. Here, however, every thinking mind is said to have the warrant, indeed the obligation, to make its own attempt—not, though, to seek the philosophers' stone, for the philosophizing of our time has spared us the search, and everyone is certain that, just as they stand, they have this stone in their possession. Now it admittedly happens that those who live within this actuality of the state and find their knowing and willing satisfied in it—and there are many of them, indeed more than think or know it, for *at bottom* they are *everyone*—that at least those who are *conscious* of their satisfaction in the state laugh at these attempts and assurances, and regard them as an empty game, now amusing, now serious, entertaining or dangerous. This restless activity of reflection and vanity, together with the reception and treatment it encounters, would be a

matter on its own, developing in its own fashion. But through this commotion *philosophy* in general has brought itself into manifold contempt and discredit. The worst contempt is the conviction that everyone, just as they stand, knows enough about philosophy in general to pass judgment on it. No other art or science is shown this final contempt: the opinion that one possesses it outright. Indeed, what we have seen the philosophy of recent times put forth concerning the state, with the greatest pretension, might well entitle everyone who wished to join the discussion to believe that they could produce just the same thing on their own, and thereby give themselves proof that they possessed philosophy. Besides, this self-styled philosophy has expressly declared that *truth itself cannot be known*: truth is instead what each person allows to rise from their *heart, feeling, and enthusiasm* concerning ethical matters, particularly the state, government, and constitution. What has not been said on this score, especially to flatter the young? The young have willingly listened. *He gives to his own in sleep*—this has been applied to science; and so every sleeper has counted themselves among *his own*. Whatever they received in this sleep of concepts was, of course, merchandise to match.—One commander of this shallowness that calls itself philosophizing, Mr. Fries,¹ did not shrink, on a solemn public occasion that has become notorious, from offering in a speech on the state and constitution the notion that “among a people in whom genuine communal spirit prevailed, life would come to every undertaking in public affairs *from below, from the people*; living associations would dedicate themselves to every individual work of popular education and service to the people, indissolubly united *by the sacred chain of friendship*,” and so forth.—The chief import of this shallowness is to base science not on the development of thought and concept, but rather on immediate perception and contingent imagining; likewise, to dissolve into the mush of “heart, friendship, and enthusiasm” the rich inward articulation of ethical life that is the state, the architecture of its rationality, which makes the strength of the whole emerge from the harmony of its members through the determinate distinction of the spheres of public life and their rights, and through the strict proportion within which every pillar, arch, and buttress holds its place—this elaborately formed structure. As the world in general is for Epicurus, so the

ethical world admittedly is not; but according to such a notion it ought to be surrendered to the subjective contingency of opinion and arbitrary choice. The simple household remedy of basing on *feeling* what is the labor, indeed the labor of millennia, of reason and its understanding certainly spares all the trouble of rational insight and cognition guided by the thinking concept. Goethe's Mephistopheles—a good authority—says approximately what I have quoted elsewhere:

“Go on, despise understanding and science,
The highest gifts bestowed on humankind—
Then you have given yourself to the devil
And must go down to ruin.”

Such a view can readily take on the guise of *piety* as well; for what has this com-motion not tried to enlist as its authority! In godliness and the Bible, however, it has supposed it could confer on itself the highest warrant to despise the ethical order and the objectivity of laws. Piety does indeed enfold, in the simpler intuition of feeling, the truth that is unfolded in the world into an organic realm. But insofar as it is of the right kind, it gives up the form of this region as soon as it steps out from within into the daylight of the Idea's unfolding and revealed riches; and from its inward worship it brings reverence for a truth and laws that exist in and for themselves, raised above the subjective form of feeling. Here we may note the particular form of bad conscience that reveals itself in the kind of eloquence to which this shallowness inflates itself. First of all, it speaks most of *spirit* where it is most *spiritless*; where its speech is deadest and most wooden, it introduces the word *life*, and *bringing to life*; where it displays the greatest selfishness of empty arrogance, it has the word *people* most often on its lips. But the distinctive sign it bears on its forehead is hatred of the *law*. That right and ethical life, and the actual world of right and ethical life, comprehend themselves through *thought*, and through thought give themselves the form of rationality—universality and determinacy—this, the *law*, is what that feeling which insists on doing as it pleases, that conscience which locates right in subjective conviction, has good reason to regard as its bitterest enemy. The form of right as a *duty* and a *law* is felt by it as a *dead, cold letter*, a *fetter*; for in

the law it does not recognize itself, and thus does not recognize itself as free within it, because law is the reason of the matter, and this does not permit feeling to warm itself at its own particularity. The *law*, therefore, as has been remarked somewhere in the course of this textbook, is above all the shibboleth by which the false brothers and friends of the so-called *people* reveal themselves. Now that the quibbling advocacy of arbitrary choice has seized the name of *philosophy* and managed to persuade a large public that such activity is philosophy, it has almost become a disgrace to speak philosophically about the nature of the state at all; honest men are not to be blamed if they grow impatient as soon as they hear talk of a philosophical science of the state. Still less is it surprising that governments have at last turned their attention to such philosophizing, since among us philosophy is not practiced as a private art, as it was among the Greeks, but has a public existence affecting the public, chiefly or solely in the service of the state. If governments have shown their confidence in scholars devoted to this field by relying entirely upon them for the cultivation and substance of philosophy—or if here and there, if one wishes, it was less confidence than indifference toward science itself, and its teaching office was retained only by tradition (as in France, so far as I know, at least the chairs of metaphysics have been allowed to lapse)—then in many cases that confidence has been ill repaid. Or, where one wishes to see indifference instead, the result, the decline of thorough knowledge, must be regarded as a penalty for that indifference. At first, shallowness may seem the most compatible of all with order and peace, at least outwardly, because it does not reach the substance of things, or even divine it. From the standpoint of the police, at least, there would initially be nothing against it, were it not that the state also contained the need for deeper cultivation and insight, and demanded its satisfaction from science. But in regard to ethical life, right, and duty generally, shallowness leads of itself to the principles that constitute shallowness in this sphere: the principles of the *Sophists*, whom we come to know so decisively from *Plato*—principles that base what is right on *subjective ends and opinions, subjective feeling, and particular conviction*; principles from which follows the destruction of inward ethical life and an upright conscience, of love and right among private

persons, as well as the destruction of public order and the laws of the state. The significance such phenomena must acquire for governments cannot be dismissed by a claim founded on the very confidence that was granted and on the authority of an office, demanding that the state allow what corrupts the substantial source of actions—the universal principles—and even its defiance, to have free rein, as though this were its due. *When God gives an office, he also gives understanding* is an old joke that no one in our time is likely to wish to maintain in earnest.

In the importance that circumstances have revived for governments concerning the manner of philosophizing, we cannot fail to recognize a moment of protection and support, of which the study of philosophy seems to have become needy in many other respects. For in so many productions in the fields of the positive sciences, of religious edification, and of other indeterminate literature, we read not only expressions of the contempt for philosophy mentioned above—people who at the same time prove that they are wholly backward in the cultivation of thought, and that philosophy is utterly foreign to them, nevertheless treat it as something they have disposed of—but also explicit attacks on philosophy. Its content, the *conceptual knowledge of God* and of physical and spiritual nature, *knowledge of truth*, is declared a foolish, indeed sinful presumption; *reason*, and again *reason*, and in endless repetition *reason* is accused, disparaged, and condemned. Or at least it is indicated how inconvenient the nonetheless inescapable claims of the concept are to much of the activity that purports to be scientific. When, I say, such phenomena confront us, we might almost admit the thought that, from this side, tradition was no longer venerable or sufficient to secure *toleration* and a public existence for the study of philosophy.²—The declamations and presumptions against philosophy current in our time offer the strange spectacle that, on the one hand, they are justified by the shallowness to which this science has been degraded; and, on the other, they themselves are rooted in the very element against which they turn so ungratefully. For by declaring knowledge of truth a foolish attempt, this self-styled philosophizing has *leveled* all thoughts and all subject matters, just as the despotism of the Roman emperors *made equal* noble and slave, virtue and vice, honor and dis-

honor, knowledge and ignorance. Thus the concepts of truth and the laws of ethical life are nothing more than opinions and subjective convictions; the most criminal principles, as *convictions*, rank with those laws in equal dignity; and likewise every barren and particular object, every dry-as-straw subject matter, is accorded equal dignity with what constitutes the interest of all thinking people and the bonds of the ethical world.

It must therefore be considered a piece of good fortune for science—indeed, as remarked, it is the *necessity of the matter*—that this philosophizing, which wished to spin itself out within itself as a *scholastic wisdom*, has entered into a closer relation with actuality, where the principles of rights and duties are taken seriously, and which lives in the daylight of consciousness of them; and that it has consequently come to an *open breach*. It is precisely this *position of philosophy toward actuality* that the misunderstandings concern. I return here to what I remarked earlier: because philosophy is *the fathoming of the rational*, it is precisely thereby *the comprehension of the present and the actual*, not the construction of a *beyond* that is supposed to exist God knows where—or of which, rather, we can say very well where it is: in the error of one-sided, empty ratiocination. In the course of the following treatise I have remarked that even the *Platonic Republic*, which passes proverbially for an *empty ideal*, has essentially grasped nothing but the nature of Greek ethical life. Then, in its consciousness of the deeper principle breaking into that life—a principle that could appear immediately within it only as an as-yet unsatisfied longing, and thus only as corruption—Plato had to seek help against it from precisely that longing. Yet the help that had to come from on high he could at first seek only in an outward, particular form of that ethical life, through which he imagined he could master this corruption, and in doing so he most deeply injured its deeper impulse, free and infinite personality. Yet he proved himself the great spirit he was in this: the very principle around which the distinctive character of his Idea turns is the hinge around which the impending revolution of the world has turned.

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

Every unprejudiced consciousness, like philosophy, stands in this conviction, and from it philosophy proceeds in considering the *spiritual* universe as well as the *natural* one. When reflection, feeling, or whatever form subjective consciousness may take regards the *present* as something *vain*, stands beyond it, and knows better, it finds itself in vanity; and because it has actuality only in the present, it is itself mere vanity. Conversely, when the *Idea* is taken to mean what is merely an idea, a representation within an opinion, philosophy affords the insight that nothing is actual but the Idea. What matters, then, is to recognize in the semblance of the temporal and transient the substance that is immanent, and the eternal that is present. For the rational, which is synonymous with the Idea, enters in its actuality into outward existence as well, and emerges in an infinite wealth of forms, appearances, and configurations, surrounding its core with a colorful rind in which consciousness initially dwells. The concept first penetrates this rind to find the inner pulse, and to feel it still beating within the outward configurations. But the infinitely manifold relations that take shape in this externality through the appearance of essence within it—this infinite material and its regulation—are not the subject of philosophy. It would be meddling in things that do not concern it; it can spare itself the trouble of giving good advice about them. Plato could have refrained from recommending that nurses never stand still with children, but always rock them in their arms; Fichte likewise from *constructing* the perfection of passport policing to the point, as it was called, that not only a description but a painted portrait of a suspect should be entered in the passport. In elaborations of this kind no trace of philosophy remains, and it can all the more readily leave such excessive wisdom alone, since it ought to show itself most liberal toward this infinite multitude of objects. Science will thereby also show itself furthest removed from the hatred that the vanity of knowing better casts upon a multitude of circumstances and institutions—a hatred in which pettiness most delights, since only through it does pettiness attain a sense of itself.

Insofar as this treatise contains the science of the state, then, it is to be nothing other than the attempt to *comprehend and present the state as something rational in itself*. As a philosophical work, it must be as far as possible from con-

structing a *state as it ought to be*. The instruction it can contain cannot aim to teach the state how it ought to be, but rather how the state, the ethical universe, ought to be known.

Here is Rhodes, here also is the leap.

Here is Rhodes, here is the leap.

To comprehend *what is* is the task of philosophy, for *what is* is reason. As for the individual, each is in any case a *child of their time*; so too philosophy is *its own time comprehended in thought*. It is just as foolish to imagine that any philosophy goes beyond its present world as that an individual leaps over their time, leaps beyond Rhodes. If their theory does in fact go beyond it, if they build themselves a world *as it ought to be*, that world certainly exists, but only in their opinion—a pliable element in which anything one likes can be imagined.

With little alteration, that saying would run:

Here is the rose; here dance.

What lies between reason as self-conscious spirit and reason as present actuality, what separates the former from the latter and prevents it from finding satisfaction there, is the fetter of some abstraction not liberated into the concept. To recognize reason as the rose in the cross of the present, and thus to delight in the present—this rational insight is *reconciliation* with actuality, which philosophy grants to those who have once received the inward demand to *comprehend*: both to preserve subjective freedom within what is substantial, and to stand with that subjective freedom not in something particular and contingent, but in what is in and for itself.

This also constitutes the more concrete sense of what was designated above more abstractly as the *unity of form and content*. For form in its most concrete meaning is reason as conceptual cognition; content is reason as the substantial essence of ethical as well as natural actuality. The conscious identity of the two is the philosophical Idea.—It is a great obstinacy, the obstinacy that does human beings honor, to refuse to acknowledge in conviction anything not justified by thought; and this obstinacy is characteristic of modern times, as well as the distinctive principle of Protestantism. What *Luther* began as faith in feeling and the witness of spirit is the same thing that the further-matured spirit strives

to grasp in the *concept*, and thus to free itself in the present and thereby find itself there. As it has become a famous saying that half a philosophy leads away from God—and it is the same half measure that makes knowing an *approximation* to truth—but true philosophy leads to God, so it is with the state. Just as reason is not content with approximation, which is neither cold nor hot and is therefore spat out, so it is not content with the cold despair that admits that things in this temporal world go badly, or at best moderately well, but that nothing better is to be had here, and that only for this reason must we keep peace with actuality. The peace that knowledge brings with it is warmer than that.

To say one more word about *teaching* how the world ought to be: philosophy in any case always comes too late for that. As the thought of the world, it appears in time only after actuality has completed its formative process and made itself ready. What the concept teaches, history necessarily shows as well: only in the maturity of actuality does the ideal appear over against the real, and the former builds for itself this same world, grasped in its substance, in the shape of an intellectual realm. When philosophy paints its gray on gray, a form of life has grown old; gray on gray cannot rejuvenate it, but only know it. The owl of Minerva begins its flight only with the gathering dusk.

But it is time to close this foreword. As a foreword, its only task was in any case to speak externally and subjectively from the standpoint of the work it precedes. If a content is to be discussed philosophically, it admits only a scientific, objective treatment; and so the author must regard objections of any kind other than a scientific treatment of the matter itself merely as a subjective afterword and an arbitrary assurance, and must remain indifferent to them.

Berlin, June 25, 1820.

¹ I have testified elsewhere to the shallowness of his science; see *Wissenschaft der Logik* (Nürnberg 1812.) Einl. S. xvii.

² Such views occurred to me on reading a letter by Joh. v. Müller (*Werke* Theil VIII. S. 56.), where, concerning the condition of Rome in 1803, when the city was under French rule, it says among other things: “Asked how the public teaching institutions stood, a professor replied: They are tolerated like

brothels.”—One may even still hear the so-called doctrine of reason, namely logic, recommended, perhaps with the conviction that people either no longer occupy themselves with it anyway, as a dry and unfruitful science, or, if they do so now and then, receive from it only formulas without content, thus yielding nothing and spoiling nothing; the recommendation, therefore, can in no case do harm, just as it will do no good.

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Section 1

Natural Right and the Science of the State

Introduction

- ¹ The philosophical science of right has as its subject the *Idea of right*: the concept of right and its actualization.

Philosophy concerns itself with Ideas, and therefore not with what are commonly called *mere concepts*. Rather, it exposes their one-sidedness and untruth, and shows that the *concept* alone—not what one often hears called by that name, but which is merely an abstract determination of the understanding—has *actuality*, in such a way that it gives itself this actuality. Everything that is not this actuality posited by the concept itself is transient existence, external contingency, opinion, appearance without essence, untruth, illusion, and so forth. The *configuration* that the concept gives itself in its actualization is, for knowledge of the *concept itself*, the Idea's other essential moment, distinct from the *form* of being only a *concept*.

Section 2

- ² The science of right is a *part of philosophy*. It must therefore develop the Idea, which is the reason of a subject matter, from the concept—or, what is the same thing, attend to the matter's own immanent development. As a part, it has a determinate starting point, which is the *result* and the truth of what *precedes* it, and which constitutes its so-called *proof*. The concept of right therefore falls, in its *coming to be*, outside the science of right; its deduction is presupposed here, and it is to be received as *given*.

According to the formal, nonphilosophical method of the sciences, the *definition* is first sought and demanded, at least for the sake of outward scientific form. The positive science of law, however, need not be greatly concerned with this, since it chiefly aims to state *what is legally right*—that is, what the particular statutory determinations are. Hence the warning: every definition in civil law is dangerous. Indeed, the more disconnected and internally contradictory the determinations of a legal system are, the less are definitions possible within it; for definitions are supposed to contain universal determinations, and these

immediately expose the contradiction—here, what is contrary to right—in all its nakedness. Thus, for example, no definition of the *human being* would be possible in Roman law, since the slave could not be subsumed under it; rather, that concept is violated in the slave's status. A definition of property and proprietor would prove equally dangerous for many legal relations.—The deduction of the definition is drawn, perhaps, from etymology, but chiefly by abstracting it from particular cases and taking human feeling and representation as its basis. The correctness of the definition is then made to consist in agreement with existing representations. This method sets aside what alone is scientifically essential: with respect to content, the *necessity of the matter in and for itself*—here, of right—and with respect to form, the nature of the concept. In philosophical cognition, by contrast, the *necessity* of a concept is the chief concern, and the course by which it has come to be as a *result* is its proof and deduction. Once its content is thus necessary *in itself*, the second task is to look for what corresponds to it in representations and in language. But how this concept is in itself, in its *truth*, and how it is in *representation* can not only differ: in form and configuration they must differ. If, however, the representation is not also false in content, the concept may indeed be shown to be contained in it and, in its essence, present within it; that is, the representation may be raised to the form of the concept. Yet it is so far from being the measure and criterion of the concept necessary and true in itself that it must instead take its truth from the concept, and through it correct and know itself.—But although that manner of knowing, with its formalities of definitions, inferences, proofs, and the like, has more or less disappeared on one side, it has received a poor substitute in another manner: immediately seizing and asserting Ideas in general, including that of right and its further determinations, as *facts of consciousness*, and making natural or intensified feeling, one's *own heart*, and *enthusiasm* the source of right. If this method is the most convenient of all, it is also the most unphilosophical—not to mention here other aspects of such a view, which bears not merely on cognition but directly on action. Whereas the first, admittedly formal method still demands the *form* of the concept in the definition, and in proof the *form* of a *necessity* of cognition, the manner of immediate con-

sciousness and feeling makes the subjectivity, contingency, and arbitrary choice of knowing its principle.—What constitutes the scientific procedure of philosophy must here be presupposed from philosophical logic.

Section 3

- ³ Right is *positive* in general a) through the *form* of being valid in a state; this statutory authority is the principle for knowledge of it, the *positive science of law*. b) With respect to *content*, this right receives a positive element α) through a people's particular *national character*, the stage of its *historical* development, and the interconnection of all the relations that belong to *natural necessity*; β) through the necessity that a system of statutory law contain the application of the universal concept to the particular character of objects and cases that presents itself *from outside*—an application that is no longer speculative thought and development of the concept, but subsumption by the understanding; γ) through the *ultimate* determinations required for *decision* in actuality.

When the feeling of the heart, inclination, and arbitrary choice are opposed to positive right and the laws, philosophy, at least, cannot be the authority that recognizes such claims.—That force and tyranny can be an element of positive right is contingent to it and does not concern its nature. Later, in §§ 211–214, the place where right must become positive will be indicated. The determinations that emerge there have been mentioned here only to mark the limits of philosophical right, and immediately to remove any notion, or even demand, that its systematic development should produce a positive code of law—that is, one of the kind an actual state requires.—To turn the distinction between natural or philosophical right and positive right into an opposition and contradiction between them would be a great misunderstanding; their relation is rather that of the Institutes to the Pandects.—Concerning the historical element in positive right mentioned first in this section, *Montesquieu* stated the true historical view, the genuinely philosophical standpoint: legislation in general and

its particular determinations are to be considered not in isolation and abstraction, but rather as a dependent moment of *one* totality, in connection with all the other determinations that constitute the character of a nation and an age. In this connection they receive their true meaning, and thereby their justification.—To consider the emergence and development of legal determinations *as they appear in time*—this *purely historical* undertaking—as well as to know the consistency they possess for the understanding, which emerges from comparing them with existing legal relations, has its merit and due recognition in its own sphere. It stands outside the relation to philosophical consideration, provided that development from historical grounds is not confused with development from the concept, and historical explanation and justification are not extended to mean a justification *valid in and for itself*. This distinction, very important and to be firmly maintained, is also very plain. A legal determination may be shown to be perfectly *grounded* and *consistent* in the *circumstances* and *existing* legal institutions, and yet be wrong and irrational in and for itself—as are many determinations of Roman private law that followed quite consistently from such institutions as Roman paternal authority and Roman marriage. Even where legal determinations are right and rational, however, demonstrating this—which can truly be done only through the concept—is something quite different from presenting the history of their emergence, the circumstances, cases, needs, and events that brought about their establishment. Such demonstration and pragmatic knowledge from nearer or more remote historical causes are frequently called *explanation*, or, more preferably, *comprehension*, as though this demonstration of the historical accomplished everything, or rather the essential thing that alone mattered, for *comprehending* the law or legal institution. Yet the truly essential thing, the concept of the matter, has not been discussed at all.—Thus people also speak of Roman or Germanic *legal concepts*, of legal concepts as determined in this or that code, although what occurs there is not concepts but only general *legal determinations*, *propositions of the understanding*, principles, laws, and the like.—By disregarding that distinction, it becomes possible to shift the standpoint, to turn the question of true justification into justification from circumstances, consistency from presuppositions

that may in themselves be equally worthless, and so forth; in general, to put the relative in place of the absolute, the outward appearance in place of the nature of the matter. When historical justification confuses outward origination with origination from the concept, it unconsciously does the opposite of what it intends. If an institution's emergence under its particular circumstances proves perfectly appropriate and necessary, and thus fulfills what the historical standpoint demands, then, if this is supposed to count as a universal justification of the matter itself, the opposite follows: precisely because such circumstances no longer exist, the institution has instead lost its meaning and its right. Thus, for example, when the merits of monasteries in cultivating and populating wastelands, in preserving learning through teaching and copying, and so forth, have been invoked to uphold them, and these merits have been regarded as the ground and purpose of their continued existence, it follows instead that, under wholly altered circumstances, they have become, at least to that extent, superfluous and inappropriate.—Since historical significance, the historical demonstration and explanation of an origin, and the philosophical view of the origin and concept of the matter inhabit different spheres, they can to that extent maintain an indifferent position toward one another. But since, even in scholarly work, they do not always maintain this peaceful position, I will add something concerning their encounter as it appears in Herr *Hugo's Textbook of the History of Roman Law*, which may also further clarify that manner of opposition. Herr Hugo mentions there (3rd edition, § 53) “that *Cicero* praises the Twelve Tables, with a *sidelong glance* at the philosophers,” while “the philosopher *Phavorinus* treats them exactly as many a great philosopher has since treated positive law.” In the same place Herr Hugo states the ready-made, once-and-for-all reply to such treatment: “because *Phavorinus* did not *understand* the Twelve Tables any more than these philosophers understood positive law.”—As for the rebuke administered to the philosopher *Phavorinus* by the jurist *Sextus Caecilius* in Gellius, noct. Attic. XX. 1, it first states the enduring and true principle for justifying what is merely positive in content. “You are not unaware,” Caecilius very aptly says to Phavorinus, “that the *useful provisions* and remedies of laws *change* and *bend* according to the customs of the *times*,

the *kinds* of commonwealths, the requirements of *present* advantage, and the *intensity* of the *vices* to be remedied; *nor do they remain in one condition*, but, like the face of sky and sea, *vary* with the *storms of circumstances and fortune*. What seemed more salutary than that proposal of Stolo, etc.; what more useful than the Voconian plebiscite, etc.; what was thought so necessary as the Licinian law, etc.? Yet all these have been *effaced* and *buried* by the wealth of the state, etc.”—These laws are positive insofar as they have their meaning and appropriateness in circumstances, and thus only a historical value in general; for that reason, too, they are transient in nature. The wisdom of legislators and governments in what they have done for existing circumstances and established for the conditions of their time is a matter on its own and belongs to the judgment of history, which will recognize it all the more deeply the more that judgment is supported by philosophical points of view.—Of the further justifications of the Twelve Tables against *Phavorinus*, however, I will cite one example, because *Caecilius* introduces here the perennial deception of the method of the understanding and its ratiocination: *giving a good reason for a bad thing*, and believing it thereby justified. For the atrocious law that gave the creditor, after the stipulated periods had elapsed, the right to kill the debtor or sell him as a slave—and, if there were several creditors, to *cut pieces off him* and thus *divide him among themselves*, and indeed so that *if one cut off too much or too little, no legal disadvantage should result* (a clause that would have benefited Shakespeare’s Shylock in *The Merchant of Venice*, and would have been most gratefully accepted by him)—*Caecilius* gives the *good reason* that faith and trust would thereby be all the more secure, and that precisely because of the law’s atrocity it was never supposed to be applied. In his thoughtlessness he overlooks not merely the reflection that this very determination destroys its intended end, the securing of faith and trust, but also the fact that immediately afterward he himself cites an example of the failed effect of the law against false testimony because of its excessive punishment.—What Herr Hugo means by saying that *Phavorinus* did not *understand* the law, however, is impossible to see. Any schoolboy is surely capable of understanding it, and the aforesaid Shylock would have understood particularly well the clause cited above that

favored him so greatly—unless by *understanding* Herr Hugo means only the cultivation of the understanding that rests content with a *good reason* for such a law.—A philosopher can, moreover, admit without blushing to another failure of understanding that *Caecilius* attributes to *Phavorinus* in the same passage: namely, that “a beast of burden,” which alone, “and not a covered carriage,” was to be provided by law for a sick man in order to bring him before the court as a witness, was supposed to mean not only a horse, but also a coach or wagon. *Caecilius* could draw from this statutory determination a further proof of the excellence and exactness of the ancient laws: in providing for a sick witness’s appearance in court, they carried specification not merely to the distinction between a horse and a wagon, but between wagon and wagon—one covered and padded, as *Caecilius* explains, and another not so comfortable. We would thus have the choice between the harshness of that law and the triviality of such determinations; but to call such matters trivial, and still more their learned explanations, would be one of the greatest offenses against this and other kinds of erudition.

Herr Hugo also discusses *rationality* in relation to Roman law in the textbook cited. What struck me in this regard is the following. After saying in his account of *the period from the origin of the state to the Twelve Tables*, §§ 38 and 39, “that people (in Rome) had many needs and were compelled to work, for which they required as *helpers* draft animals and beasts of burden, *such as occur among us*; that the terrain was an alternation of hills and valleys, and the city stood on a hill,” and so forth—statements perhaps intended to fulfill Montesquieu’s meaning, but in which his spirit will scarcely be found—he then does say, in § 40, that the legal condition “was still very far from satisfying the *highest demands of reason*” (quite right: Roman family law, slavery, and so forth fail to satisfy even very modest demands of reason). But in the periods that follow, Herr Hugo forgets to state in which, or whether in any, Roman law *satisfied the highest demands of reason*. Yet of the classical jurists, in *the period of the highest development of Roman law as a science*, § 289 says “that it has long been observed that the classical jurists were educated through philosophy”; but “few know” (through the many editions of Herr Hugo’s textbook, several peo-

ple now do know) “that no class of writers so deserves, in consistent inference from principles, to be placed beside the mathematicians, and in a very striking peculiarity of the development of concepts beside the modern creator of metaphysics, as precisely the Roman jurists; the latter is attested by the *remarkable* circumstance that nowhere do so many *trichotomies* occur as among the classical jurists and in Kant.”—The consistency praised by *Leibniz* is certainly an essential property of jurisprudence, as of mathematics and every other science of the understanding. But this consistency of the understanding has as yet nothing to do with satisfying the demands of reason or with philosophical science. Moreover, the *inconsistency* of the Roman jurists and praetors must surely be counted among their greatest virtues: through it they departed from unjust and atrocious institutions, but saw themselves compelled to devise *cunningly* empty verbal distinctions—such as calling what was, after all, an inheritance “possession of the estate”—and even an absurd evasion (and absurdity is likewise an inconsistency), in order to save the letter of the Tables; for example, through the fiction, the pretense, that a daughter was a son (Heinecc., Antiq. Rom. lib. I. tit. II. § 24).—It is comical, however, to see the classical jurists placed alongside Kant on account of a few *trichotomous* divisions—especially on the evidence of the examples given there in note 5—and to see something like this called the development of concepts.

Section 4

⁴ The ground of right is, in general, the *spiritual*; its more precise place and starting point is the *will*, which is *free*. Freedom therefore constitutes its substance and determination, and the system of right is the realm of actualized freedom, the world of spirit brought forth from spirit itself as a second nature.

Concerning freedom of the will, we may recall the former procedure of knowing. The *representation* of the will was presupposed, and an attempt was made to extract and establish a definition of it. Then, in the manner of the former

empirical psychology, the so-called *proof* that the will was free was drawn from the various sensations and appearances of ordinary consciousness—remorse, guilt, and the like—which were supposedly *explicable* only from a *free* will. More convenient, however, is the simple insistence that freedom is *given* as a fact of consciousness, and must be *believed* in. That the will is free, and what will and freedom are, can be deduced, as already remarked (§ 2), only within the interconnection of the whole. I have presented the outlines of this premise—that *spirit* is initially *intelligence*, and that the determinations through which intelligence advances in its development, from *feeling*, through *representation*, to *thinking*, are the path by which it brings itself forth as *will*, which, as practical spirit in general, is the nearest truth of intelligence—in my *Encyclopedia of the Philosophical Sciences* (Heidelberg, 1817), §§ 363–399, and hope one day to be able to give a fuller development of them. I feel all the more need to contribute, through this, what I hope will be my small share toward a more thorough knowledge of the nature of spirit, since, as remarked there in the remark to § 367, scarcely any philosophical science is in so neglected and poor a condition as the *doctrine of spirit*, commonly called psychology.—Moreover, concerning the moments of the concept of the will stated in this and the following sections of the Introduction, which are the result of that premise, we may appeal, for the purpose of representation, to everyone’s self-consciousness. Everyone will find within themselves, first, the capacity to abstract from anything whatsoever and, equally, to determine themselves, to posit within themselves, through themselves, any content; and they will likewise find in their self-consciousness the example for the further determinations.

Section 5

- 5 The will contains α) the element of *pure indeterminacy*, or the pure reflection of the I into itself, in which every limitation, every content immediately present through nature, needs, desires, and drives, or given and determined in whatever

manner, is dissolved: the limitless infinity of *absolute abstraction* or *universality*, the pure *thinking* of itself.

Those who regard thinking as a distinct, peculiar faculty, separated from the will as an equally peculiar faculty, and who go so far as to consider thinking harmful to the will, especially to the good will, show at once that they know nothing whatever of the nature of the will—a remark that will have to be made repeatedly concerning the same subject.—If the *one side* of the will determined here—this *absolute possibility* of abstracting from every determination in which I find myself or which I have posited within myself, this flight from all content as a limitation—is what the will determines itself to be, or is what representation holds fast by itself as freedom, then this is *negative freedom*, or the freedom of the understanding.—It is the freedom of the void. Raised to actual form and to passion, it becomes, while remaining merely theoretical, the religious fanaticism of pure Indian contemplation; but, turning toward actuality, in politics as in religion, it becomes the fanaticism of demolishing every existing social order, removing individuals suspected of favoring an order, and annihilating every organization that seeks to emerge again. Only in destroying something does this negative will feel its existence. It may suppose that it wills some positive condition—for example, universal equality or a universal religious life—but in fact it does not will the positive actuality of that condition; for this immediately introduces some order, some particularization both of institutions and of individuals. Yet it is from the annihilation of particularization and objective determination that this negative freedom gains its self-consciousness. Thus what it supposes it wills can in itself be no more than an abstract representation, and its actualization no more than the fury of destruction.

Section 6

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

This second moment of determination is just as much negativity, sublation, as the first: it is the sublation of the first abstract negativity. Just as the particular is contained in the universal in general, so this second moment is already contained in the first and is merely a *positing* of what the first already is in itself. For the first moment, as the first by itself, is not true infinity, or *concrete* universality, the concept, but only something *determinate*, one-sided. Precisely because it is abstraction from all determinacy, it is itself not without determinacy; and being something abstract and one-sided constitutes its determinacy, deficiency, and finitude.—The distinction and determination of the two moments stated here are found in Fichte's philosophy, as also in Kant's, and so forth. But, to remain with Fichte's presentation, the I as the unlimited (in the first proposition of Fichte's *Science of Knowledge*) is taken wholly as something *positive*—as such it is the universality and identity of the understanding—so that this abstract I by itself is supposed to be the truth, while *limitation*, the *negative* in general, whether as a given external limit or as the I's own activity, is then *added* (in the second proposition).—To grasp the *negativity* immanent in the universal or identical, as in the I, was the further step speculative philosophy had to take—a need not even suspected by those who do not even grasp the *dualism* of infinity and finitude in immanence and abstraction, as Fichte does.

Section 7

⁷ γ) The will is the unity of these two moments: *particularity* reflected into itself and thereby returned to *universality—individuality*. It is the *self-determination* of the I: in one act, to posit itself as the negative of itself, namely as *determinate, limited*, and to remain with itself, that is, in its *identity with itself* and universality, and in the determination to join itself only with itself.—The I determines itself insofar as it is the relation of negativity to itself. As this relation to itself, it is equally indifferent to this determinacy, knows it as its own and as ideal, as a mere possibility by which it is not bound, but within which it is only because it posits itself there.—This is the *freedom* of the will, which constitutes its concept or substantiality, its gravity, just as gravity constitutes the substantiality of body.

Every self-consciousness knows itself as universal—as the possibility of abstracting from everything determinate—and as particular, with a determinate object, content, and end. Yet these two moments are only abstractions. The concrete and true—and all truth is concrete—is the universality that has the particular as its opposite, but in which the particular, through its reflection into itself, is reconciled with the universal.—This unity is *individuality*, not in its immediacy as a single one, as individuality is in representation, but according to its concept (*Encyclopedia of the Philosophical Sciences*, §§ 112–114); or this individuality is, in fact, nothing other than the concept itself. Those first two moments—that the will can abstract from everything, and that it is also determinate, whether through itself or something else—are readily conceded and grasped, because by themselves they are untrue moments of the understanding. But the third, the true and speculative—and everything true, insofar as it is comprehended, can be thought only speculatively—is what the understanding refuses to enter, always calling precisely the concept incomprehensible. The proof and fuller discussion of this innermost core of speculation—

infinity as negativity relating to itself, this ultimate wellspring of all activity, life, and consciousness—belong to logic, as purely speculative philosophy.—Here we can only add that when we say, “the *will* is universal,” “the *will* determines itself,” we already express the will as a presupposed *subject* or *substrate*. Yet it is not something finished and universal before its determining, and before the sublation and ideality of this determining; it is will only as this activity mediating itself within itself and returning into itself.

Section 8

- ⁸ The further determinacy of *particularization* (β , § 6) constitutes the distinction between the forms of the will. a) Insofar as the determinacy is the *formal* opposition of *subjective and objective*, as external immediate existence, this is the *formal* will as self-consciousness. It *finds* an external world before it and, as individuality returning into itself within determinacy, is the process of *translating* the *subjective end* into *objectivity* through the mediation of activity and a means. In spirit as it is in and for itself, in which determinacy is wholly its own and true (*Encyclopedia*, § 363), the relation of consciousness constitutes only the *side of the will's appearance*, which is no longer considered here on its own.

Section 9

- ⁹ b) Insofar as the determinations of the will are the will's *own*, its particularization reflected into itself in general, they are *content*. According to the form indicated in a), this content, as content of the will, is an *end*: partly an inward or subjective end in willing that represents its object; partly an actualized, accomplished end, through the mediation of activity translating the subjective into objectivity.

Section 10

- ¹⁰ This content, or differentiated determination of the will, is initially *immediate*. Thus the will is free only *in itself*, or *for us*; in general, it is the will *in its concept*. Only when the will has itself as its object is it *for itself* what it is *in itself*. According to this determination, finitude consists in this: what something is *in itself*, or according to its concept, is an existence or appearance different from what it is *for itself*. Thus, for example, nature's abstract externality is *in itself* space, but *for itself* time. Two things must be observed here. First, because only the Idea is the truth, when we grasp an object or determination merely as it is in itself or in its concept, we do not yet have it in its truth. Second, something as it is *as concept*, or *in itself*, likewise exists, and this existence is a distinctive configuration of the object—as space in the preceding example. The separation of being-in-itself and being-for-itself that is present in the finite also constitutes its mere *existence* or *appearance*—as will shortly be exemplified in the natural will, and then in formal right, and so forth. The understanding stops at mere *being-in-itself* and accordingly calls freedom, in this being-in-itself, a *faculty*; as such, it is indeed only *possibility*. But the understanding regards this determination as absolute and permanent, and takes freedom's relation to what it wills, to its reality in general, to be merely an *application* to a given material, not belonging to the essence of freedom itself. In this way it deals only with the abstraction, not with freedom's Idea and truth.

Section 11

- ¹¹ The will that is at first free only in itself is the *immediate* or *natural* will. The determinations of the difference that the self-determining concept posits in the will appear in the immediate will as an *immediately* present content: the *drives*,

desires, and inclinations through which the will finds itself determined by nature. This content, together with its developed determinations, does indeed arise from the rationality of the will and is thus rational in itself; but, released into such a form of immediacy, it is not yet in the form of rationality. This content is indeed mine in general; but this form and that content are still different. The will is thus *finite* within itself.

Empirical psychology enumerates and describes these drives and inclinations and the needs founded upon them, as it finds them in experience, or supposes it finds them, and seeks to classify this given material in the customary fashion. What is objective in these drives, how it is in its truth without the form of irrationality in which it is drive, and how it is also configured in its existence, will be discussed below.

Section 12

- ¹² The system of this content, as it is immediately found in the will, exists only as a multitude and diversity of drives, each of which is mine *in general* alongside the others, and is at the same time something universal and indeterminate, having many kinds of objects and ways of satisfaction. In giving itself the form of *individuality* within this twofold indeterminacy (§ 7), the will resolves; and only as a resolving will in general is it actual will.

Instead of *resolving upon something*—that is, sublating the indeterminacy in which one content as well as another is initially only possible—our language also has the expression *resolving oneself*. For the indeterminacy of the will itself, as the neutral yet infinitely fertile primal germ of all existence, contains within itself the determinations and ends, and brings them forth only from itself.

Section 13

- ¹³ Through resolving, the will posits itself as the will of a determinate individual, and as distinguishing itself outwardly from something else. Besides this *finitude* as consciousness (§ 8), however, the immediate will is formal because of the difference between its form and content (§ 11). Only *abstract resolving* as such belongs to it; its content is not yet the content and work of its freedom. For intelligence as *thinking*, the object and content remain something *universal*, and intelligence itself acts as universal activity. In the will, the universal also has essentially the meaning of what is mine, as *individuality*; in the immediate, that is, formal will, it has the meaning of abstract individuality, not yet filled with its free universality. Thus intelligence's *own finitude* begins in the will; only by raising itself again to thinking and giving its ends immanent universality does the will sublate the difference between form and content and make itself objective, infinite will. Those who suppose that the human being is infinite in willing in general, but limited in thinking—or even that reason is limited—therefore understand little of the nature of thinking and willing. Insofar as thinking and willing are still distinguished, the reverse is true: as will, thinking reason is the act of resolving upon *finitude*.

Section 14

- ¹⁴ The finite will, as an *infinite I* reflecting into itself and being with itself only on the side of form (§ 5), stands above the content—the differentiated drives—as also above the further particular ways of actualizing and satisfying them. At the same time, as only formally infinite, it is *bound* to this content as the determinations of its nature and its external actuality, though, as indeterminate, it is not bound to this or that content (§§ 6, 11). For the I's reflection into itself, this

content is therefore only something possible, which may or may not be mine; and I am the *possibility* of determining myself to this content or another—of *choosing* among these determinations, which on this side are external to the I.

Section 15

- ¹⁵ According to this determination, freedom of the will is *arbitrary choice*, which contains both free reflection abstracting from everything and dependence on the content and material given inwardly or outwardly. Because this content, necessary in itself as an end, is at the same time determined as possible in relation to that reflection, arbitrary choice is *contingency* in the form of will. The commonest conception of freedom is that of *arbitrary choice*: reflection's middle position between a will determined merely by natural drives and the will free in and for itself. When we hear it said that freedom in general means *being able to do whatever one wills*, such a conception can be taken only as a complete lack of cultivation in thought, in which there is not yet even an inkling of what the will free in and for itself, right, ethical life, and so forth are. Reflection, the *formal* universality and unity of self-consciousness, is the *abstract* certainty the will has of its freedom; but it is not yet the truth of that freedom, because it does not yet have itself as its content and end. The subjective side is therefore still different from the objective side, and the content of this self-determination consequently remains simply something finite. Instead of being the will in its truth, arbitrary choice is rather the will as *contradiction*. —In the debate conducted chiefly in the time of *Wolffian* metaphysics, as to whether the will was actually free or its knowledge of its freedom was merely an illusion, it was arbitrary choice that people had in view. *Determinism* rightly opposed to the certainty of that abstract self-determination the *content*, which, as something *found*, is not contained in that certainty and therefore comes to it from outside—even though this outside is drive, representation, or, in general, consciousness filled in whatever way, such that the content does not belong to

self-determining activity as such. Since only the formal element of free self-determination is thus immanent in arbitrary choice, while the other element is given to it, arbitrary choice, if it is supposed to be freedom, can indeed be called an illusion. Freedom in every philosophy of reflection, as in *Kant's*, and then in *Fries's* complete trivialization of Kant's, is nothing other than this formal self-activity.

Section 16

- ¹⁶ The will can equally give up again (§ 5) what it has chosen in its resolve (§ 14). Yet with this possibility of going beyond every other content it puts in that content's place, and so on to infinity, it does not go beyond finitude. For every such content is different from the form, and therefore finite; and the opposite of determinacy, indeterminacy—irresolution or abstraction—is merely the other, equally one-sided moment.

Section 17

- ¹⁷ The contradiction that constitutes arbitrary choice (§ 15) appears, as the *dialectic* of drives and inclinations, in their interference with one another: satisfying one demands that the satisfaction of another be subordinated or sacrificed, and so on. And since a drive is merely the single direction of its own determinacy, and therefore has no measure within itself, this determination that subordinates or sacrifices is the contingent decision of arbitrary choice—whether it proceeds by calculating with the understanding which drive will yield greater satisfaction, or by any other consideration it pleases.

Section 18

- ¹⁸ With regard to the *assessment* of drives, the dialectic appears in this way: as immanent and therefore positive, the determinations of the immediate will are good; in this sense the human being is said to be *good by nature*. But insofar as they are *natural determinations*, and thus opposed to freedom and to the concept of spirit in general, and are *the negative*, they must be *rooted out*; in this sense the human being is said to be *evil by nature*. At this standpoint, what decides in favor of either assertion is likewise subjective arbitrary choice.

Section 19

- ¹⁹ The demand for the *purification of drives* contains the general conception that they should be freed from the form of their immediate natural determinacy and from what is subjective and contingent in their content, and brought back to their substantial essence. The truth in this indeterminate demand is that the drives should exist as the rational system of the will's determination. To comprehend them in this way from the concept is the content of the science of right.

The content of this science, in all its individual moments—for example, right, property, morality, family, state, and so on—can be presented in the form that human beings have by nature a *drive* toward right, also a *drive* toward property and morality, as well as the drive of sexual love, the drive toward sociability, and so on. If, instead of this form of empirical psychology, one wishes to have a philosophical shape that sounds more distinguished, then, according to what—as was noted earlier—has passed for philosophy in recent times and still does, this is *cheaply* obtained by saying that human beings find within themselves, as

a *fact of their consciousness*, that they will right, property, the state, and so on. Later, another form of the same content that appears here in the shape of drives will emerge: that of *duties*.

Section 20

- ²⁰ Reflection directed toward the drives represents them, calculates them, compares them with one another and then with their means, consequences, and so on, and with a whole of satisfaction—*happiness*. In doing so, it brings *formal universality* to this material and, in this external way, purifies it of its rawness and barbarism. This bringing forth of the universality of thought is the absolute value of *cultivation*. (Compare § 187.)

Section 21

- ²¹ But the truth of this formal universality, which is indeterminate on its own and finds its determinacy in that material, is *self-determining universality*: the will, freedom. Since the will has universality—itself—as infinite form for its content, object, and end, it is the will that is free not only *in itself*, but also *for itself*—the true Idea.

The self-consciousness of the will as desire and drive is *sensuous*, just as the sensuous in general signifies externality, and thus self-consciousness's being outside itself. The *reflective* will has two elements: that sensuous element and the universality of thought. The will that *is in and for itself* has the will itself as such, and therefore itself in its pure universality, for its object—a universality that consists precisely in this: within it, the *immediacy* of naturalness and the *particularity* that both inheres in naturalness and is produced by reflection are sublated. But this sublation and elevation into the universal is what is called the activity of *thinking*. The self-consciousness that purifies and elevates its object,

content, and end to this universality does so as *thinking that asserts itself* within the will. Here is the *point at which it becomes clear* that only as *thinking* intelligence is the will a true, free will. The slave does not know his essence, his infinity, freedom; he does not know himself as an essence—and he does not know himself in this way, that is, he does not *think* himself. This self-consciousness, which through thinking grasps itself as essence, and thereby frees itself from what is contingent and untrue, constitutes the principle of right, morality, and all ethical life. Those who speak philosophically of right, morality, and ethical life, yet wish to exclude thinking and refer instead to feeling, to heart and breast, to enthusiasm, thereby express the deepest contempt into which thought and science have fallen. For in this way even science itself, despairing of itself and sunk into the utmost exhaustion, makes barbarism and thoughtlessness its principle and, so far as it could, would rob human beings of all truth, value, and dignity.

Section 22

- ²² The will that is in and for itself is *truly infinite*, because its object is itself, and therefore this object is neither an *other* nor a *limit* for it; rather, in this object it has only returned into itself. Further, it is not mere possibility, predisposition, or *faculty* (potentiality), but the *actually infinite* (infinite in actuality), because the existence of the concept, or its objective externality, is the inward itself. Thus, if one speaks merely of free will as such, without the determination that it is the will free in and for itself, one speaks only of the predisposition to freedom, or of the natural and finite will (§ 11), and precisely for this reason, despite one's words and intention, not of free will. Since the understanding grasps the infinite only as negative, and therefore as a *beyond*, it imagines that it does the infinite all the more honor the further it pushes it away into the dis-

tance and removes it from itself as something alien. In the free will, the truly infinite has actuality and presence—the will itself is this Idea present within itself.

Section 23

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

Section 24

- ²⁴ The will is *universal*, because within it all limitation and particular individuality are sublated. These lie solely in the difference between the concept and its object or content—or, in another form, in the difference between its subjective being-for-itself and its being-in-itself, between its *exclusive* and resolving individuality and its universality itself.

The various determinations of *universality* are set out in logic. (See *Encyclopedia of the Philosophical Sciences*, §§ 118–126.) At this expression, ordinary conception first thinks of abstract and external universality. But in the case of universality that is in and for itself, as it has been determined here, we must think neither of the universality of reflection—*commonality* or *allness*—nor of *abstract* universality, which stands outside the individual, on the other side: the abstract identity of the understanding (§ 6, Remark). It is universality that is *concrete* within itself and thus is for itself, the substance, the immanent genus or immanent Idea of self-consciousness—the concept of the free will as the *uni-*

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

Section 25

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

Section 26

- ²⁶ The will, α) insofar as it has itself as its determination and is thus in accordance with its concept and true, is the *unconditionally objective* will. β) The *objective* will, however, as *without the infinite form* of self-consciousness, is the will immersed in its object or condition, whatever the character of its content—the childlike and ethical will, as well as the slavish, superstitious will, and so on. γ) *Objectivity*, finally, is the one-sided form opposed to the subjective determination of the will, and hence the immediacy of existence as *external* existence; in this sense, the will becomes *objective* to itself only by carrying out its ends.

These logical determinations of subjectivity and objectivity have been set out here in particular so that, since they will often be used in what follows, it may be expressly noted that they, like other distinctions and opposed determinations of reflection, pass over into their opposites because of their finitude and consequently their dialectical nature. Yet other such determinations of opposition retain a fixed meaning for ordinary conception and the understanding, since their identity is still an *inward* one. In the will, by contrast, such oppositions—which are supposed to be abstract and at the same time determinations of the will, which can be known only as *the concrete*—lead of themselves to this identity of theirs and to the interchange of their meanings. This is an interchange that merely happens to the understanding without its knowing it. Thus the will, as freedom *within itself*, is subjectivity itself; subjectivity is therefore its concept and hence its objectivity. Finitude, however, is its subjectivity in opposition to objectivity; but precisely in this opposition the will is not at home with itself, is entangled with the object, and its finitude consists just as much in its not being subjective, and so on. Thus the meaning that the subjective or objective aspect of the will is to have in what follows must in each case become clear from the context, which contains its position in relation to the totality.

Section 27

- ²⁷ The absolute determination—or, if one prefers, the absolute drive—of free spirit (§ 21) is that its freedom should be its object: objective both in the sense that freedom is the rational system of spirit itself, and in the sense that this system is immediate actuality (§ 26); so that the will may be for itself, as Idea, what it is in itself. The abstract concept of the Idea of the will is, in general, *the free will that wills the free will*.

Section 28

- ²⁸ The activity of the will is to sublate the contradiction between subjectivity and objectivity, to translate its ends from the former determination into the latter, and at the same time to remain at home with itself in objectivity. Apart from the formal mode of consciousness (§ 8), in which objectivity is merely immediate actuality, this activity is the *essential development* of the substantial content of the Idea (§ 21). In this development, the concept determines the Idea, which is at first *itself abstract*, into the totality of its system. As the substantial, this totality is independent of the opposition between a merely subjective end and its realization, and is *the same* in both these forms.

Section 29

- ²⁹ That an existence is the *existence* of the *free will* is what constitutes *right*. Right, therefore, is in general freedom as Idea.
- The Kantian definition (Kant's *Doctrine of Right*, Introduction), which is also more generally accepted, in which "the *limitation* of my freedom or *arbitrary choice*, so that it can coexist with everyone's arbitrary choice under a universal law, is the chief moment," contains, on the one hand, only a *negative* determination, that of limitation. On the other, its positive element—the universal or so-called rational law, the agreement of one person's arbitrary choice with another's—amounts to the familiar formal identity and the principle of contradiction. The definition of right just cited contains the view, especially widespread since *Rousseau*, that the will—not as a will that is in and for itself and rational, and spirit not as true spirit, but as a *particular* individual, as the individual's will in its own distinctive arbitrary choice—is to be the substantial foundation and primary element. Once this principle is accepted, the rational

can of course emerge only as a limitation upon this freedom, and not as immanently rational, but only as an external, formal universal. This view is utterly devoid of speculative thought and rejected by the philosophical concept; and the phenomena it has produced in people's minds and in actuality have a horror matched only by the shallowness of the thoughts on which they were founded.

Section 30

³⁰ Right is *sacred as such*, solely because it is the existence of the absolute concept, of self-conscious freedom. But the *formalism* of right—and, later, of duty—arises from differences in the development of the concept of freedom. In contrast to a more formal—that is, more *abstract*, and therefore more limited—right, the sphere and stage of spirit in which spirit has brought the further moments contained in its Idea to determination and actuality within itself is *more concrete*, richer within itself, and more truly universal; precisely for this reason, it also has a higher right.

Every stage in the development of the Idea of freedom has its own distinctive right, because it is the existence of freedom in one of freedom's own determinations. When one speaks of the opposition of morality or ethical life to *right*, right means only the first, formal right of abstract personality. Morality, ethical life, and the interest of the state are each a distinctive right, because each of these shapes is a determination and existence of *freedom*. They can come into *collision* only insofar as they stand on the same footing as rights. If spirit's moral standpoint were not also a right—freedom in one of its forms—it could not come into collision at all with the right of personality or any other right, because such a right contains the concept of freedom, spirit's highest determination, in contrast to which anything else is without substance. But collision

also contains this further moment: that these rights are limited, and hence one is also subordinate to another. Only the right of the world-spirit is the unrestricted absolute right.

Section 31

- ³¹ Here too, we presuppose from logic the method by which, in science, the concept develops out of itself and is only an *immanent* progression and production of its determinations. Progress is not made by asserting that various relations exist and then *applying* the universal to such material taken from elsewhere.

I call the moving principle of the concept—which not only dissolves the particularizations of the universal but also produces them—*dialectic*. Dialectic, then, is not meant in the sense that it dissolves or confuses an object, proposition, and so on, given to feeling or to immediate consciousness in general, shuttles it back and forth, and is concerned only with deriving its opposite—a negative procedure that also frequently appears in Plato. In this way, dialectic may regard as its ultimate result the opposite of a conception, or, more decisively, its contradiction, as in ancient skepticism; or again, more feebly, an *approximation* to truth, a modern half-measure. The higher dialectic of the concept consists in producing and grasping the determination not merely as a limit and an opposite, but in producing and grasping from it the *positive* content and result. Only in this way is dialectic *development* and immanent progression. This dialectic is then not the *external* activity of subjective thinking, but the content's *own soul*, which organically puts forth its branches and fruits. Thinking, as subjective, merely watches this development of the Idea as the activity of its own reason, without adding anything on its own part. To consider something rationally means not to bring reason to the object from outside and thereby work upon it; rather, the object is rational on its own account. Here it is spirit in its free-

dom, the highest summit of self-conscious reason, which gives itself actuality and brings itself forth as an existing world. Science has only the task of bringing to consciousness this work of the matter's own reason.

Section 32

- ³² The *determinations* in the development of the concept are, on the one hand, themselves concepts; on the other, because the concept exists essentially as Idea, they are in the form of existence. The series of concepts that emerge is thus at the same time a series of *configurations*. This is how they are to be considered in science.

In a more speculative sense, a concept's *mode of existence* and its *determinacy* are one and the same. It must be noted, however, that the moments whose result is a more fully determined form precede that form as conceptual determinations in the scientific development of the Idea, but do not precede it as configurations in temporal development. Thus the Idea as determined as family presupposes the conceptual determinations of which it will be presented as the result in what follows. But that these inner presuppositions should also already be present on their own as configurations—as the right of property, contract, morality, and so on—is the other side of development, which has achieved this distinctively configured existence of its moments only at a more fully developed stage of cultivation.

Section 33

Division

- ³³ According to the stages in the development of the Idea of the will that is free in and for itself, the will is:

A) *Immediate*; its concept is therefore abstract—*personality*—and its *existence* an immediate external thing: the sphere of *abstract or formal right*.

B) The will reflected into itself from external existence, determined as *subjective individuality* in contrast to *the universal*—the latter being in part inward, *the good*, and in part outward, a *world already present*, and these two sides of the Idea being only *mediated through one another*. This is the Idea in its division or *particular* existence, the *right of the subjective will* in relation to the right of the world and to the right of the Idea, which, however, *is only in itself*: the *sphere of morality*.

C) The *unity and truth* of these two abstract moments—the Idea of the good as thought, realized in the *will reflected* into itself and in the *external world*; so that freedom, as *substance*, exists as *actuality and necessity* just as much as it does as *subjective will*: the *Idea* in its existence that is universal in and for itself; *ethical life*.

Ethical substance, in turn, is likewise:

a) *Natural* spirit—the *family*;

b) In its *division and appearance*—*civil society*;

c) The *state*, as freedom that, in the free independence of the particular will, is equally universal and objective. This actual and organic spirit, α) of a people, β) through the relationship of the particular national spirits, γ) in world history becomes actual and reveals itself as the universal world-spirit, whose right is supreme.

It is presupposed from speculative logic that a matter or content, posited only according to its *concept*, or as it is *in itself*, has the shape of *immediacy* or *being*. The concept that is *for itself in the form of the concept* is something different; it is no longer something immediate. The principle determining the division is likewise presupposed. The division can also be regarded as a historical anticipation of the parts, for the various stages must produce themselves from the nature of the content itself as moments in the development of the Idea. A philosophical division is not, in general, an external classification of given material, made from outside according to one or more adopted grounds of division, but the immanent differentiation of the concept itself. *Morality and ethical*

life, which are commonly treated as more or less synonymous, are used here in essentially different senses. Yet ordinary conception too seems to distinguish them: Kantian usage favors the expression morality, just as the practical principles of that philosophy confine themselves entirely to this concept, even make the standpoint of ethical life impossible, indeed expressly destroy and outrage it. But even if morality and ethical life were synonymous according to their etymology, that would not prevent the use of these words, different as they are, for different concepts.

Section 34

Part One

Abstract Right

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

Section 35

- ³⁵ The *universality* of this will that is free for itself is formal: the self-conscious, otherwise contentless, *simple* relation to itself in its individuality. To this extent, the subject is a *person*. *Personality* entails that I, as *this particular self*, though determined and finite in every respect—in inward arbitrary choice, drive, and

desire, as well as in immediate external existence—am nevertheless an unconditionally pure relation to myself, and thus know myself within finitude as *infinite, universal, and free*.

Personality begins only when the subject has not merely a self-consciousness in general of itself as concrete and determined in some way, but rather a self-consciousness of itself as a completely abstract I, in which all concrete limitation and validity are negated and invalid. Personality therefore contains the knowledge of *oneself as object*, but as an object raised by *thinking* into simple infinity and thereby purely identical with itself. Individuals and peoples do not yet have personality insofar as they have not yet attained this pure thinking and knowing of themselves. Spirit that is in and for itself differs from spirit in its appearance in this: in the same determination in which the latter is only *self-consciousness*—consciousness of itself, but only in accordance with the natural will and that will's external oppositions (*Phenomenology of Spirit*, Bamberg and Würzburg, 1807, p. 101 ff., and *Encyclopedia of the Philosophical Sciences*, § 344)—spirit has itself as an abstract, and indeed *free I*, for its object and end, and is thus a *person*.

Section 36

- ³⁶ 1) Personality contains, in general, the capacity for rights and constitutes the concept and foundation—itself abstract—of abstract and therefore *formal* right. The command of right is therefore: *be a person and respect others as persons*.

Section 37

- ³⁷ 2) The *particularity* of the will is indeed a moment of the will's entire consciousness (§ 34), but is not yet contained in abstract personality as such. It is therefore present, but as still distinct from personality, from the determination of freedom: desire, need, drives, contingent preference, and so forth.—Formal right is therefore not concerned with particular interest, with my advantage or welfare—nor with the particular ground determining my will, with insight and intention.

Section 38

- ³⁸ In relation to *concrete* action and to moral and ethical relations, abstract right, set against their richer content, is only a *possibility*; a determination of right is therefore only a *permission* or an *entitlement*. For the same reason—its abstraction—the necessity of this right is restricted to the negative: *not to violate* personality and what follows from it. There are therefore only *prohibitions of right*, and the positive form of commands of right has, in its ultimate content, a prohibition as its basis.

Section 39

- ³⁹ 3) As an individuality that resolves and is *immediate*, the person relates to a nature they find before them; the personality of the will thus confronts this nature as something *subjective*. But for personality, as infinite and universal

within itself, the limitation of being merely subjective is contradictory and *null*. Personality is what actively sublates this limitation and gives itself reality—or, what is the same, posits that existence as its own.

Section 40

40 Right is, first, the immediate existence that freedom gives itself in an immediate way:

a) *Possession*, which is *property*.—Freedom here is that of the abstract will *in general*, or, what amounts to the same, of *an individual* person relating only to themselves.

b) The person, distinguishing themselves from themselves, relates to *another person*; the two have existence for one another only as owners. Their identity, which is in itself, acquires existence through the passage of one person's property into the other's, with a common will and the preservation of their right—in *contract*.

c) The will, as in (a), in its relation to itself, is distinguished not from another person (b) but within itself. As a *particular* will, it differs from and is opposed to itself as a will *that is in and for itself*:—*wrong and crime*.

The division of right into the *law of persons and of things* and the right to bring *actions*, like the many other divisions of this kind, initially serves to bring the mass of material lying before us, without organic structure, into an external order. The chief confusion in this division is that it indiscriminately mixes rights presupposing substantial relations, such as family and state, with rights relating to mere abstract personality. Kant's division, which has also become popular elsewhere, into *rights to things, personal rights, and rights to persons in the manner of things* belongs to this confusion. To develop the skewed and conceptless character of the division into the *law of persons and of things* that underlies Roman law would take us too far. (The right to bring actions concerns the administration of justice and does not belong in this order.) This

much is already evident: only *personality* gives a right to *things*, and personal right is therefore essentially the *law of things*—taking “thing” in the general sense of what is external to freedom as such, which also includes my body and my life. This law of things is the right of *personality as such*. As for the so-called *law of persons* in Roman law, a human being is supposed to be a person only when considered as having a certain *status* (Heineccii Elem. Jur. Civ. § LXXV); thus, in Roman law, even personality itself, as opposed to slavery, is only a *standing*, a condition. The content of the so-called Roman law of persons then concerns, apart from the right to slaves, among whom children also more or less belong, and the condition of *rightlessness* (diminution of civil status), *family relations*. In Kant, family relations are, indeed, the *personal* rights held *in the manner of rights to things*.—The Roman law of persons is therefore not the right of the person as such, but at least that of the *particular* person.—It will emerge later that the family relation has, rather, the surrender of personality as its substantial foundation. It cannot but seem inverted to treat the right of the *particularly determined* person before the universal right of personality.—For Kant, *personal rights* are the rights arising from a contract that I give or perform something—the *right to a thing* in Roman law, which arises from an obligation. Certainly, it is only a person who must perform under a contract, just as it is only a person who acquires the right to such performance; but this does not make such a right personal. *Every* kind of right belongs only to a person, and, objectively, a right arising from a contract is not a right to a person, but only to something external to that person, or something they are to alienate—always to a thing.

Section 41

First Division.

Property.

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

Section 42

- ⁴² What is immediately distinct from free spirit is, for spirit and in itself, the *external* in general—a *thing*, something unfree, impersonal, and without rights. “Thing,” like “the objective,” has opposed meanings. In the one case, when we say, “That is the thing at issue,” or, “It is the thing, not the person, that matters,” it means the *substantial*. In the other case, as opposed to the *person* (not, that is, to the particular subject), the thing is the *opposite of the substantial*: what, by its determination, is merely external.—What is external for free spirit—which must be clearly distinguished from mere consciousness—is external in and for itself; hence the conceptual determination of *nature* is to be *the external in its own self*.

Section 43

- ⁴³ As the *immediate* concept, and thus also as essentially individual, the person has a *natural* existence, partly in themselves, partly as an existence to which they relate as to an external world.—Here, where the person is themselves still in their first immediacy, we are speaking only of things that are immediately such, not of determinations capable of becoming things through the mediation of the will.

Spiritual skills, sciences, arts, even religious matters (sermons, masses, prayers, blessings in consecrated objects), inventions, and so forth become objects of contract and are placed on a level with acknowledged things in being bought, sold, and so forth. One may ask whether the artist, the scholar, and so on is in legal possession of their art, their science, their ability to preach a sermon, to say mass, and so on—that is, whether objects of this kind are things. We will hesitate to call such skills, knowledge, abilities, and so forth things. Since, on the one hand, such possessions are negotiated and contracted over as things, but, on the other, are something inward and spiritual, the understanding can find itself at a loss over their legal classification. It has before it only the opposition that something is *either* a thing *or* not a thing (like the *either* infinite, *or* finite). Knowledge, sciences, talents, and so forth do indeed belong to free spirit and are something inward to it, not external; but spirit can equally give them an external existence by expressing them, and can *alienate* them (see below), thereby bringing them under the determination of *things*. They are thus not immediate in the first instance, but become so only through the mediation of spirit, which reduces its inward content to immediacy and externality.—Under the wrongful and unethical provision of Roman law, children were things for their father, who was thus in legal possession of his children; yet surely he also stood in an ethical relation of love to them (though this must have been greatly weakened by that wrong). Here, then, there was a union of the two determinations of thing and non-thing, but an entirely wrongful one.—Abstract right has as its object only the person as such, and thus also what is particular and belongs to the existence and sphere of the person's freedom only insofar as it is separable from and immediately distinct from the person—whether this constitutes its essential determination or it can acquire this determination only through the subjective will. Here spiritual skills, sciences, and so forth are considered solely in respect of their legal possession. The possession of body and spirit acquired through education, study, habituation, and so forth, which is an *inner property* of spirit, is not to be treated here. The *transition* of such spiritual property into externality, where it falls under the determination of property in the legal sense, is to be discussed only under *alienation*.

Section 44

- ⁴⁴ The person has the right to place their will in every thing, which thereby becomes *mine* and receives my will as its substantial end—since it has no such end within itself—as its determination and soul: the human being’s absolute *right of appropriation* over all things.

The so-called philosophy that attributes to immediate individual things, to the impersonal, reality in the sense of independence and genuine being for and within itself, and likewise the philosophy that asserts that spirit cannot know the truth and cannot know what the *thing in itself* is, are directly refuted by the free will’s relation to these things. If, for consciousness, for intuition and representation, the so-called *external things* have the semblance of independence, the free will, by contrast, is idealism—the truth of such actuality.

Section 45

- ⁴⁵ That I have something in my own external power constitutes *possession*; likewise, the particular aspect—that I make something mine out of natural need, drive, and arbitrary choice—is the particular interest of possession. But the aspect in which, as free will, I become an object to myself in possession, and thus first become actual will, constitutes what is true and rightful in possession: the determination of *property*.

When need is made primary, having property appears, in relation to need, as a means. The true position, however, is that, from the standpoint of freedom, property, as freedom’s *first existence*, is an essential end in itself.

Section 46

⁴⁶ Since in property my will becomes objective to me as personal will, and thus as the will of an individual, property acquires the character of *private property*. Common property that by its nature can be possessed separately acquires the determination of a community of ownership *dissoluble in itself*; whether I leave my share in it is, in itself, a matter of arbitrary choice.

By its nature, the use of *elemental* objects cannot be particularized into private possession.—The *agrarian laws* in Rome contain a struggle between common and private ownership of land; the latter, as the more rational moment, had to gain the upper hand, though at the expense of other right.—Property held under a *family entail* contains a moment opposed by the right of personality, and thus of private property. But the determinations concerning private property may have to be subordinated to higher spheres of right, to a commonwealth, to the state, as is the case with private ownership in the property of a so-called moral person, property in mortmain. Such exceptions, however, can be grounded neither in chance nor in private arbitrary choice or private advantage, but only in the rational organism of the state.—The Idea of the *Platonic* state contains, as a universal principle, the wrong done to the person in denying them the capacity for private ownership. The conception of a devout or friendly, or even enforced, brotherhood of human beings with *community of goods* and the banishment of the principle of private ownership may readily appeal to a disposition that misconceives the nature of the freedom of spirit and of right, and does not grasp it in its determinate moments. As for moral or religious considerations, *Epicurus* dissuaded his friends, when they intended to establish such a union for the community of goods, precisely on the ground that it showed mistrust, and that those who mistrust one another are not friends. (Diog. Laërt. l. X. n. VI.)

Section 47

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

That I am alive and have an organic body, in the respect in which I exist not as the concept that is for itself but as the immediate concept, rests on the concept of life and that of spirit as soul—on moments taken from the philosophy of nature (Encyklop. der philos. Wissensch. § 259. f. f. vergl. § 161. 164. und 298.) and anthropology (ebendas. § 318.).—

I have these limbs, this life, only insofar as I *will*; an animal cannot mutilate or kill itself, but a human being can.

Section 48

⁴⁸ Insofar as the body is immediate existence, it is not adequate to spirit; to be spirit's willing organ and ensouled instrument, it must first be *taken into possession* by spirit (§ 57.).—But *for others* I am essentially a free being in my body, as I immediately have it.

Only because I am alive in the body as a free being must this living existence not be abused as a beast of burden. Insofar as I live, my soul (the concept and, at a higher level, what is free) and my body are not separate; the body is the existence of freedom, and in it I feel. It is therefore only an understanding devoid of the Idea and given to sophistry that can draw the distinction that the *thing in itself*, the soul, is not touched or attacked when the *body* is maltreated and the person's *existence* subjected to another's force. I can withdraw from my exis-

tence into myself and make it external—hold particular sensation outside myself and be free in chains. But this is *my* will; *for the other*, I am in my body. To say that I am *free for the other* only as *free in existence* is to state an identity. (s. meine Wissenssch. der Logik 1. B. S. 49. f. f.) Violence done to *my body* by others is violence done to *me*.

Because I feel, contact with and violence against my body affect me immediately as *actual and present*. This constitutes the difference between an injury to the person and an injury to my external property, in which my will is not present in this immediate actuality and presence.

Section 49

⁴⁹ In relation to external things, what is *rational* is that I possess property. The aspect of the *particular*, however, comprises subjective ends, needs, arbitrary choice, talents, external circumstances, and so forth (§ 45.); possession merely as such depends on these, but this particular aspect has not yet, in this sphere of abstract personality, been posited as identical with freedom. *What and how much* I possess is therefore a contingency in terms of right.

In personality, the *several* persons—if we wish to speak of several here, where no such difference yet obtains—are equal. But this is an empty, tautological proposition, since the person, as what is abstract, is precisely what is not yet particularized and posited in a determinate difference.—*Equality* is the abstract identity of the understanding, upon which reflective thought, and thus mediocrity of spirit in general, first alights when faced with the relation of unity to a difference. Here equality would be only the equality of abstract persons as such; everything concerning possession, this *ground of inequality*, thereby falls outside it.—The demand sometimes made for *equality* in the distribution of land, or even of all other existing wealth, is an all the emptier and more superficial exercise of the understanding, since this particularity encompasses not only external natural contingency, but also the entire scope of spiritual nature in its

infinite particularity and diversity, as well as in its reason developed into an organism.—We cannot speak of an *injustice of nature* in the unequal distribution of possessions and wealth, for nature is not free, and is therefore neither just nor unjust. That all human beings should have the means to meet their needs is, in part, a moral wish, and, expressed with this indeterminacy, well-meant indeed, but, like what is merely well-meant in general, nothing objective; in part, the means of subsistence are something different from *possession* and belong to another sphere, that of civil society.

Section 50

- ⁵⁰ That a thing belongs to whoever takes possession of it *first by a temporal contingency* is a self-evident and superfluous determination, since a second person cannot take possession of what is already another's property.

Section 51

- ⁵¹ For property as the *existence* of personality, my *inward* representation and will that something should be mine are not sufficient; *taking possession* is required. The *existence* that this willing thereby acquires includes its recognizability by others.—That the thing of which I can take possession must be *ownerless* is, as in § 50., a self-evident negative condition, or rather refers to the anticipated relation to others.

Section 52

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

Matter resists me—and it is only this: resistance to me. That is, it shows me its abstract being-for-itself only insofar as I am abstract spirit, namely *sensuous* spirit. (Sensuous representation perversely takes spirit's sensuous being for the concrete and the rational for the abstract.) But in relation to the will and property, this being-for-itself of matter has no truth. Taking possession, as an *external act* through which the universal right to appropriate natural things is actualized, enters into the conditions of physical strength, cunning, skill, and mediation in general by which one gets bodily hold of something. Given the qualitative diversity of natural things, seizing and taking possession of them has infinitely varied meanings and equally infinite limitations and contingency. In any case, the genus and the elemental as such are not an *object of personal individuality*; to become such an object and be capable of being seized, they must first be individualized—a breath of air, a mouthful of water. In the impossibility of taking possession of an external genus as such and of the elemental, the ultimate consideration is not external physical impossibility. It is, rather, that the person as will determines themselves as individuality and, as a person, is at the same time immediate individuality, and thus also relates as such to external things as individual things (§ 13. Anm. § 43.).—Seizing and externally possessing are therefore also, in endlessly varied ways, more or less indeterminate and incomplete. But matter is never without essential form, and only through this is it something. The more I appropriate this form, the more I also come into *actual* possession of the thing. Consuming food is a penetration and alteration of its qualitative nature, through which, before consumption, it is what it is. Training my organic body in skills, like the cultivation of my spirit, is likewise a more or less complete taking of possession and penetration; it is spirit that I can make most perfectly my own. But this *actuality of taking possession* differs from property as such, which is completed through the free will. In the face of this will, the thing has retained nothing of its own for itself, even though in possession, as an external relation, an externality still remains. Thought must master the empty abstraction of a matter without properties that is supposed, within property, to remain outside me and belong to the thing itself.

Section 53

- ⁵³ Property has its more precise determinations in the will's relation to the thing. This relation is α) immediate taking of possession, insofar as the will has its existence in the thing as something *positive*; β) insofar as the thing is something negative in relation to the will, the will has its existence in it as something to be negated—*use*; γ) the reflection of the will into itself out of the thing—*alienation*;—the will's *positive, negative, and infinite judgment* upon the thing.

Section 54

A. Taking Possession

- ⁵⁴ Taking possession consists partly in immediate *physical seizure*, partly in *giving form*, and partly in mere *marking*.

Section 55

- ⁵⁵ α) On the sensuous side, *physical seizure* is the most complete mode, since in this possession I am immediately present and my will is thus equally recognizable. Yet, in general, it is only subjective, temporary, and extremely restricted both in extent and by the qualitative nature of the objects.—The scope of this taking of possession is somewhat extended through the connection into which I can bring something with things that already belong to me elsewhere, or into which something otherwise comes by chance, and through other mediations. Mechanical forces, weapons, and instruments extend the range of my power.—Connections such as those of the sea or river washing my land; of land suitable for hunting, grazing, and other uses that borders on my fixed property; of

deposits of stone and other minerals beneath my field; of treasures in or beneath my landed property, and so forth—or connections arising only in time and by chance (as with some of the so-called natural accessions, alluvial accretion and the like, and also stranding)—offspring is indeed an accession to my wealth, but, as an organic relation, not an external addition to another thing I possess, and is therefore of an entirely different kind from the other accessions—are partly easier, and in some cases exclusive, opportunities for one possessor, as against another, to take possession of or use something; partly, what has been added can be regarded as a dependent *accident of the thing* to which it has been added. These are, in general, *external* connections whose bond is neither the concept nor life. They therefore fall to the understanding to bring forward and weigh grounds and countergrounds, and to positive legislation to decide, according to the greater or lesser essentiality or inessentiality of the relations.

Section 56

- ⁵⁶ β) Through *giving form*, the determination that something is mine acquires an externality that *subsists on its own*, and ceases to be confined to my presence in *this* space and at *this* time, and to the presence of my knowing and willing. Giving form is, to this extent, the mode of taking possession most adequate to the Idea, since it unites the subjective and the objective within itself. In other respects it varies infinitely with the qualitative nature of the objects and the diversity of subjective purposes.—This also includes giving form to living things, in which what I do to them does not remain external but is assimilated: working the soil, cultivating plants, taming, feeding, and tending animals; further, arrangements that mediate the use of elemental substances or forces, bringing one substance to act upon another, and so forth.

Section 57

⁵⁷ In his *immediate* existence, the human being is in himself something natural, external to his concept. Only through the *cultivation* of his own body and spirit, and *essentially* through *his self-consciousness grasping itself as free*, does he take possession of himself and become his own property, both for himself and in relation to others. Conversely, this taking possession is equally the act of bringing into *actuality* what he is according to his concept—as a *possibility*, capacity, or disposition. Through this, it is both first posited as his own and also posited as an object, distinguished from simple self-consciousness and thus made capable of assuming the *form of a thing* (compare the Remark to § 43.).

The asserted rightfulness of *slavery*—in all its more specific justifications through physical force, captivity in war, the saving and preservation of life, nourishment, education, benefits, one's own consent, and so forth—as well as the rightfulness of *dominion*, as mere lordship in general, and every *historical* view of the right of slavery and lordship, rests on the standpoint that takes the human being as a natural being in general, in terms of *an existence*—which also includes arbitrary choice—that is not adequate to his concept. The assertion that slavery is absolutely wrong, by contrast, holds fast to the concept of the human being as spirit, as free in himself; it is one-sided in taking the human being to be free *by nature*, or, what amounts to the same thing, in taking the concept as such in its immediacy, rather than the Idea, as the truth. Like every antinomy, this *antinomy* rests on formal thinking, which holds fast to and asserts the two moments of an Idea separately, each on its own, and thus in their inadequacy to the Idea and their untruth. Free spirit is precisely this (§ 21.): not to exist as the mere concept, or in itself, but to sublimate this formalism of its own, and with it immediate natural existence, and to give itself existence only as its own, as free existence. The side of the *antinomy* that asserts the concept of freedom therefore has the advantage of containing the absolute *starting*

point for the truth, though only the starting point; the other side, which stops at an existence devoid of the concept, contains no standpoint of rationality and right at all. The standpoint of free will, with which right and the science of right begin, is already beyond the untrue standpoint on which the human being, as a natural being and a concept existing only in itself, is therefore capable of being enslaved. This earlier, untrue appearance concerns spirit when it is still only at the standpoint of its consciousness. There, the dialectic of the concept and of the as yet merely immediate consciousness of freedom brings about the *struggle for recognition* and the relation of *lordship* and *bondage* (see *Phänomenologie des Geistes* S. 115. f. f. and *Encyklop. der philosoph. Wissensch.* § 382. f. f.). But that objective spirit, the content of right, should not itself again be conceived merely in its subjective concept, and that the human being's not being destined in and for himself for slavery should therefore not again be conceived as a mere *ought*—this is possible only in the knowledge that the Idea of freedom truly exists only as *the state*.

Section 58

- ⁵⁸ γ) Taking possession that is not actual on its own, but merely *represents* my will, consists in placing a sign on the thing, whose meaning is to be that I have put my will into it. This taking possession is very indeterminate in both its objective extent and its significance.

Section 59

B. The Use of the Thing

- ⁵⁹ Through taking possession, the thing acquires the predicate of being *mine*, and the will has a *positive* relation to it. In this identity, the thing is equally posited as something *negative*, and my will in this determination is a *particular* will:

need, preference, and so forth. But my need, as the particularity of *one* will, is the positive element that satisfies itself; the thing, as what is negative in itself, exists only for *that need* and *serves* it.—*Use* is this realization of my need through the alteration, destruction, or consumption of the thing, whose selfless nature is thereby revealed and which thus fulfills its determination.

That use is the *real* side and actuality of property is what ordinary conception has in view when it regards property of which no use is made as dead and ownerless, and, when it is unlawfully seized, offers as a justification that the owner had not used it.—But the owner's will, by which a thing is his, is the primary, substantial foundation. The further determination, use, is only the appearance and particular mode of that will, subordinate to this universal foundation.

Section 60

- ⁶⁰ The *use* of a thing through immediately taking hold of it is, taken on its own, a *single* act of taking possession. But insofar as this use rests on a continuing need and is the repeated use of a product that renews itself, perhaps also restricting itself in order to preserve that renewal, these and other circumstances make that immediate, single act of taking hold into a *sign*: it is to have the significance of a universal taking of possession, and thus of taking possession of the elemental or organic *basis*, or of the other conditions, of such products.

Section 61

- ⁶¹ Since the substance of the thing that is my property, considered on its own, is its externality—that is, its lack of substantiality; it is not, as against me, an ultimate end in itself (§ 42.)—and since this realized externality is the use or employment I make of it, the *whole use* or employment is *the thing in its entire*

extent. Thus, if that use belongs to me, I am the owner of the thing, of which nothing remains beyond the entire extent of its use that could be the property of another.

Section 62

⁶² Only a *partial or temporary use* that belongs to me, then, or a *partial or temporary possession*—the *possibility*, itself partial or temporary, of using the thing—is *distinct* from *ownership* of the thing itself. If the entire extent of the use were mine, but abstract ownership were supposed to belong to another, the thing, as mine, would be wholly permeated by my will (the preceding section. and § 52.), yet would at the same time contain something impenetrable to me: another's will, and an empty will at that. In the thing I would be objective to myself as a positive will, and at the same time not objective—a relation of absolute contradiction.—Ownership is therefore essentially *free, full* ownership.

The distinction between the right to the *entire extent of use* and *abstract ownership* belongs to the empty understanding, for which the Idea—here as the unity of ownership, or of the personal will in general, and its *reality*—is not the truth; instead, these two moments in their separation from each other count for it as something true. As an actual relation, this distinction is therefore that of an empty lordship, which might be called a madness of personality—if madness were not a term used only where the subject's mere representation and actuality stand in immediate contradiction within one and the same subject. For what is mine in *one* object is supposed to be, without mediation, both my individual, exclusive will and another individual, exclusive will.—In the Institut. lib. II. tit. IV. it is said: "Usufruct is the right to use and enjoy *another's* things while preserving the *substance* of those things." Further on, the same text says: "Yet, so that ownership should not become altogether *useless* through usufruct being *permanently* detached from it, *it was decided* that usufruct should be extinguished in certain ways and revert to ownership."—It was

decided—as though giving that empty distinction a meaning through this provision were merely a matter of preference or decree. Ownership with usufruct *permanently* detached would not merely be useless: it would no longer be ownership.—Other distinctions within ownership itself, such as that between things requiring and not requiring formal conveyance, Quiritary and bonitary ownership, and the like, do not belong here. They concern no conceptual determination of property and are merely historical delicacies of this law.—But the relations of superior ownership and beneficial ownership, the *emphyteutic* contract, and the further relations of feudal estates with their hereditary and other rents, dues, transfer fees, and so forth, in their manifold determinations, where such burdens are *irredeemable*, both contain the distinction above and do not contain it: the latter precisely insofar as burdens are attached to beneficial ownership, through which superior ownership becomes beneficial ownership as well. If such relations contained nothing but that distinction in its strict abstraction, what confronted one another would not properly be *two lords* (*domini*), but an *owner* and an empty *lord*. Because of the burdens, however, it is two *owners* who stand in relation. Yet theirs is not a relation of *common* ownership. The transition from that relation to common ownership lies nearest at hand—a transition already begun when the yield of superior ownership is calculated and regarded as what is *essential*, so that the incalculable element in lordship over a property, which may have been held to be the noble element, is subordinated to utility, which here is the rational element.

It is close to fifteen hundred years since *freedom of the person* began to flourish through Christianity and became a universal principle among what is, after all, a small part of the human race. But *freedom of property* has been recognized as a principle here and there only since yesterday, one might say.—An example from world history of the length of time spirit needs to advance in its self-consciousness—and a rebuke to the impatience of mere opinion.

Section 63

- ⁶³ The thing in use is an individual thing, determined in quality and quantity and related to a specific need. But its specific usefulness, as *quantitatively* determined, is at the same time *comparable* with other things of the same usefulness; likewise, the specific need it serves is also *need in general*, and is in this respect *comparable*, in its particularity, with other needs. Accordingly, the thing too is comparable with things useful for other needs. This *universality* of the thing, whose simple determinacy emerges from its particularity in such a way that abstraction is also made from this specific quality, is its *value*. In value, its true substantiality is *determined* and is an object of consciousness. As full owner of the thing, I own its *value* just as much as its use.
- The holder of a fief has this distinction within his ownership: he is supposed to own only the thing's *use*, not its *value*.

Section 64

- ⁶⁴ The form given to a possession, and the sign, are themselves external circumstances without the subjective presence of the will, which alone constitutes their meaning and *value*. But this presence, which consists in use, employment, or some other expression of the will, falls *within time*. In relation to time, *objectivity* consists in the *continuance* of this expression. Without it, the thing, abandoned by the actuality of will and possession, becomes ownerless. I therefore lose or acquire property through *prescription*.
- Prescription has therefore not been introduced into right merely from an external consideration contrary to strict right: the wish to put an end to the disputes and confusions that old claims would bring into the security of property, and so forth. Rather, prescription rests on the determination of the *reality* of prop-

erty, on the necessity that the will to have something should express itself.—*Public monuments* are national property; or rather, like works of art in general in respect of *use*, they count, through the soul of remembrance and honor dwelling within them, as living and independent ends. But when abandoned by this soul, they become, in this respect, ownerless for a nation, and pass into contingent private possession, as, for example, the Greek and Egyptian works of art in Turkey.—The *right of private ownership* held by a *writer's* family in his productions lapses through prescription for a similar reason. They become ownerless in the sense that—by a course opposite to that of those monuments—they pass into common property, and, according to the particular use of the thing, into contingent private possession.—Mere land dedicated to *nonuse* for *all eternity*, whether as burial ground or simply as land, contains an empty arbitrary choice with no present actuality. In violating it, nothing actual is violated; respect for it therefore cannot be guaranteed either.

Section 65

C. Alienation of Property

- ⁶⁵ I can *alienate* my property, since it is mine only insofar as I put my will into it. I may thus relinquish my thing altogether as ownerless—abandon it—or leave it to the will of another to possess, but only insofar as the thing is *by its nature* something *external*.

Section 66

- ⁶⁶ Those goods—or rather, substantial determinations—that constitute my very own person and the universal essence of my self-consciousness, such as my personality in general, my universal freedom of will, ethical life, and religion, are therefore *inalienable*, and the right to them is *not subject to prescription*.

That what spirit is according to its concept, or *in itself*, should also be in existence and for itself—that it should thus be a person, capable of property, and possess ethical life and religion—this Idea is itself its concept. As cause of itself, that is, as free cause, it is that “whose nature cannot be conceived except as existing” (Spinoza Eth S. I. Def. I.). In this very concept of being what it is *only through itself* and as an *infinite return into itself* out of the natural immediacy of its existence lies the possibility of the opposition between what it is only *in itself* and not also for itself (§ 57.), and, conversely, what it is only for itself and not *in itself*—in the will, evil. Herein lies the possibility of spirit’s alienating its *personality* and substantial being, whether this alienation happens unconsciously or explicitly.—Examples of alienating personality are slavery, serfdom, incapacity to own property, the unfreedom of property, and so forth. Alienation of intelligent rationality, morality, ethical life, and religion occurs in superstition, and in conceding to others the authority and power to determine and prescribe for me what actions I should perform—as when someone expressly hires himself out for robbery, murder, and so forth, or for the possibility of crimes—and what is a duty of conscience, religious truth, and so forth.—The right to such inalienable things is not subject to prescription. For the act by which I take possession of my personality and substantial essence, making myself capable of rights and accountability, moral and religious, removes these determinations from the very externality that alone made them capable of being in another’s possession. With this sublation of externality, the determination of time falls away, and with it every ground that might be drawn from my earlier consent or acquiescence. This return of myself into myself, through which I bring myself into existence as Idea, as a legal and moral person, sublates the previous relation and the wrong that I and the other have done to my concept and reason: my having allowed the infinite existence of self-consciousness to be treated as something external, and the other’s having treated it so.—This return into myself reveals the contradiction in having given others possession of my capacity for rights, my ethical life, and my religiousness: something I did not myself possess, and which, as soon as I possess it, exists essentially only as mine, not as something external.—

Section 67

⁶⁷ Of *my particular bodily and intellectual skills* and possibilities of activity, I can alienate to another *individual* products and a use *limited in time*, because, under this limitation, they acquire an external relation to my *totality* and *universality*. By alienating the *whole* of my time made concrete through work, and the totality of my production, I would make what is substantial in them—my *universal* activity and actuality, my personality—the property of another. This is the same relation as that between the substance of the thing and its use, above in § 61. Just as use differs from substance only insofar as it is limited, so the use of my powers differs from those powers themselves, and thus from me, only insofar as it is quantitatively limited.—The *totality* of the expressions of a power is the power itself; that of the accidents is the substance; that of the particularizations is the universal.

Section 68

⁶⁸ Through the manner of its expression, what is distinctive in an intellectual production can pass immediately into the externality of a thing that can now be produced by others as well. In acquiring it, the new owner, besides being able to make his own the thoughts communicated in it or the technical invention—a possibility that in some cases, as with literary works, constitutes the sole purpose and value of the acquisition—also comes into possession of the *universal* manner of expressing himself in this way and producing many such things. In works of art, the form that embodies thought in an external material is, as a thing, so much the distinctive creation of the producing individual that imitating it is essentially a product of the imitator's own intellectual and technical skill. In a literary work, the form through which it is an external thing, as also in

the invention of a technical device, is *mechanical in kind*: in the former case, because thought is presented only in a series of isolated abstract signs, not in concrete plastic form; in the latter, because it has a mechanical content in general. And the manner of producing such things as things belongs among ordinary skills.—Between the extremes of the work of art and handicraft production there are, moreover, transitions that partake, to a greater or lesser degree, of one or the other.

Section 69

⁶⁹ Since the purchaser of such a product possesses the full use and value of the copy as an *individual thing*, he is its complete and free owner as an individual thing, even though the author of the writing or the inventor of the technical device remains owner of the *universal* manner of multiplying such products and things. This universal manner has not been immediately alienated by him; he can reserve it to himself as his distinctive expression.

The substantial basis of the author's and inventor's right is not, in the first instance, to be sought in his arbitrarily making it a *condition* of alienating the individual copy that the possibility, which thereby comes into the other's possession, of likewise producing such products as things should not become the other's property but remain the inventor's. The first question is whether such a separation of ownership of the thing from the possibility, given with it, of likewise producing it is admissible in the concept, and does not sublate full, free ownership (§ 62.). Only then is it a matter of choice for the original intellectual producer to retain this possibility for himself, to alienate it as something of value, or to place no value on it for himself and surrender it along with the individual thing. This possibility has the peculiarity of being the aspect of the thing by which it is not merely a possession but an *asset* (see below § 170. ff.). This lies in the particular manner of the external use made of the thing, which differs from, and is separable from, the use for which the thing is immediately intend-

ed. It is not what is called a natural accession, such as the offspring of an animal. Since the distinction thus falls within external use, which is by nature divisible, retaining one part while alienating another part of the use is not the reservation of a lordship without utility.—The merely negative, but very first, encouragement of the sciences and arts is to secure those who work in them against *theft* and grant them protection of their property, just as the very first and most important encouragement of commerce and industry was to secure them against robbery on the highways.—Further, an intellectual product is intended to be grasped by other individuals and made their own in representation, memory, thinking, and so forth. Their expression, through which they likewise make what they have *learned* into an *alienable thing*, always readily takes on some distinctive *form*. For learning does not mean merely learning words by heart through memory: the thoughts of others can be grasped only through thinking, and this thinking them over is also learning. They can thus regard the asset arising from this as their property and claim for themselves the right to such production. The transmission of the sciences in general, and the specific business of teaching in particular, is, by its purpose and duty—and most decidedly in the positive sciences, the doctrine of a church, jurisprudence, and so forth—the *repetition* of established thoughts, thoughts already expressed in general and received from outside. This holds also for writings whose purpose is this business of teaching and the transmission and dissemination of the sciences. To what extent the *form* arising in this repeated expression transforms the existing treasury of knowledge, and in particular the thoughts of others who still hold external ownership of their intellectual products, into a specific intellectual property of the reproducing individual, thereby giving him the right to make it his external property as well, or to what extent it does not—to what extent such repetition in a literary work becomes *plagiarism*—cannot be stated by an exact determination, and thus cannot be settled legally or by statute. Plagiarism ought therefore to be a matter of *honor*, and honor ought to restrain it.—Laws against *unauthorized reprinting* therefore fulfill their purpose of legally securing the property of writers and publishers within a definite, but very restricted, compass. The ease of deliberately changing something in

the form, or of inventing some tiny modification in a great science or a comprehensive theory that is another's work, or simply the impossibility of keeping to the originator's words when presenting what one has grasped, brings about, of itself and apart from the particular purposes for which such repetition becomes necessary, an infinite variety of alterations that stamp another's property, more or less superficially, as *one's own*. Witness the hundreds upon hundreds of compendiums, extracts, collections, and so forth, books of arithmetic, geometries, devotional writings, and so forth; or the way any idea for a critical journal, poetry almanac, encyclopedia, and so forth can immediately be repeated under the same or an altered title, yet claimed as something distinctive. Through this, the profit that an author's work, or an inventive entrepreneur's idea, promised him can readily be wiped out, mutually diminished, or ruined for everyone.—As for the *effect of honor* against plagiarism, however, it is striking that the expression *plagiarism*, or indeed *scholarly theft*, is no longer heard. Either honor has done its work in displacing plagiarism, or plagiarism has ceased to be contrary to honor and the feeling about it has vanished, or some little idea and alteration of external form rates itself so highly as originality and independent intellectual production that it never even allows the thought of plagiarism to arise within it.

Section 70

- ⁷⁰ The all-embracing totality of external activity, *life*, is not something external to personality, since personality is itself *this individual* and *immediate*. Alienating or sacrificing life is, rather, the opposite of the existence of this personality. I therefore have no right at all to such alienation. Only an ethical Idea, in which this *immediately* individual personality has in itself passed away, and which is its *actual* power, has a right to it. At the same time, just as life as such is *immediate*, so death is its *immediate* negativity; hence death must be received from outside, as a natural occurrence, or, in the service of the Idea, at another's hand.

Section 71

Transition from Property to Contract

⁷¹ Existence, as determinate being, is essentially being for another (see above, the Remark to § 48.). Property, on the side on which it is an existence as an external thing, is for other external things, and stands within their nexus of necessity and contingency. But as the existence of the will, insofar as it is for another, it is only *for the will* of another person. This relation of will to will is the distinctive and true ground on which freedom has existence. This mediation—having property no longer merely through a thing and my subjective will, but equally through another will, and thus having it within a common will—constitutes the sphere of *contract*.

It is just as necessary through reason that people enter into contractual relations—give, exchange, trade, and so forth—as that they possess property (§ 45. Remark). If, for their consciousness, it is need in general, benevolence, advantage, and so forth that leads them to contracts, in itself it is reason: namely, the Idea of the real existence—that is, existence present only in the will—of free personality.—Contract presupposes that those entering it *recognize* one another as persons and property owners. Since it is a relation of objective spirit, the moment of recognition is already contained and presupposed within it (compare § 35. 57. Remarks).

Section 72

Second Division

Contract

- ⁷² Property whose *side* of existence or *externality* is no longer merely a thing, but contains within itself the moment of a will—and thus of another will—comes about through *contract*. Contract is the process in which the following contradiction presents itself and is mediated: I am, and *remain*, an owner existing for myself and excluding the other's will precisely insofar as, within a will identical with the other's, I *cease* to be an owner.

Section 73

- ⁷³ I can not only alienate a property as an external thing (§ 65.); by the concept, I must alienate it as property, so that my will may be objective to me as *existing*. But in this respect my will, as alienated, is at the same time an *other*. This necessity of the concept is thus real in the *unity* of different wills, in which their difference and distinctiveness are surrendered. Yet this identity of their will equally contains, at this stage, the fact that each is and remains a will *not identical* with the other, distinctive in its own right.

Section 74

- ⁷⁴ This relation is thus the mediation of a will that is identical within the absolute distinction between owners existing for themselves. It contains the fact that each, with his own will and the other's, *ceases* to be an owner, *remains* an owner, and *becomes* an owner. It is the mediation of the will to relinquish a property, and an individual property at that, with the will to accept such a property, thus one belonging to another; and this occurs in the identical connection in which the one act of willing reaches a decision only insofar as the other act of willing is present.

Section 75

75 Since the two contracting parties relate to one another as *immediate*, independent persons, α) contract proceeds from *arbitrary choice*; β) the identical will that comes into existence through contract is only a will *posited by them*, and thus only *common*, not universal in and for itself; γ) the object of contract is an *individual external thing*, for only such a thing is subject to their mere arbitrary choice to alienate it (§ 65. ff.).

Marriage therefore cannot be subsumed under the concept of contract. This subsumption, in all its—one must say—disgracefulness, is put forward by *Kant* (Metaphys. Anfangr. der Rechtslehre S. 106. ff.).—Nor does the nature of the *state* lie in a contractual relation, whether the state is taken as a contract of all with all, or as a contract of all of them with the prince and the government.—The intrusion of this relation, as of the relations of private property in general, into the relation of the state has produced the greatest confusions in constitutional law and in actuality. In earlier periods, political rights and duties were regarded and asserted as the immediate private property of particular individuals, against the right of the prince and the state; in a more recent period, the rights of the prince and the state have been regarded as objects of contract and founded on it, as something merely *common* in the will and arising from the arbitrary choice of those united in a state.—However different these two standpoints are in one respect, they have this in common: they have transferred the determinations of private property into a sphere of an entirely different and higher nature.—See below: Ethical Life and the State.—

Section 76

- ⁷⁶ A contract is *formal* insofar as the two acts of consent through which the common will comes into being—the negative moment of alienating a thing and the positive moment of accepting it—are divided between the two contracting parties: a *contract of gift*. It may, however, be called *real* insofar as *each of the two* contracting wills is the totality of these mediating moments, and thus both becomes and remains an owner within it: a *contract of exchange*.

Section 77

- ⁷⁷ Since, in a real contract, each party retains *the same* property with which he enters it and which he at the same time relinquishes, this property, which remains *identical* as the property that is *in itself* present in the contract, is distinguished from the external things that change owners in the exchange. It is the *value* in which the objects of the contract are *equal* to one another despite all the qualitative, external differences between the things: their *universal* aspect. (§ 63.)

The provision that gross injury annuls an obligation undertaken in a contract thus has its source in the concept of contract, and more precisely in the moment whereby the contracting party, in alienating his property, remains an *owner* and, more precisely, *remains* quantitatively the same owner. The injury, however, is not merely gross—as it is deemed to be when it exceeds *half* the value—but *infinite* if a contract, or any stipulation at all, has been entered into for the alienation of an *inalienable* good (§ 66.). A *stipulation*, incidentally, is distinguished from a contract first by its content: it signifies some individual part or moment of the whole contract; and then also in that it is the formal establishment of the contract, of which more below. In the former respect it

contains only the formal determination of contract: one party's consent to perform something and the other's consent to accept it. It has therefore been counted among the so-called *unilateral* contracts. The distinction between unilateral and bilateral contracts, like other classifications of contracts in Roman law, consists in part of superficial groupings based on a single, often external consideration, such as the manner and form of their formalities. In part, among other things, these classifications also mix determinations that concern the nature of contract itself with those that relate only to the administration of justice (legal actions) and to legal effects under positive law, often arising from entirely external circumstances and violating the concept of right.

Section 78

⁷⁸ In contract, the distinction between property and possession, between the substantial and the external side (§ 45.), becomes the distinction between the common will as *agreement* and its actualization through *performance*. Taken by itself, as distinct from performance, the agreement that has been reached is something represented. In keeping with the distinctive way in which *representations have their existence in signs* (Encyclopedia of the Philosophical Sciences § 379. f.), it must therefore be given a particular existence in the expression of the *stipulation*: through formalities of *gesture* and other symbolic acts, and especially through a definite declaration in *language*, the element most worthy of spiritual representation.

According to this determination, stipulation is indeed the form through which the content *settled* in the contract has its existence as something initially only *represented*. But representation is only a form; it does not mean that the content is still something subjective, to be wished or willed in one way or another. Rather, the content is the settlement on this matter accomplished by the will.

Section 79

⁷⁹ Stipulation contains the side of will, and hence what is *substantial* in the legal aspect of contract. In contrast, the possession that still subsists insofar as the contract has not yet been fulfilled is, taken by itself, merely external, and has its determination solely in that side. Through stipulation I have relinquished a property and my particular arbitrary choice over it, and it has *already become the other's property*. I am therefore immediately bound by stipulation, as a matter of right, to *perform*.

The difference between a mere promise and a contract lies in this: in a promise, what I intend to give, do, or perform is expressed as something *future* and remains a *subjective* determination of my will, which I can therefore still change. The stipulation of a contract, by contrast, is itself already the *existence* of my decision of will, in the sense that I have thereby alienated my thing, that it has now ceased to be my property, and that I already acknowledge it as the other's property. The Roman distinction between pact and contract is a poor one. *Fichte* once advanced the claim that my *obligation* to keep a contract begins only when the other party *begins* to perform, since before performance I am ignorant of whether the other party *seriously meant* what he declared; the obligation before performance would therefore be merely *moral*, not legal, in nature. But the declaration of the stipulation is not a declaration in general: it contains the *common will* that has come into being, in which arbitrary choice concerning one's *disposition* and its alteration has been sublated. The issue is therefore not whether it is possible that the other party *inwardly* held, or came to hold, a different disposition, but whether he has the right to do so. Even if the other party begins to perform, the arbitrary choice to do wrong remains open to me as well. That view reveals its nullity at once in the fact that it would make the legal character of contract rest on bad infinity, the process to infinity: on the infinite divisibility of time, matter, action, and so forth. The *existence*

that the *will* has in the formality of gesture, or in language that is determinate in its own right, is already its complete existence as something *intellectual*; performance is only the consequence, with no independent selfhood of its own. That positive law, incidentally, has so-called *real contracts*, distinguished from so-called *consensual contracts* in the sense that the former are regarded as fully valid only when actual performance (the thing, delivery of the thing) is added to consent, is irrelevant here. In part these are the particular cases in which this delivery first puts me in a position to perform on my side, and my obligation to perform relates solely to the thing insofar as I have received it into my hands, as with a loan for consumption, a loan for use, and a deposit for safekeeping—which may also be the case with other contracts. This circumstance concerns not the nature of the relation between stipulation and performance, but the manner of performance. In part, it remains in any case a matter of arbitrary choice to stipulate in a contract that one party's obligation to perform shall not lie in the contract as such, but shall depend only on the other party's performance.

Section 80

⁸⁰ The *classification* of contracts, and a reasoned treatment of their kinds based upon it, must be drawn not from external circumstances but from distinctions inherent in the nature of contract itself. These are the distinctions between formal and real contract, then between property and possession and use, and between value and a specific thing. The *following kinds* accordingly emerge. (The classification given here agrees on the whole with Kant's classification in the *Metaphysical First Principles of the Doctrine of Right* S. 120. ff.; it was long to be expected that the customary routine of classifying contracts as real and consensual, nominate and innominate, and so forth, would have been abandoned in favor of a rational classification.)

A) *Contract of gift*, namely:

1) Of a thing: a *gift* properly so called.

2) The *lending* of a thing, as the gift of a *part*, or of its *limited enjoyment and use*; the lender here remains *owner* of the thing (a loan for consumption and a loan for use, without interest). The thing is either a *specific* thing, or, even if it is such a thing, it is nevertheless regarded as a universal one; or else, like money, it counts as a thing that is universal in its own right.

3) The gift of a *service* in general, for example, the mere safekeeping of a property (a deposit). The gift of a thing with the particular condition that the other party becomes owner only at the *time of the donor's death*, that is, at the time when the donor is in any case no longer its owner—a *testamentary* disposition—does not lie within the concept of contract, but presupposes civil society and positive legislation.

B) *Contract of exchange*:

1) *Exchange* as such:

α) Of a thing in general, that is, of one *specific* thing for another specific thing.

β) *Purchase* and *sale* (buying and selling): the exchange of a *specific* thing for one determined as the universal thing, that is, one that counts only as *value*, without the other, specific determination for use—for *money*.

2) *Hiring* (letting and hiring): alienation of the *temporary use* of a property in return for rent, namely:

α) Of a *specific* thing: hiring properly so called; or

β) Of a *universal thing*, so that the lender remains owner only of this, or, what is the same, of the value: an *interest-bearing loan* (a loan for consumption; the former kind of hiring is also a loan for use with rent; the further empirical character of the thing—whether it is a stick, equipment, a house, and so forth, a fungible or a nonfungible thing—introduces other particular, though unimportant, determinations, as it does in lending as a gift, No. 2.).

3) *Contract for wages* (hiring of labor): alienation of my *productive activity* or *service*, insofar as it is alienable, for a limited time or under some other limitation (s. § 67.).

Related to this are *mandate* and other contracts in which performance rests on character and trust, or on higher talents, and what is performed is *incommensurable* with an external *value*—which here, too, is called not *wages* but an *honorarium*.

C) *Completion of a contract* (security) by *pledging*.

In contracts in which I alienate the use of a thing, I am not in possession of it, but remain its owner, as in hiring. Further, in contracts of exchange, purchase, or gift, I may have become owner without yet being in possession; and this separation occurs in general with regard to any performance when there is no *simultaneous exchange*. That I should, in the one case, remain in actual possession of the value that is still my property, or, in the other case, be placed in actual possession of the value that is already my property, without possessing the *specific* thing that I hand over or am to receive—this is brought about by the pledge. It is a specific thing that is my property only according to the *value* of my property whose possession I have handed over, or of the property owed to me; in its specific character and its excess value, however, it remains the property of the pledgor. Pledging is therefore not itself a contract, but only a stipulation (§ 77.), the moment that completes a contract with regard to possession of the property. *Mortgage* and *suretyship* are particular forms of this.

Section 81

- ⁸¹ In the relation of immediate persons to one another in general, their will is not only *identical in itself* and posited by them as *common* in contract, but also a *particular* will. Because they are *immediate* persons, it is contingent whether their *particular will* accords with the will that is *in itself* and has its existence through that particular will alone. As a particular will, *distinct* for itself from the universal will, it confronts what is right in itself in the arbitrary choice and contingency of insight and willing: *wrong*.

The transition to wrong is brought about by the higher, logical necessity that the moments of the concept—here, *right in itself*, or the will as *universal*, and right in its *existence*, which is precisely the *particularity* of the will—be posited as *distinct for themselves*. This belongs to the abstract *reality* of the concept. But this particularity of the will, taken for itself, is arbitrary choice and contingency, which in contract I have relinquished only as arbitrary choice over an *individual* thing, not as the arbitrary choice and contingency of the will itself.

Section 82

Third Division

Wrong

- ⁸² In contract, right *in itself* is something *posited*, its inner universality something *common* to arbitrary choice and particular will. This *appearance* of right, in which right and its essential existence, the particular will, accord immediately—that is, contingently—passes over in *wrong* into *semblance*: into the opposition between right *in itself* and the particular will, in which right becomes a *particular right*. The truth of this semblance, however, is that it is null, and that right restores itself by negating this negation of itself. Through this process of mediation, returning to itself out of its negation, right determines itself as *actual and valid*, whereas at first it was only in itself and something *immediate*.

Section 83

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

Section 84

A. Unwitting Wrong

- ⁸⁴ Taking possession (§ 54.) and contract, in themselves and in their particular kinds, are initially various expressions and consequences of my will in general. Because the will is the universal within itself, they are, in relation to recognition by others, *grounds of right*. Their mutual externality and multiplicity entail that, in relation to one and the same thing, they can belong to different persons, each of whom regards the thing as his property on the basis of his particular ground of right. In this way, *conflicts of right* arise.

Section 85

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

Section 86

- ⁸⁶ In the parties, recognition of right is bound up with opposed particular interests and correspondingly opposed views. Against this semblance, right *in itself* also emerges *within the semblance itself* (preceding section.) as something represented and demanded. Yet initially it is only an *ought*, because the will is not yet present as a will that, freed from the immediacy of interest, would, as a particu-

lar will, have the universal will as its end. Nor is this will yet determined here as such an acknowledged actuality that the parties would have to renounce their particular views and interests before it.

Section 87

B. Fraud

- ⁸⁷ Right *in itself*, in its distinction from right as particular and existent, is, as something *demanded*, indeed determined as essential. But at the same time it is thereby *only* something demanded and, in this respect, something merely subjective, hence unessential and merely seeming. With the universal thus reduced by the particular will to mere semblance—in contract, initially, to a merely external commonality of will—there is *fraud*.

Section 88

- ⁸⁸ In contract I acquire a property for the sake of the thing's particular character, and at the same time according to its inner universality: in part according to its *value*, in part as coming from the other's *property*. Through the other's arbitrary choice, a false semblance of these aspects may be presented to me. The contract as the freely given consent of both parties to exchange *this* thing, in its *immediate* individuality, is then in order, but the side of the universal in itself is missing from it. (The infinite judgment in its positive expression or identical meaning. (s. Encyclopedia of the Philosophical Sciences § 121.))

Section 89

- ⁸⁹ That, against this acceptance of the thing merely as *this* thing, and against the will that merely holds an opinion as well as the will that acts arbitrarily, the objective or universal should be partly recognizable as *value*, partly valid as right, and that arbitrary choice, subjective in opposition to right, should be sublated—this, here too, is initially only a demand.

Section 90

C. Coercion and Crime

- ⁹⁰ That my will places itself in an *external* thing in property entails that, just as it is reflected in that thing, it can also be seized there and subjected to necessity. In this sphere it may, on the one hand, suffer *force* in general; on the other, force may make a sacrifice or an action the condition of some possession or positive being: it may be subjected to *coercion*.

Section 91

- ⁹¹ As a living being, a human can indeed be *overpowered*, that is, his physical and otherwise external side can be brought under the power of others; but the free will in and for itself cannot be *compelled* (§ 5), except insofar as *it does not withdraw itself from externality*, in which it is held fast, or from the representation of that externality (§ 7). Only one who *is willing* to let himself be *compelled* can be compelled to anything.

Section 92

- ⁹² Because the will is Idea, or actually free, only insofar as it has existence, and because the existence into which it has placed itself is the being of freedom, force or compulsion destroys itself immediately in its concept, as the expression of a will that cancels the expression or existence of a will. Force or compulsion, taken abstractly, is therefore *contrary to right*.

Section 93

- ⁹³ That compulsion destroys itself in its concept finds its real presentation in this, that *compulsion is canceled by compulsion*. It is therefore not merely conditionally in accordance with right but necessary—namely as a *second* compulsion, which is the cancelation of a first.

The violation of a contract by failing to perform what was stipulated, or of the duties of right toward family or state, whether by doing or by omitting, is a first compulsion, or at least a force, insofar as I withhold or withdraw property that belongs to another, or a performance owed to him.—Pedagogical compulsion, or compulsion exercised against wildness and crudeness, does indeed appear not to follow upon a preceding first compulsion. But the merely natural will is in itself force against the Idea of freedom, which exists in itself, and which must be taken under protection against such an uncultivated will and brought to validity in it. Either an ethical existence in family or state is already posited, against which that naturalness is an act of violence, or there is only a state of nature, a state of force in general; and against this the Idea establishes a *right of lordship*.

Section 94

- ⁹⁴ Abstract right is a *right of compulsion*, because wrong against it is a force against the *existence* of my freedom in an *external* thing; the preservation of this existence against that force is therefore itself an external action, and a force that cancels that first one.

To define abstract or strict right at the outset as a right to which one may compel is to grasp it by a consequence that enters only by the detour of wrong.

Section 95

- ⁹⁵ The first compulsion, exercised as force by a free being, which violates the existence of freedom in its *concrete* sense, right as right, is *crime*—a *negative infinite judgment* in its full sense (see my *Logic*, vol. II, p. 99), by which not only the particular, the subsumption of a thing under my will (§ 85), is negated, but at the same time the universal, the infinite in the predicate of the mine, the *capacity for right*, and indeed without the mediation of my opinion (as in fraud) (§ 88)—the sphere of *criminal law*.

The right whose violation is crime has so far indeed only the shapes that we have seen, and crime accordingly has so far only the closer meaning relating to these determinations. But what is substantial in these forms is the universal, which remains the same in its further development and shaping, and so likewise does its violation, crime, according to its concept. The particular, further determined content, for example in perjury, crimes against the state, counterfeiting of coin and bills of exchange, and so on, is therefore also the concern of the determination to be considered in the following section.

Section 96

⁹⁶ Insofar as it is the *existent* will alone that can be violated, and this will, in existence, has entered the sphere of quantitative extent as well as of qualitative determinations, and is accordingly different according to them, it likewise makes a difference for the objective side of crimes whether such existence and its determinacy is violated in its entire extent, and thus in the infinity equal to its concept (as in murder, slavery, religious compulsion, and so on), or only in a part, and in which qualitative determination.

The Stoic view that there is only one virtue and one vice, the Draconian legislation that punishes every crime with death, and the crudeness of formal honor, which places infinite personality in every violation, have this in common, that they stop at the abstract thinking of the free will and of personality, and do not take them in their concrete and determinate existence, which they must have as Idea.—The difference between *robbery* and *theft* concerns the qualitative, in that in the former I am violated also as present consciousness, hence as *this subjective* infinity, and personal force is exercised against me.—Many qualitative determinations, such as *danger to public security*, have their ground in more developed relations, but are also often grasped only by the detour of consequences, instead of from the concept of the matter; just as the more dangerous crime, in its immediate character, is in itself a graver violation in extent or quality.—The subjective *moral* quality relates to the higher distinction, to how far an event and deed is in general an action, and concerns its subjective nature itself, of which later.

Section 97

- ⁹⁷ The violation of right as right that has taken place is indeed a *positive*, external *existence*, but one that is *in itself* null. The *manifestation* of this its nullity is the annihilation of that violation, which likewise enters existence—the actuality of right, as its necessity, mediating itself with itself through the cancelation of its violation.

Section 98

- ⁹⁸ The violation, as affecting only external existence or possession, is an *evil*, a harm to some form of property or wealth; the cancelation of the violation as an injury is civil satisfaction as *compensation*, insofar as such compensation can take place at all.

In this aspect of satisfaction, wherever the injury is a destruction and generally cannot be restored, the *universal* character of the injury, as *value*, must already take the place of its qualitative, specific character.

Section 99

- ⁹⁹ But the violation that has befallen the will *existing in itself* (and so equally this will of the violator as of the one violated and of all) has in this *inherently existing* will as such no *positive existence*, any more than in the mere product. For itself, this inherently existing will (right, law in itself) is rather what does not exist externally, and to that extent the inviolable. Likewise the violation is for the particular will of the one violated and of the rest only something negative.

The *positive existence* of the violation is only as the *particular will of the criminal*. The violation of this will as an existent will is therefore the cancelation of the crime, which otherwise *would count as valid*, and is the restoration of right. The theory of punishment is one of the subjects that have fared worst in the positive science of right of recent times, because in this theory the understanding does not suffice, and what matters essentially is the concept.—If crime and its cancelation, which is further determined as punishment, is regarded merely as an *evil* in general, one can certainly consider it unreasonable to will an evil merely *because another evil is already present*. (Klein, *Grundsätze des peinlichen Rechts*, § 9 f.) This superficial character of an *evil* is presupposed as the first thing in the various theories of punishment, the theories of prevention, deterrence, threat, correction, and so on, and what is to come out of it, on the other side, is determined, just as superficially, as a *good*. But the concern is neither merely with an evil, nor with this or that good; it is determinately a matter of *wrong* and of *justice*. Through those superficial points of view, however, the objective consideration of *justice*, which is the first and substantial point of view in regard to crime, is set aside, and it follows of itself that the moral point of view, the subjective side of crime, mixed with trivial psychological notions of the stimuli and strength of sensuous motives as against reason, of psychological compulsion and influence on representation (as if such influence were not likewise reduced by freedom to something merely contingent)—becomes the essential thing. The various considerations that belong to punishment as appearance and to its relation to the particular consciousness, and that concern the consequences for representation (detering, correcting, and so on), have their place, and are of essential consideration chiefly with regard to the *modality* of punishment alone, but they presuppose the foundation that punishing is in and for itself *just*. In this discussion the only point is that crime, and not as the production of an *evil* but as a violation of right as right, is to be canceled, and then what the *existence* is that crime has and that is to be canceled; this is the true evil that is to be removed, and where it lies is the essential point; so long as the concepts about this are not determinately known, confusion must prevail in the view of punishment.

Section 100

100 The violation that befalls the criminal is not only just *in itself*—as just it is at the same time his own inherently existing will, an existence of his freedom, his right; it is also a *right* in the *criminal* himself, that is, *posited* in his *existent* will, in his action. For in his action, as that of a *rational* being, it lies that it is something universal, that through it a law is set up, which he has recognized in it for himself, and under which he may therefore be subsumed as under *his* right. Beccaria, as is well known, denied the state the right to the death penalty on the ground that it cannot be presumed that the consent of individuals to be put to death is contained in the social contract; rather the opposite must be assumed. But the state is not a contract at all (see § 75), nor is the protection and *security* of the life and property of individuals as single persons so unconditionally its substantial essence; rather it is the higher, which lays claim even to this life and property and demands their sacrifice.—Further, it is not only the *concept* of crime, its rational aspect *in and for itself*, with or without the consent of individuals, that the state has to make valid, but also the formal rationality, the *willing of the individual, lies in the action of the criminal*. That punishment is regarded as containing his own *right*—in this the criminal is *honored* as a rational being.—This honor is not accorded him if the concept and measure of his punishment is not taken from his deed itself; nor, equally, if he is regarded merely as a harmful animal that must be rendered harmless, or if punishment is placed in the purposes of deterrence and correction.—Further, with regard to the manner of the *existence* of justice, the form it has in the state, namely *as punishment*, is in any case not the only form, and the state is not the conditioning presupposition of justice in itself.

Section 101

101 The cancelation of crime is *retribution* insofar as it is, according to the concept, a violation of the violation, and, according to existence, crime has a determinate qualitative and quantitative extent, and its negation as existence has the same. This identity, resting on the concept, is not however *equality* in the specific character, but in the *inherent* character of the violation—according to its *value*. Since in ordinary science the definition of a determination, here of punishment, is to be taken from the *general representation* of the psychological experience of consciousness, this would show that the universal feeling of peoples and individuals regarding crime is and has been that it *deserves punishment, and that what the criminal has done should be done to him*. It is not clear how those sciences, which have the source of their determinations in the general representation, at other times adopt propositions that contradict such a so-called universal *fact* of consciousness.—A principal difficulty, however, has been brought into the notion of retribution by the determination of *equality*; but the justice of the determinations of punishment, in their qualitative and quantitative character, is in any case something later than the substantial core of the matter itself. Even if one had to look around for other principles for this further determining than for the universal of punishment, the latter remains what it is. But the concept itself must contain the fundamental principle for the particular as well. This determination of the concept is precisely that connection of necessity, that crime, as the will null in itself, contains within itself its own annihilation, which appears as punishment. It is the inner *identity* that reflects itself, in external existence, for the understanding as *equality*. The qualitative and quantitative character of crime and of its cancelation now falls in the sphere of externality; in this, in any case, no absolute determination is possible (compare § 49); in the *field of finitude* it remains only a demand, which the understanding has constantly to limit more closely, which is of the highest importance, but which

goes on to infinity and permits only an *approximation* that is perennial.—If one overlooks not only this nature of finitude, but also stops entirely at *abstract, specific equality*, there arises not only an insurmountable difficulty in determining punishments (above all if psychology further brings in the *magnitude* of the sensuous motives, and with it, as one likes, either the so much *greater strength* of the evil will, or else the so much *lesser strength* and freedom of the will in general), but it is also very easy to present the retribution of punishment (as theft for theft, robbery for robbery, eye for eye, tooth for tooth, where one can go so far as to imagine the perpetrator one-eyed or toothless) as an absurdity, with which the concept, however, has nothing to do, and which is due solely to that imported *specific equality*. Value, as the *inner equal* of things that in their existence are specifically wholly different, is a determination that already occurs in contracts (see above), and likewise in the civil suit against crimes (§ 95), and by which the representation is lifted from the *immediate* character of the thing into the universal. In crime, in which the *infinite* of the deed is the fundamental determination, the merely external specific disappears all the more, and *equality* remains only the fundamental rule for the *essential* thing that the criminal has deserved, but not for the external specific shape of this reward. Only according to the latter are theft, robbery, and fines, imprisonment, and so on, absolutely unequal, but according to their value, their universal property of being violations, they are *comparable*. It is then, as remarked, the business of the understanding to seek the approximation to equality of this their value. If the inherent connection of crime and its annihilation, and then the thought of *value* and of the comparability of both according to value, is not grasped, it can come about that one sees (Klein, *Grundsätze des peinlichen Rechts*, § 9) in an actual punishment only an *arbitrary* connection of an evil with a forbidden action.

Section 102

¹⁰² The cancelation of crime in this sphere of the immediacy of right is at first *revenge*, just in its *content* insofar as it is retribution. But in its *form* it is the action of a *subjective* will, which can place *its infinity* in every violation that has taken place, and whose justice is therefore in general contingent, just as it exists *for the other* also only as a *particular* will. By being the positive action of a *particular* will, revenge becomes *a new violation*: as this contradiction it falls into the progress to infinity, and is inherited from generation to generation without limit.

Where crimes are prosecuted and punished not as *crimina publica* but as *privata* (as among the Jews, among the Romans theft and robbery, and still in some respects among the English, and so on), punishment still has at least a part of revenge about it. Distinct from private revenge is the exercise of vengeance by heroes, by knights-errant, and so on, which falls in the origin of states.

Section 103

¹⁰³ The demand that this contradiction (like the contradiction in the other kinds of wrong) (§ 86, 89), which is present here in the manner of canceling wrong, be resolved, is the demand for a justice freed from subjective interest and form, as well as from the contingency of power, a justice that is thus *not avenging* but *punishing*. In this there lies *at first* the demand for a will that, as a *particular subjective* will, wills the universal as such. But this concept of *morality* is not merely demanded; it has emerged in this very movement itself.

Section 104

104 Transition from right to morality.

Crime and avenging justice present, namely, the *shape* of the development of the will as having gone out into the distinction of the *universal in itself* and the *single for itself* standing against that; and further, that the will *existing* in itself, by canceling this opposition, has returned into itself and has thereby itself become *for itself* and *actual*. Thus right, vindicated against the single will existing *merely for itself*, is and counts as *actual* through its necessity.—This shaping is equally at the same time the further formed inner determinateness of the concept of the will. According to its concept, its realization consists, in the will itself, in this, that being-in-itself and the form of *immediacy*, in which it at first is and which it has as its shape in abstract right, is canceled (§ 21)—thus at first posits itself in the opposition of the will *universal in itself* and the will *single for itself*, and then, through the cancelation of this opposition, the negation of the negation, determines itself as will in its existence, so that it is not only free will in itself but for itself, as negativity relating itself to itself. Its *personality*, which is all that the will is in abstract right, it now has as its *object*; the subjectivity of freedom, thus infinite for itself, constitutes the principle of the *moral standpoint*.

If we look back more closely at the moments through which the concept of freedom develops from the at first abstract determinacy of the will to the determinacy relating itself to itself, and so to the *self-determination* of *subjectivity*, this determinacy is in property the *abstract mine*, and therefore in an external thing; in contract it is the *mine mediated by will* and merely *common*; in wrong the will of the sphere of right, its abstract being-in-itself or immediacy, is posited as *contingency* by the single will, itself *contingent*. In the *moral stand-*

point it is so overcome that this contingency itself, as reflected into itself and *identical with itself*, is the infinite contingency of the will existing in itself, its *subjectivity*.

Section 105

105 Second Part. Morality.

The moral standpoint is the standpoint of the will insofar as it is infinite not merely *in itself* but *for itself*. (preceding section.) This reflection of the will into itself, and its identity existing for itself as against being-in-itself and immediacy and the determinacies developing within it, determines the *person* to be a *subject*.

Section 106

- 106 Since subjectivity now constitutes the determinacy of the concept and is distinguished from it as such, from the will existing in itself, and indeed since the will is at the same time that of the subject as of the single being existing for itself (it still has immediacy in it as well), it constitutes the existence of the concept.—Thereby a higher *ground* has been determined for freedom; in the Idea there is now the side of *existence*, or its real moment, the *subjectivity* of the will. Only in the will as subjective can freedom, or the will existing in itself, be actual.
- The second sphere, morality, therefore presents on the whole the real side of the concept of freedom, and the process of this sphere is to cancel, according to this distinction in which it deepens itself into itself, the will that at first exists only for itself and is immediately identical *only in itself* with the will *existing in itself*, or universal, and to posit it for itself as *identical* with the will existing in itself. This movement is accordingly the cultivation of this now present ground of freedom, of subjectivity, which at first is *abstractly* distinguished from the

concept, in order to make it equal to the concept and so to obtain for the Idea its true realization—that the subjective will determine itself to be equally objective and thus truly concrete.

Section 107

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

The same process of the moral standpoint (see the remark to the preceding §) has, on this side, the shape of being the development of the *right* of the subjective will—or of the manner of its existence—so that it determines what it knows as its own in its object further, to be its true concept, to be the objective in the sense of its universality.

Section 108

¹⁰⁸ The subjective will, as immediately for itself and distinguished from the will existing in itself (§ 106, remark), is therefore abstract, limited, and formal. But subjectivity is not merely formal; as the infinite self-determining of the will it constitutes the *formal* aspect of the will. Because in this its first emergence it is not yet posited in the single will as identical with the concept of the will, the moral standpoint is the standpoint of *relation*, of the *ought*, or of the *demand*.—And since the difference of subjectivity equally contains the determination

against objectivity as external existence, the standpoint of *consciousness* also enters here (§ 8)—in general the standpoint of difference, *finitude*, and *appearance* of the will.

The moral is not at first already determined as the opposite of the immoral, just as right is not immediately the opposite of wrong; rather it is the universal standpoint of the moral as well as of the immoral, which rests on the subjectivity of the will.

Section 109

- ¹⁰⁹ This formal aspect contains, according to its universal determination, first the opposition of subjectivity and objectivity and the activity relating to it (§ 8), whose moments are more closely these: *existence and determinacy* are identical in the concept (compare § 104), and the will as subjective is itself this concept—to distinguish both, and indeed *for itself*, and to posit them as identical. The determinacy in the self-determining will is α) at first posited by itself *in it*—the particularization of itself within itself, a *content* that it gives itself. This is the *first* negation, and its formal limit, to be only something *posited*, subjective. As the *infinite reflection* into itself, this limit is for the will itself, and it is β) the willing to cancel this barrier—the *activity* of translating this content from subjectivity into objectivity in general, into an *immediate existence*. γ) The simple *identity* of the will with itself in this opposition is the *content*, remaining the same in both and indifferent to these differences of form, the *purpose*.

Section 110

- ¹¹⁰ But this identity of the content receives, on the moral standpoint, where freedom, this identity of the will with itself, is for the will (§ 105), its closer, peculiar determination.

a) The content is determined for me as *mine* so that in its identity it contains my subjectivity for me, not only as my *inner purpose* but also insofar as it has received *external objectivity*.

Section 111

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

Section 112

112 c) In that I *preserve* my subjectivity in carrying out my purposes (§ 110), I at the same time cancel in this, as the objectification of that subjectivity, the same subjectivity as *immediate*, and thus as this single subjectivity of mine. But the external subjectivity that is thus identical with me is the *will* of others (§ 73). — The ground of the existence of the will is now *subjectivity* (§ 106), and the will of others is the existence, at once other to me, which I give to my purpose. — The carrying out of my purpose therefore has within it this identity of my will and the wills of others; it has a *positive* relation to the will of others.

The *objectivity* of the executed purpose therefore includes three meanings, or rather contains in one the three moments: α) external immediate being-there (§ 109); β) being adequate to the *concept* (§ 112); γ) being *universal* subjectivity. The subjectivity that *preserves* itself in this objectivity is α) that the objective purpose be *mine*, so that I preserve myself in it as *this* one (§ 110); and β) and γ)

of the subjectivity have already coincided with the moments β) and γ) of the objectivity. — That these determinations, distinguishing themselves in this way on the moral standpoint, are united only into a *contradiction* constitutes more closely the appearing, or the *finitude*, of this sphere (§ 108); and the development of this standpoint is the development of these contradictions and their resolutions, which within it, however, can only be *relative*.

Section 113

¹¹³ The expression of the will as *subjective* or *moral* is *action*. Action contains the determinations that have been shown: α) that it be known by me in its externality as mine; β) the essential relation to the concept as an ought; and γ) that it be in relation to the will of others.

Only the expression of the moral will is *action*. The being-there that the will gives itself in formal right lies in *an immediate thing*, is itself immediate, and at first has for itself no *explicit* relation to the concept, which, being not yet set against the subjective will, is not distinguished from it, nor yet a *positive* relation to the will of others; the commandment of right is, by its fundamental determination, only a *prohibition* (§ 38). Contract and wrong do indeed begin to have a relation to the will of others — but the *agreement* that comes about in the former rests on arbitrary choice, and the essential relation to the will of the other that lies in it is, as a relation of right, the negative one: to keep my property (in terms of its value) and to leave the other what is his. The side of crime, on the other hand, as coming from the *subjective will*, and according to the manner in which it has its existence in that will, comes into consideration here for the first time. — The judicial *act* (*actio*), as not imputable to me in its content, which is determined by prescriptions, contains only some moments of properly moral action, and these *in an external fashion*; being properly moral action is therefore a side distinct from it as judicial.

Section 114

114 The right of the moral will contains three sides.

a) The *abstract* or *formal* right of the action: that, as it is carried out in *immediate* being-there, its content be *mine* in general, so that it be the *resolve* of the subjective will.

b) The *particular* of the action is its *inner* content: α) how its universal character is determined *for me*, which constitutes the *worth* of the action and that by which it counts for me — the intention; β) its content, as *my particular* purpose of my particular subjective being-there, is *welfare*.

c) This content, as *inner*, raised at the same time into its universality, into the objectivity that is in and for itself, is the absolute purpose of the will, the good, in the sphere of reflection with the opposition of subjective universality, which is partly evil, partly conscience.

Section 115

115 First Section.

Resolve and Guilt.

The *finitude* of the subjective will in the immediacy of acting consists immediately in this, that for its acting it has a *presupposed* external object with manifold circumstances. The *deed* posits a change in this existing being-there, and the will has *guilt* in it in general, insofar as the abstract predicate of the *mine* lies in the altered being-there.

An event, a state of affairs that has come about, is a *concrete* external actuality, which for that reason has an indeterminable number of circumstances in it. Each single moment that shows itself as the condition, *ground*, or *cause* of such a circumstance, and has thus contributed its *share*, can be regarded as guilty of

it, or at least as having guilt in it. In the case of a rich event (the French Revolution, for example), the formal understanding therefore has the choice, among an innumerable multitude of circumstances, of which one it will assert to be the guilty one.

Section 116

- ¹¹⁶ It is indeed not my own *deed* when things of which I am the owner, and which as external stand and work in manifold connection (as can also be the case with myself as a mechanical body or as a living being), cause harm to others. Yet this falls upon me *more or less*, because those things are in general mine, though in accordance with their own nature they are subject only more or less to my mastery, attention, and so on.

Section 117

- ¹¹⁷ The will that itself acts has, in its purpose directed to the existing being-there, the *representation of its circumstances*. But because, on account of this presupposition, it is *finite*, the objective appearance is *contingent* for it and can contain within itself something other than what is in its representation. The right of the will, however, is to recognize as its *action* in its *deed* only this, and to have *guilt* only in what it knows of the presuppositions in its purpose, in what of them lay in its *resolve*. — The deed can only be *imputed to the will as its guilt*; — *the right of knowing*.

Section 118

118 Action, furthermore, as set into external being-there, which develops on all sides according to its connection in external necessity, has manifold consequences. The consequences, as the shape that has the purpose of the action for its *soul*, are its own (those belonging to the action); but at the same time the action, as the purpose set into *externality*, is given over to external powers, which attach to it something quite other than it is for itself and roll it onward into remote, alien consequences. It is equally the right of the will to *impute* to itself only the former, because only they lie in its *resolve*.

What are *contingent* and what are *necessary* consequences contains indeterminacy, because inner necessity in the finite enters into being-there as *external* necessity, as a relation of single things to one another, which as self-subsistent come together indifferently to one another and externally. The principle of despising the consequences in actions, and the other, of judging actions from their consequences and making them the standard of what is right and good, are both equally abstract understanding. The consequences, as the action's own *immanent* configuration, only manifest its nature and are nothing other than the action itself; the action therefore cannot disown and despise them. But conversely, there is equally comprised among them what intervenes from outside and is added by chance, which does not concern the nature of the action itself. — The development of the contradiction that the *necessity of the finite* contains is, in being-there, precisely the turning over of necessity into contingency and conversely. To act therefore means, on this side, *to give oneself over to this law*. — It follows from this that the criminal benefits if his action has less evil consequences, just as the good action must put up with having had no consequences or fewer, and that the consequences, when they have developed more fully from a crime, are charged against it. — The *heroic* self-consciousness (as in the tragedies of the ancients, of Oedipus and so on) has not yet advanced from

its solidity to the reflection of the distinction between *deed* and *action*, between the external event and the resolve and knowledge of the circumstances, nor to the fragmentation of the consequences, but takes the guilt upon itself in the whole extent of the deed.

Section 119

119 Second Section.

Intention and Welfare.

The external being-there of the action is a manifold connection which, divided infinitely into *singularities*, can be considered, and the action so considered as if it had *at first touched only one such singularity*. But the truth of the *single* is the *universal*, and the determinacy of the action is for itself not something isolated into an external singularity, but a *universal content* containing the manifold connection within itself. The resolve, as *proceeding from a thinking being*, contains not merely singularity but essentially that *universal* side — the *intention*.

Intention (Absicht) contains etymologically *abstraction*, partly the form of *universality*, partly the taking out of a *particular* side of the concrete matter. The effort at justification through intention is the isolating of a single side, which is asserted to be the subjective essence of the action. — The judgment on an action as an external deed, still without determination of its side of right or wrong, bestows on it a *universal* predicate: that it is arson, killing, and so on. — The *isolated* determinacy of external actuality shows what its *nature* is, as external *connection*. Actuality is at first touched only at a single point (as arson directly strikes only a small point of the wood, which yields only a proposition, no judgment), but the universal nature of this point contains its extension. In the living, the single is immediately not a part but an organ, in which the universal as such is present and exists, so that in murder it is not a piece of flesh, as something single, that is injured, but life itself in it. It is in part subjective reflection, which does not know the logical nature of the single and the universal,

that engages in the fragmentation into singularities and consequences; on the other hand it is the nature of the finite deed itself to contain such separations of contingencies. — The invention of the *dolus indirectus* has its ground in what has been considered.

Section 120

- ¹²⁰ The *right of intention* is that the *universal* quality of the action be not only in itself, but be *known* by the agent, and thus already have lain in his subjective will; just as, conversely, the right of the *objectivity* of the action, as it may be called, is to assert itself as known and willed by the subject as a *thinking being*. This right to such insight brings with it the complete or partial *non-imputability* of children, the feeble-minded, the insane, and so on, in their actions. — But as actions, according to their external being-there, include contingencies of consequences, so too the *subjective* being-there contains the indeterminacy that relates to the power and strength of self-consciousness and of presence of mind — an indeterminacy which, however, can come into consideration only in regard to feeble-mindedness, insanity, and the like, as to childhood, — because only such decided states cancel the character of thinking and of freedom of the will, and allow the agent not to be taken according to the honor of being a thinking being and a will.

Section 121

- ¹²¹ The universal quality of the action is the manifold content of the action in general, brought back to the *simple form* of universality. But the subject, as reflected into itself, and thus as *particular* over against the objective particularity, has in its purpose its own particular content, which is the determining soul

of the action. That this moment of the *particularity* of the agent is contained and carried out in the action constitutes *subjective freedom* in its more concrete determination, the *right of the subject* to find its *satisfaction* in the action.

Section 122

- ¹²² Through this particular the action has subjective *worth* and *interest* for me. Over against this purpose, the *intention* as to content, the immediate side of the action in its further content is reduced to a means. Insofar as such a purpose is a finite one, it can in turn be reduced to a means for a further intention, and so on to infinity.

Section 123

- ¹²³ For the content of these purposes there is present here only α) the formal *activity* itself — that the subject be with his activity in what he is to regard and further as his purpose; — people want to be active for what interests them, or ought to interest them, as their own. β) A more determinate content, however, the still abstract and formal freedom of subjectivity has only in its *natural* subjective being-there: needs, inclinations, passions, opinions, fancies, and so on. The satisfaction of this content is *welfare*, or *happiness*, in its particular determinations and in general: the purposes of finitude as such. This is, as the standpoint of the *relation* (§ 108), on which the subject is determined to its distinctness and so counts as *particular*, the place where the content of the natural will (§ 11) enters; but it is here not as it is immediately; rather, this content, as belonging to the will reflected into itself, is raised to a *universal* purpose, that of welfare or happiness (Encykl. § 395 ff.) — the stand-

point of a thinking that does not yet grasp the will in its freedom, but *reflects* on its content as a natural and given one — as, for example, in the time of *Croesus* and *Solon*.

Section 124

124 Since the *subjective* satisfaction of the individual himself (including the recognition of him in honor and fame) is also contained in the carrying out of purposes that *hold in and for themselves*, both the demand that only such a purpose appear as willed and attained, and the view that objective and subjective purposes exclude each other in willing, are an empty assertion of the abstract understanding. Indeed it becomes something bad when it passes over into asserting that subjective satisfaction, because it is present (as it *always* is in a completed work), is the *essential intention* of the agent, and that the objective purpose was for him only a *means* to that. — What the subject is, is the *series of his actions*. If these are a series of worthless productions, then the subjectivity of his willing is equally worthless; if, on the other hand, the series of his deeds is of a substantial nature, so too is the inner will of the individual.

The right of the *particularity* of the subject to find itself satisfied, or, what is the same, the right of *subjective freedom*, constitutes the turning point and center of the difference between *antiquity* and *modern* times. This right in its infinity has been pronounced in Christianity and made the universal actual principle of a new form of the world. Among its closer configurations belong love, the romantic, the purpose of the individual's eternal blessedness, and so on — then morality and conscience, and further the other forms, some of which will come forward in what follows as the principle of civil society and as moments of the political constitution, while others appear in history generally, in particular in the history of art, of the sciences, and of philosophy. — This principle of particularity is, to be sure, a moment of opposition, and at first at least *just as much* identical with the universal as distinct from it. But abstract

reflection fixes this moment in its distinction from and opposition to the universal, and thus produces a view of morality as perennial only as a hostile struggle against one's own satisfaction — the demand “to do with disgust what duty commands.” This same understanding produces that psychological view of history which knows how to belittle and degrade all great deeds and individuals by transforming inclinations and passions, which likewise found their satisfaction in substantial activity, together with fame and honor and other consequences, in general the particular side, which it had previously decreed to be something bad in itself, into the chief intention and operative mainspring of the actions; — it assures us that, because great actions and the activity that consisted in a series of such actions produced something great in the *world*, and for the *acting individual* had the consequence of power, honor, and fame, it is not that greatness but only this particular and external part of it that fell to the individual that belongs to him; because this particular was a consequence, it was *therefore* also the purpose, indeed even the sole purpose. — Such reflection clings to the subjective side of great individuals, in which it itself stands, and in this vanity of its own making *overlooks* what is substantial in them; — it is the view of “the psychological valets, for whom there are no heroes, not because these are no heroes, but because those are only valets.” (Phänomenol. des Geistes p. 616.)

Section 125

- ¹²⁵ The subjective, with the *particular* content of *welfare*, stands, as reflected into itself and infinite, at the same time in relation to the universal, the will that is in itself. This moment, posited first in this particularity itself, is the *welfare* of *others* as well — in a complete but wholly empty determination, the welfare of all. The welfare of *many other* particulars in general is then also an essential purpose and right of subjectivity. But since the *universal that is in and for itself*,

distinct from such particular content, has here not yet determined itself further than as right, those purposes of the particular can differ from it, or accord with it, but also not.

Section 126

- ¹²⁶ My particularity, like that of others, is a right only insofar as I am a *free being*. It cannot, therefore, assert itself in contradiction with this its substantial foundation, and an intention for my welfare, as for the welfare of others — in which case it is called in particular a *moral intention* — cannot justify a *wrongful action*.

It is pre-eminently one of the corrupt maxims of our time, which derives partly from the pre-Kantian period of the good heart and makes up, for example, the quintessence of well-known touching dramatic representations, to interest us, in the case of *wrongful* actions, in the so-called *moral intention*, and to present bad subjects with a supposedly good heart, that is, one that wills its own welfare and perhaps also the welfare of others; and partly this doctrine has been warmed up again in heightened form, and inner enthusiasm and the heart, that is, the *form of particularity* as such, have been made the criterion of what is right, rational, and excellent, so that crimes and the thoughts guiding them, even if they be the flattest, emptiest fancies and most foolish opinions, would be right, rational, and excellent for the very reason that they come from the *heart* and from *enthusiasm*; for more on this see below § 140, Remark. — Moreover, the standpoint on which right and welfare are here considered must be noted, namely as formal right and as the particular welfare of the individual; the so-called *general good*, the welfare of the state, that is, the right of the actual concrete spirit, is a wholly different sphere, in which formal right is just as subordinate a moment as the particular welfare and happiness of the individual.

That it is one of the frequent errors of abstraction to make private right, like private welfare, count as *in and for itself* against the universal of the state has already been remarked above.

Section 127

¹²⁷ The *particularity* of the interests of the natural will, gathered together into their simple *totality*, is personal being-there as *life*. This, *in the last danger* and in collision with the rightful property of another, has a *right of necessity* to claim (not as equity, but as right), since on the one side stands the infinite injury to being-there and therein total lack of right, on the other side only the injury of a single limited being-there of freedom, in which at the same time right as such and the capacity for right of the one injured only in *this* property are recognized.

From the right of necessity flows the benefit of competence, by which a debtor is left tools, farm implements, clothes, and in general as much of his means, that is, of the creditors' property, as is considered necessary for the possibility of his sustenance — even in keeping with his station.

Section 128

¹²⁸ Necessity reveals the finitude, and with it the contingency, both of right and of welfare — of the abstract being-there of freedom without its being the existence of the particular person, and of the sphere of the particular will without the universality of right. Their one-sidedness and ideality is thereby *posited*, as it is already determined in themselves in the concept; right has already (§ 106) determined its *being-there* as the particular will, and subjectivity in its all-embracing particularity is itself the being-there of freedom (§ 127), just as in itself, as the infinite relation of the will to itself, it is the universal of freedom.

The two moments thus integrated in themselves into their truth, their identity, but at first still in *relative* relation to each other, are the good, as the *fulfilled* universal determined in and for itself, and *conscience*, as the infinite subjectivity that knows within itself and determines the content within itself.

Section 129

129 Third Section.

The Good and Conscience.

The *good* is the Idea, as the unity of the *concept* of the will and the *particular* will — in which abstract right, as well as welfare and the subjectivity of knowing and the contingency of external being-there, are canceled as *self-subsistent for themselves*, but are thereby *contained* in it, and preserved, *according to their essence* — the *realized freedom*, the *absolute final purpose* of the world.

Section 130

130 Welfare has in this Idea no validity for itself as the being-there of the single particular will, but only as *universal* welfare, and essentially as *universal* in itself, that is, according to freedom; — welfare is not a good without right. Equally, right is not the good without welfare (“let justice be done” should not have “let the world perish” as its consequence). The good, accordingly, as the necessity of being actual through the particular will and at the same time as its substance, has the *absolute* right against the abstract right of property and the particular purposes of welfare. Each of these moments, insofar as it is distinguished from the good, has validity only insofar as it accords with it and is subordinate to it.

Section 131

- ¹³¹ For the *subjective* will the good is likewise the absolutely essential, and it has worth and dignity only insofar as in its insight and intention it accords with it. Insofar as the good is here still this *abstract Idea* of the good, the subjective will is not yet taken up into it and posited as according with it; it stands, therefore, in a relation to it, and indeed in this, that the good is to be the substantial for it — that it ought to make it its purpose and accomplish it — just as the good, for its part, has its mediation only in the subjective will, through which it enters into actuality.

Section 132

- ¹³² The *right* of the *subjective will* is that what it is to recognize as valid be *seen into* by it as good, and that an action, as the purpose entering into external objectivity, be imputed to it according to its *knowledge* of the worth that the action has in this objectivity, as right or wrong, good or evil, lawful or unlawful. The *good* is in general the essence of the will in its *substantiality* and *universality* — the will in its truth; — it is therefore absolutely only *in thinking* and through *thinking*. The assertion, therefore, that man cannot know the true but has to do only with appearances — that thinking harms the good will — these and similar notions take away from spirit all ethical worth and dignity, as they do the intellectual. — The right to recognize nothing that I do not see into as rational is the highest right of the subject, but through its subjective determination it is at the same time *formal*, and the *right of the rational*, as the objective, over the subject remains firmly in place. — Because of its formal determination, insight is just as capable of being *true* as of being mere opinion and *error*. That the individual attain to that right of his insight belongs, from the standpoint of

the still moral sphere, to his particular subjective formation. I can make the demand upon myself, and regard it as a subjective right in me, that I have insight into an obligation on *good* grounds and have *conviction* of it, and still more, that I know it from its concept and nature. What I demand for the satisfaction of my conviction as to the good, the permitted, or the forbidden character of an action, and with that as to its imputability in this respect, does no harm, however, to the *right of objectivity*. — This right of insight into the *good* is distinct from the right of insight (§ 117) with regard to the *action* as such; the right of objectivity has in the latter the shape that, since the action is a change that is to exist in an actual world and therefore wants to be recognized in it, it must in general accord with what *holds* in it. Whoever wants to act in this actuality has *thereby* submitted himself to its laws, and recognized the right of objectivity. — Likewise, in the state, as the *objectivity* of the concept of reason, *judicial imputation* is not to stop at what someone holds to accord with his reason or not, not at the subjective insight into rightfulness or wrongfulness, into good or evil, and at the demands he makes for the satisfaction of his conviction. In this objective field the right of insight holds as insight into the *lawful* or *unlawful*, as into the right that *holds*, and it limits itself to its nearest meaning, namely *knowledge as acquaintance* with what is lawful and to that extent obligatory. Through the publicity of the laws and through general customs, the state takes from the right of insight the formal side and the contingency for the subject which this right still has on the present standpoint. The right of the subject to know the action in the determination of the *good* or *evil*, of the lawful or unlawful, has for children, the feeble-minded, and the insane the consequence of diminishing or canceling imputability on this side too. A definite limit, however, cannot be fixed for these states and their imputability. But to make blindness of the moment, the excitement of passion, drunkenness, in general what one calls the strength of sensuous motives (insofar as what grounds a right of necessity (§ 120) is excluded), into grounds in imputation and in the determination of the *crime* itself and its *punishability*, and to regard such circumstances as if the *guilt* of the criminal were thereby taken away, means likewise (cf. §§ 100, 119, Remark) not to treat him according to the right and honor of

man, whose nature is precisely this: to be essentially a universal, not an abstractly momentary and isolated piece of knowing. — As the arsonist has set fire not to this inch-wide surface of wood that he touched with the light, as isolated, but in it to the universal, the house, so he is as subject not the single of *this* moment or this isolated feeling of the heat of revenge; were he that, he would be an animal that, on account of its harmfulness and the insecurity of being subject to fits of rage, would have to be knocked on the head. — The demand that the criminal at the moment of his action must have *clearly represented* to himself its wrongfulness and punishability in order to be imputed with it as a crime — this demand, which seems to preserve for him the right of his moral subjectivity, rather denies him the intelligent nature inherent in him, which in its active presence is not bound to the Wolffian-psychological shape of *clear representations*, and is so deranged only in the case of madness as to be separated from the knowing and doing of single things. — The sphere where those circumstances come into consideration as grounds for mitigating punishment is other than that of right: the sphere of *mercy*.

Section 133

- ¹³³ The good has to the particular subject the relation of being the *essential* element of his will, which therefore has in it absolutely its *obligation*. Since *particularity* is distinct from the good and falls within the subjective will, the good has at first only the determination of *universal abstract essentiality* — of *duty*; — on account of this its determination, *duty is to be done for duty's sake*.

Section 134

- ¹³⁴ Because action in itself requires a particular content and a determinate purpose, while the abstraction of duty contains none, the question arises: *what is duty?* For this determination nothing is at first available except this: to do *right* and to care for *welfare*, one's own welfare and welfare in its universal determination, the welfare of others. (See § 119.)

Section 135

- ¹³⁵ These determinations, however, are not contained in the determination of duty itself; rather, since both are conditioned and limited, they bring about for that very reason the transition into the higher sphere of the *unconditioned*, of duty. Duty itself, insofar as it is the essential or universal element in moral self-consciousness, as that self-consciousness relates only to itself within itself, is thereby left with nothing but abstract universality; its determination is *contentless identity*, or the abstract *positive*, the undetermined.

As essential as it is to bring out the pure unconditioned self-determination of the will as the root of duty, and as much as the knowledge of the will first won its firm ground and starting point through the *Kantian* philosophy, by way of the thought of its infinite autonomy, just so much does the clinging to the merely moral standpoint, which does not pass over into the concept of ethical life, reduce this gain to an *empty formalism* and moral science to a rhetoric about *duty for duty's sake*. From this standpoint no immanent doctrine of duties is possible; one can indeed take in material *from outside* and thereby arrive at *particular* duties, but from that determination of duty as the *absence of contradiction*, as *formal agreement with oneself*, which is nothing other than the fixing of *abstract indeterminacy*, there can be no transition to the determina-

tion of particular duties; nor, when such a particular content comes up for consideration in action, does that principle offer a criterion for whether it is a duty or not. On the contrary, every wrongful and immoral way of acting can be justified in this manner. — The further *Kantian* form, the capacity of an action to be represented as a *universal* maxim, does indeed bring in the *more concrete* representation of a state of affairs, but it contains in itself no further principle than that absence of contradiction and formal identity. — That *no property* exists contains in itself just as little a contradiction as that this or that single nation, family, and so on, should not exist, or that *no human beings live* at all. If it is otherwise fixed in itself and presupposed that property and human life are to exist and to be respected, then it is a contradiction to commit a theft or a murder; a contradiction can arise only with something, that is, with a content which lies beforehand at the ground as a fixed principle. Only in relation to such a content is an action either in agreement with it or in contradiction. But duty, which is to be willed only as such and not for the sake of a content, *formal identity*, is precisely the exclusion of all content and determination.

The further antinomies and shapes of the perennial ought, in which the merely moral standpoint of *relation* only drifts about, unable to resolve them or to get beyond the ought, I have developed in the *Phenomenology of Spirit*, page 550 ff.; compare the *Encyclopedia of the Philosophical Sciences*, § 420 ff.

Section 136

- ¹³⁶ Because of the abstract character of the good, the other moment of the Idea, *particularity* in general, falls into subjectivity, which in its universality reflected into itself is the absolute certainty of itself within itself, that which posits particularity, the determining and deciding element: *conscience*.

Section 137

¹³⁷ True conscience is the disposition to will what is good *in and for itself*; it therefore has firm principles, and these are for it the objective determinations and duties that exist for themselves. Distinguished from this its content, from truth, it is only the *formal side* of the activity of the will, which as *this* will has no content of its own. But the objective system of these principles and duties, and the union of subjective knowing with it, is first present at the standpoint of ethical life. Here, at the formal standpoint of morality, conscience is without this objective content; it is thus for itself the infinite formal certainty of itself, which for that very reason is at the same time the certainty of *this* subject.

Conscience expresses the absolute entitlement of subjective self-consciousness to know *within itself* and *out of itself* what is right and duty, and to recognize nothing except what it thus knows as the good, while at the same time asserting that what it so knows and wills is in *truth* right and duty. As this unity of subjective knowing and of what is in and for itself, conscience is a sanctuary which it would be sacrilege to touch. But whether the conscience of a *determinate individual* accords with this Idea of conscience, whether what it holds or declares to be good is also actually good, is recognized solely from the *content* of what is supposed to be good. What is right and duty, as what is rational in the determinations of the will in and for itself, is essentially neither the *particular* property of an individual, nor in the *form* of feeling or of any other single, that is, sensuous, knowing, but essentially of *universal*, thought determinations, that is, in the form of laws and principles. Conscience is therefore subject to the judgment whether it is *true* or not, and its appeal only *to its own self* is immediately opposed to what it wants to be, the rule of a rational way of acting that is universal and valid in and for itself. For this reason the state cannot recognize conscience in its peculiar form, that is, as subjective knowing, any more than in science subjective *opinion*, the assurance and appeal to a subjective opinion, has

validity. What is not distinguished in true conscience is nevertheless distinguishable, and it is the determining subjectivity of knowing and willing which can separate itself from the true content, posit itself for itself, and reduce that content to a *form* and a *semblance*. The ambiguity concerning conscience therefore lies in this, that it is presupposed in the sense of that identity of subjective knowing and willing with the truly good, and so is asserted and recognized as something holy, and yet, as the merely subjective reflection of self-consciousness into itself, lays claim to the entitlement which belongs to that identity only by virtue of its rational content, valid in and for itself. In the moral standpoint, as it is distinguished in this treatise from the ethical, only formal conscience falls; true conscience has been mentioned only in order to indicate its difference and to remove the possible misunderstanding that here, where only formal conscience is considered, the discussion concerns the true, which is contained in the ethical disposition that comes up only later. Religious conscience, however, does not belong in this circle at all.

Section 138

¹³⁸ This subjectivity, as abstract self-determination and pure certainty of itself alone, *dissolves* within itself all *determinacy* of right, of duty, and of existence, just as it is the *judging* power that determines, for a content, solely out of itself what is good, and at the same time the power to which the good, at first only represented and something that *ought* to be, owes an *actuality*.

Self-consciousness, having come to this absolute reflection into itself, knows itself in it as something that no existing and given determination can or should touch. As a more general shape in history (in Socrates, the Stoics, and so on) the turn *inward*, to seek within oneself and to know and determine out of oneself what is right and good, appears in epochs when what counts in actuality and custom as right and good cannot satisfy the better will; when the existing world of freedom has become unfaithful to it, it no longer finds itself in the

duties that hold, and must try to win the harmony lost in actuality only in ideal inwardness. Now that self-consciousness has thus grasped and acquired its formal right, everything depends on the character of the content which it gives itself.

Section 139

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

Conscience, as formal subjectivity, is simply this: to stand on the brink of turning over into evil; in the certainty of itself, which exists for itself, knows for itself and resolves for itself, both morality and evil have their common root.

The origin of evil in general lies in the mystery, that is, in the speculative element of freedom, in its necessity to go out of the *naturalness* of the will and to be *inward* against it. It is this naturalness of the will which, as the contradiction of itself and incompatible with itself, comes into existence in that opposition, and it is thus this *particularity* of the will itself which further determines itself as evil. For particularity exists only as the *doubled*, here the opposition of naturalness to the inwardness of the will, which in this opposition is only a *relative and formal* being-for-itself that can draw its content solely from the determinations of the natural will, from desire, drive, inclination, and so on. Of these desires, drives, and so on it is then said that they *can* be good *or* also evil. But since the will makes them, in this determination of *contingency* which they have as natural, and with it the form which it has here, particularity itself, into the determination of its content, it is opposed to *universality*, to the inner objective, the good, which enters together with the will's reflection into itself and with cognizing consciousness, as the other extreme to immediate objectivity,

the merely natural; and so this inwardness of the will is evil. The human being is therefore evil at once both in himself or *by nature* and through his *reflection into himself*, in such a way that neither nature as such, that is, if it were not the naturalness of the will remaining in its particular content, nor *reflection going into itself*, cognition in general, if it did not hold itself in that opposition, is evil in itself. — United just as absolutely with this *side of the necessity of evil* is that this evil is determined as what necessarily *ought not to be*—that is, that it ought to be sublated, *not* that that first standpoint of disunion should not emerge at all—it rather constitutes the separation of the irrational animal and the human being—but that one should not remain standing on it, nor hold fast to particularity as the essential against the universal, and that it should be overcome as null. Further, in this necessity of evil it is *subjectivity*, as the infinity of this reflection, which has this opposition before it and is in it; if it remains standing on it, that is, is evil, then it is thereby *for itself*, holds itself as single, and is itself this arbitrary choice. The single *subject* as such therefore has simply *the guilt of its evil*.

Section 140

¹⁴⁰ Since self-consciousness knows how to bring out in its purpose a *positive side* (§ 135), which it necessarily has because it belongs to the intention of *concrete actual* action, it is able, for the sake of such a side as a *duty and an excellent intention*, to *assert both others and itself to be good* by means of the action, whose negative essential content stands at the same time in comparison *within it*, as reflected into itself and so conscious of the universal of the will. Where it asserts *others* to be good, this is hypocrisy; where it asserts *itself*, this is the still higher peak of *subjectivity asserting itself as the absolute*.

This last, most abstruse form of evil, by which evil is turned into good and good into evil, and consciousness knows itself as this power and therefore as absolute, is the highest peak of subjectivity in the moral standpoint. It is the

form to which evil has grown in our time, and indeed through philosophy, that is, through a shallowness of thought which has twisted a profound concept into this shape and arrogates to itself the name of philosophy, just as it arrogates to evil the name of good. In this remark I will briefly indicate the main shapes of this subjectivity that have become current. As to

a) hypocrisy, it contains the moments α) knowledge of the truly universal, whether only in the form of the feeling of *right and duty*, or in the form of further acquaintance and cognition of it; β) the willing of the *particular* that resists this universal, and indeed γ) as a *comparing* knowledge of both moments, so that for the willing consciousness itself its particular willing is determined as evil. These determinations express *acting with a bad conscience*, not yet hypocrisy as such. — It was at one time a very important question whether *an action is evil only insofar as it is done with a bad conscience*, that is, with the *developed consciousness of the moments just indicated*. — Pascal (Provincial Letters, fourth letter) draws very well the consequence of answering the question in the affirmative: “They will all be damned, these half-sinners who have some love for virtue. But as for these frank sinners, hardened sinners, sinners without admixture, full and complete, hell does not hold them. They have deceived the devil by abandoning themselves to him.” — The subjective right of self-consciousness to *know* the action under the determination of its being good or evil in and for itself must not be thought to collide with the absolute right of the *objectivity* of this determination in such a way that the two are represented as *separable, indifferent and contingent* with respect to each other, a relation which was also made the basis in particular of the former questions about *efficacious grace*. According to the formal side, evil is the most proper possession of the individual, since it is precisely his subjectivity positing itself absolutely as its own for itself, and thereby it is absolutely his guilt (see § 139 and the remark to the preceding section); and according to the objective side, the human being, *according to his concept*, is spirit, rational in general, and has within him absolutely the determination of self-knowing universality. It is therefore not treating him according to the honor of his concept if the side of the good, and with it the determination of his evil action as evil, is separated

from him and the action is not imputed to him as evil. How determinately, or in what degree of clarity or obscurity, the consciousness of those moments in their distinctness is *developed into cognition*, and to what extent an evil action is carried out with more or less *formal* bad conscience, is the more indifferent side, concerned rather with the empirical.

Pascal also cites there the intercession of Christ on the cross for his enemies: *Father, forgive them, for they know not what they do*—a superfluous prayer if the circumstance that they did not know what they did had given their action the quality of not being evil and so of not needing forgiveness. Likewise he cites the view of Aristotle (the passage is Nic. Eth. III. 2), who distinguishes whether the agent acts without knowing (οὐκ εἰδώς) or in ignorance (ἀγνοῶν); in the former case of ignorance he acts *involuntarily* (this ignorance refers to the *external circumstances*) (see above § 117) and the action is not to be imputed to him. But about the other case Aristotle says: “Every bad man does not know what he ought to do and what to refrain from, and it is just this defect (ἀμαρτία) that makes men unjust and in general evil. Ignorance in the choice of good and evil does not make an action involuntary (incapable of being imputed) *but only makes it bad*.” Aristotle certainly had a deeper insight into the connection of cognition and willing than has become current in a shallow philosophy, which teaches that *not-knowing*, the *heart*, and *enthusiasm* are the true principles of ethical action.

b) To act evilly and with a bad conscience is, however, *not yet hypocrisy*; in the latter there is added the formal determination of untruth, namely at first *to assert evil to be good for others*, and in general to present oneself outwardly as good, conscientious, pious, and the like, which in this way is only an artifice of deception *for others*. But the evil man can further find, in his other good-doing or piety, in *good reasons* in general, a justification *for himself* for evil, in that through them he turns it for himself into good. This possibility lies in subjectivity, which as abstract negativity knows all determinations as subjected to it and as proceeding from it. To this perversion

c) there belongs first of all that shape which is known as *probabilism*. It makes it a principle that an action for which consciousness can find *some good* reason, even if only the *authority* of one theologian, and even if it knows other theologians to differ from his judgment ever so greatly, is permitted, and that conscience can be secure about it. Even in this notion there is still present the correct awareness that such a reason and authority give only *probability*, although this suffices for the security of conscience; it is admitted in it that a good reason is only of such a kind that beside it there can be other reasons at least as good. This trace of objectivity too is still to be recognized here, that it is supposed to be a *reason* that determines. But since the decision between good and evil is placed on the many *good reasons*, among which those authorities are included, and since these reasons are so many and so opposed, it lies in this at the same time that it is *not* this objectivity of the matter but *subjectivity* that has to decide—the side by which whim and arbitrary choice are made the decider over good and evil, and ethical life, like religiosity, is undermined. That it is one's own subjectivity in which the decision falls is not yet pronounced as the principle; rather, as noted, a reason is put forward as the decisive thing, and probabilism is thus far still a shape of hypocrisy.

d) The next higher stage is that the good will is supposed to consist in *its willing the good*; this willing of the *abstract good* is supposed to suffice, indeed to be the sole requirement, for the action to be good. Since the action, as *determinate* willing, has a content, while the *abstract good* determines nothing, it is reserved for particular subjectivity to give it its determination and fulfillment. As in probabilism, for one who is not himself a learned Reverend Father, it is the authority of such a theologian on which the subsumption of a determinate content under the universal determination of the *good* can be based, so here every subject is immediately installed in this dignity, to put the content into the abstract good, or, what is the same, to subsume a content under a universal. This content, as something concrete, is in the action only one side among several, sides which perhaps may even give it the predicate of being criminal and bad. But that determination of the good of mine is the *good known by me* in the action, *the good intention* (§ 114). Here an opposition of determinations enters,

according to one of which the action is good, but according to others criminal. With this the question seems to arise, in the actual action, whether the *intention is really good*. That the good is the *actual* intention, however, not only can be the case in general but must always be able to be the case at the standpoint where the subject has the abstract good as its determining ground. What is injured by the good intention through such an action, which by other sides determines itself as criminal and evil, is of course also good, and it would seem to depend on which of these sides is the *most essential*. But this objective question drops out here, or rather it is the subjectivity of consciousness itself whose decision alone constitutes the objective. *Essential and good* are in any case synonymous; the one is just as much an abstraction as the other; good is what is essential with regard to the will, and the essential in this regard is supposed to be precisely that an action is determined as good for me. The subsumption of any content one pleases under the good results immediately in itself from the fact that this abstract good, since it has no content at all, reduces itself wholly to signifying in general something *positive*—something that counts in some respect and by its immediate determination can also count as an essential purpose—for example, doing good to the poor, caring for myself, for my life, for my family, and so on. Further, as the good is the abstract, so the bad too is the contentless, which receives its determination from my subjectivity; and from this side there results also the moral purpose of hating and eradicating the indeterminate bad. — Theft, cowardice, murder, and so on, as actions, that is, as carried out by a subjective will, have immediately the determination of being the *satisfaction* of such a will and hence of being *positive*, and to make the action a good one all that matters is to know this positive side as my *intention* in it, and this side is the *essential* one for the determination of the action as good, because I know it as the good in my intention. Theft in order to do good to the poor; theft, or running away from battle, for the sake of the duty to care for one's life, for one's family (perhaps poor besides); murder out of hatred and revenge, that is, in order to satisfy the sense of one's own right, of right in general, and the feeling of the badness of the other, of his wrong against me or against others, against the world or the people in general, through the destruc-

tion of this bad man, who has the bad itself within him, whereby at least a contribution is made toward the purpose of eradicating the bad—these are in this way, for the sake of the positive side of their content, made into the good intention and thereby into the good action. A *very slight* cultivation of the understanding suffices, like those learned theologians, to find for every action a positive side, and with it a good reason and intention. — Thus it has been said that there is strictly no evil man, for he does not will evil for the sake of evil, that is, not the *purely negative* as such, but always wills something *positive*, and so from this standpoint something good. In this abstract good the distinction between good and *evil*, and all actual duties, have vanished; hence merely to will the good, and to have a good intention in an action, is rather evil, insofar as the good is willed only in this abstraction and thereby the *determination* of it is reserved to the arbitrary choice of the subject.

To this place belongs also the notorious proposition: *the end sanctifies the means*. — Taken by itself, this expression is at first trivial and says nothing. One can just as indeterminately reply that a holy end indeed sanctifies the means, but an unholy end does not sanctify them. If the end is right, then so are the means—this is a tautological expression, insofar as the means is precisely what is nothing for itself but exists for the sake of another, and has in that, in the end, its determination and worth, *if, that is, it is truly a means*. — But that proposition does not mean the merely formal sense; something more determinate is understood by it, namely that, for a good end, it is permitted, indeed perhaps even a duty, to use as means something that is absolutely no means in itself, to violate something that is holy in itself, thus to make a crime the means of a good end. In that proposition there floats before the mind, on the one side, the indeterminate consciousness of the dialectic of the *positive* noted before in isolated determinations of right or ethics, or in such equally indeterminate universal propositions as: *you shall not kill*, or: *you shall care for your welfare, for the welfare of your family*. Courts and soldiers have not only the right but the duty to kill human beings, though it is *precisely determined* on account of what quality in human beings and under what circumstances this is permitted and a duty. So too my welfare and the welfare of my family must be subordinated to

higher ends and thus lowered to means. But what designates itself as a crime is not such an indeterminately left universality, still subject to a dialectic, but already has its determinate objective boundary. What is now set against such a determination in the end that is supposed to take from the crime its nature, the holy end, is nothing other than the *subjective* opinion of what is good and better. It is the same thing that happens when willing stops at the abstract good, namely that all determinacy of good and bad, of right and wrong, existing and valid in and for itself, is sublated, and this determination is ascribed to the feeling, representing, and pleasure of the individual. —

Finally, *subjective opinion* is expressly pronounced to be the rule of right and duty, in that e) it is supposed to be the *conviction, which holds something to be right*, by which the ethical nature of an action is determined. The good that one wills still has no content; the principle of conviction now contains this further point, that the subsumption of an action under the determination of the good belongs to the *subject*. With this the semblance of an ethical objectivity has also vanished entirely. Such a doctrine is directly connected with the oft-mentioned so-called philosophy which denies the knowability of the *true*—and the true of the willing spirit, its rationality insofar as it actualizes itself, is the ethical commandments. Since such philosophizing declares the cognition of the true to be an empty vanity that flies beyond the circle of cognition, which is supposed to be only what appears, it must immediately also make what merely appears the principle with regard to action, and so place the ethical in the *peculiar* view of the world held by the individual and in his *particular conviction*. The degradation into which philosophy has thus sunk appears at first, before the world, as a most indifferent occurrence, one that has befallen only idle school chatter; but necessarily such a view works itself into the view of the ethical, as an essential part of philosophy, and only then does what lies in those views appear in actuality and for it. — Through the spread of the view that it is subjective conviction by which the ethical nature of an action is alone determined, it has come about that formerly much was said of hypocrisy, but nowadays little; for the qualification of evil as hypocrisy has for its ground that certain actions are offenses, vices and crimes *in and for themselves*, that he who

commits them must necessarily know them as such, insofar as he knows and acknowledges the principles and outward acts of piety and uprightness precisely in the semblance for which he misuses them. Or, with regard to evil in general, the presupposition held that it is a duty to recognize the good and to know how to distinguish it from evil. In any case, however, the absolute demand held that the human being commit no vicious and criminal actions, and that they must be imputed to him as such insofar as he is a human being and not a beast. But if the good heart, the good intention, and subjective conviction are declared to be what gives actions their worth, then there is no hypocrisy and in general no evil any more, for whatever one does, he knows how to make into something good through the reflection of good intentions and motives, and by the moment of his *conviction* it is good. Thus there are no longer crimes and vices in and for themselves, and in place of the frank and free, hardened, untroubled sinning cited above, the consciousness of complete justification by intention and conviction has stepped in. My intention of the good in my action, and my conviction that it is good, *make it good*. Insofar as there is talk of judging and passing sentence on the action, by this principle it is only according to the intention and conviction of the agent, according to his *faith*, that he is to be judged—not in the sense in which *Christ* demands a faith in the *objective* truth, so that for one who has a bad faith, that is, a conviction evil in its *content*, the judgment too turns out bad, that is, in accordance with this evil content, but according to faith in the sense of *fidelity to conviction*, whether the human being in his acting has remained *true to his conviction*, to the formal subjective fidelity, which alone contains what accords with duty. — With this principle of conviction, because it is at the same time determined as a *subjective* one, the thought of the possibility of *an error* must indeed also press itself forward, and in this lies the presupposition of a law that exists in and for itself. But *the law does not act*; it is only the actual human being who acts, and in the worth of human actions, by that principle, all that can matter is how far he has taken up that law *into his conviction*. But if it is thus not the actions that are to be judged by that law, that is, in general measured by it, it is impossible to see what that law is still to be and to serve for. Such a law is reduced to a merely *external let-*

ter, in fact an empty word, for only through my conviction is it made *a law, one obliging and binding me*. — That such a law has on its side the authority of God, of the state, also the authority of millennia in which it was the bond by which human beings and all their doing and fate are held together and have their subsistence—authorities which include in themselves an uncountable number of the *convictions of individuals*—and that *I* oppose to it the *authority* of my *single* conviction—as my subjective conviction its validity is only authority—this arrogance, at first seemingly monstrous, is removed by the principle itself, which makes subjective conviction the rule. — Now if, through the higher inconsistency which reason and conscience, ineradicable by shallow science and bad sophistry, bring in, the *possibility of an error* is conceded, then by regarding crime and evil in general as an error, the fault is reduced to its least. For *to err* is *human*—who has not erred about this or that, whether I ate kohl or kraut yesterday at noon, and about countless things less important and more important? But the distinction between the important and the unimportant drops away if all that matters is the subjectivity of conviction and persistence in it. That higher inconsistency concerning the possibility of an error, however, which comes from the nature of the matter, is transformed, in the turn that a bad conviction is only an error, in fact only into the other inconsistency, of dishonesty: one time it is supposed to be conviction on which the ethical and the highest worth of the human being are based, and it is thereby declared the highest and holiest thing; and the other time nothing more is at issue than an erring, my being convinced something slight and contingent—in truth something external that can *happen to me one way or another*. In fact my being convinced is something utterly slight if I cannot cognize anything true; then it is a matter of indifference *how* I think, and what is left to me to think is that empty good, the abstraction of the understanding. — Moreover, to remark this too, there follows from this principle of justification by the ground of conviction the consequence for the way others act toward my acting, that when they hold my actions to be *crimes* according to *their* faith and conviction, they do *quite right*—a consequence in which I not only reserve nothing in advance but on the contrary am only lowered from the standpoint of freedom and honor into the

relation of unfreedom and dishonor, namely in justice, which in itself is also mine, to experience only a foreign subjective conviction, and in its administration to suppose that I am treated only by an external force.

“That he feels *perfectly convinced*, I do not doubt in the least. But how many human beings begin the worst outrages from such a felt conviction! So, if this ground can excuse everywhere, there is *no rational judgment* any longer about *good and evil, honorable and contemptible resolutions*; delusion then has equal rights with reason, or reason has then no rights at all, no valid standing any more; its voice is a nonentity; whoever merely does not doubt is in the truth!

“I shudder at the consequences of such a tolerance, which would be an exclusive one to the advantage of unreason.”

Fr. H. Jacobi to Count Holmer. Eutin, 5 Aug. 1800, on Count Stolberg’s change of religion. (Brennus. Berlin, Aug. 1802.)

f) The highest form, finally, in which this subjectivity grasps and expresses itself completely is the shape which has been called, with a name borrowed from *Plato*, *irony*—for only the name is taken from *Plato*, who used it of a manner of *Socrates*, which the latter applied in personal conversation against the conceit of uneducated and sophistical consciousness for the sake of the Idea of truth and justice, but treated ironically only that consciousness, not the Idea itself. Irony concerns only a conduct of conversation toward *persons*; without the personal direction, the essential movement of thought is dialectic, and *Plato* was so far from taking the dialectical for itself, or indeed irony, as the final thing and as the Idea itself, that on the contrary he sank and ended the going over and back of thought, rather than leaving it to a subjective opinion, in the substantiality of the Idea. — The peak of subjectivity, grasping itself as the final thing, which remains to be considered here, can be only this: to *know* itself still as that resolving and deciding about truth, right and duty which is already present implicitly in the preceding forms. It consists, then, in knowing the ethical-objective well, but not, forgetting itself and renouncing itself, in sinking into its seriousness and acting out of it; rather, in relation to it, at the same time in holding it away from itself and knowing itself as that which *so wills and resolves* and can just *as well* will and resolve otherwise. — You take a law, in fact and honestly, as exist-

ing in and for itself; I too am in it and at it, but also still further than you; I am also beyond it and can make it *this way or that*. It is not the matter that is excellent, but I am the excellent one, and am the master over the law and the matter, who *only plays* with it as with his whim, and in this ironic consciousness, in which I let the highest perish, and *enjoy only myself*. — This shape is not only the *vanity* of all ethical *content* of rights, duties and laws—evil, and indeed evil wholly universal in itself—but it adds also the form, the *subjective* vanity, of knowing itself as this vanity of all content, and in this knowing of knowing itself as the absolute. — To what extent this absolute self-complacency does not remain a solitary worship of itself, but can perhaps also form a *congregation*, whose bond and substance is perhaps the mutual assurance of conscientiousness and good intentions, rejoicing over this reciprocal purity, but above all the refreshment in the glory of this self-knowing and self-pronouncing, and in the glory of this cherishing and tending—to what extent what has been called the *beautiful soul*, the nobler subjectivity that smolders away in the vanity of all objectivity and thereby in the unreality of itself, and further other configurations, are turns akin to the stage considered—I have treated in the *Phenomenology of Spirit*, p. 605 ff., where the whole section c) Conscience can be compared, especially also with regard to the transition into a higher stage in general, determined there otherwise.

My late colleague, Professor *Solger*, did indeed take up the expression *irony*, brought up by Herr Fr. von *Schlegel* in an earlier period of his career as a writer and raised to that subjectivity which knows itself as the highest; but his better sense, remote from such a determination, and his philosophical insight, seized and held fast in it chiefly the side of the properly dialectical, the moving pulse of speculative consideration. Yet I cannot find this quite clear, nor can I agree with the concepts which he developed even in his last substantial work, an extended *critique* of Herr *August Wilhelm* von *Schlegel*'s *Lectures on Dramatic Art and Literature* (Vienna Annals, vol. VII, p. 90 ff.). “True *irony*,” says *Solger* there, p. 92, “proceeds from the point of view that the human being, so long as he lives in this present world, can fulfill his vocation, even in the highest sense of the word, only in this world. Everything with which we believe we *go beyond*

finite purposes is vain and empty imagination. — Even the highest is there for our action only in *limited finite shape*.” This, rightly understood, is Platonic and very true as said against the empty striving toward the (*abstract*) infinite mentioned there before. But that the highest is in a limited *finite* shape, like the ethical, and the ethical is essentially as actuality and action, is very different from its being a *finite* purpose; the shape, the form of the finite, takes nothing from the content, from the ethical, of its substantiality and the infinity that it has in itself. He goes on: “And precisely for that reason it (the highest) is in us as *null* as the least, and *necessarily perishes with us and our null sense*, for in truth it is there only in God, and in this perishing it is transfigured as a divine thing, in which we should have no share if there were not an immediate presence of this divine, which reveals itself precisely in the vanishing of our actuality; the mood, however, to which this shines forth immediately in human events themselves is tragic irony.” The arbitrary name irony would not matter, but there is something unclear in this, that it is *the highest* which *perishes* with our nullity, and that only in the vanishing of our actuality does the divine reveal itself, as it also says on p. 91 of the same work: “we see the heroes become confused about the noblest and most beautiful in their dispositions and feelings, not merely with regard to success but also with regard to *their source and their worth*, indeed we are uplifted by *the perishing of the best* itself.” That the tragic *perishing* of highly ethical figures can interest (the just perishing of puffed-up pure villains and criminals, such as the hero in a modern tragedy, the tragedy of Guilt, is one, has indeed a criminal-legal interest, but none for true art, which is at issue here), uplift and reconcile us with ourselves only insofar as such figures confront one another as equally entitled, different ethical powers that have come into *collision* through misfortune and so, through this their opposition to something ethical, have *guilt*—from which the right and the wrong of both, and with them the true ethical Idea, emerge purified and triumphant over this one-sidedness, thus reconciled in us—so that it is not *the highest* in us that perishes, and we are uplifted not by the *perishing of the best* but on the contrary by the triumph of the *true*—that this is the truly pure ethical interest of ancient tragedy (in romantic tragedy this determination undergoes a further modification) I

have set out in the *Phenomenology of Spirit* (p. 404 ff., compare 683 ff.). The ethical Idea, however, *without that misfortune of collision* and the perishing of the individuals caught in this misfortune, is *actual and present* in the ethical world; and that this highest does *not* present itself *in its actuality* as a *nullity*, this is what real ethical existence, the state, aims at and brings about, and what ethical self-consciousness possesses, beholds and knows *in it*, and what thinking cognition comprehends.

Section 141

141 Transition from Morality to Ethical Life.

For the good, as the substantial universal of freedom, but still *abstract*, determinations in general, and the principle of them, are therefore *demande*d as *identical* with it, just as, for conscience, which is only the abstract principle of determining, the universality and objectivity of its determinations is demanded. Both, each raised on its own to totality, become the undetermined which is supposed to be determined. — But the integration of the two relative totalities into absolute identity is already accomplished *in itself*, in that this very subjectivity, hovering in its vanity for itself, of *pure certainty* of itself is *identical* with the *abstract universality* of the good; the identity, thus *concrete*, of the good and the subjective will, the truth of them, is *ethical life*.

The details of such a transition of the concept are made intelligible in the Logic. Here only so much: that the nature of the limited and finite—and such are here the abstract good, which only *ought to be*, and the equally abstract subjectivity, which only *ought to be good*—has in *themselves* its opposite, the good its *actuality*, and subjectivity (the moment of the *actuality* of the ethical) the good, but that, as one-sided, they are not yet *posited* as what they are *in themselves*. They attain this positing in their *negativity*, in that, as each constitutes itself *one-sidedly*, as a totality for itself, without what is *in itself* in it—the good without subjectivity and determination, and the determining, subjectivity,

without the in-itself—they sublate themselves and thereby lower themselves to moments, to moments of the *concept*, which becomes manifest as their unity and has received *reality* precisely through this positedness of its moments, and so now is as *Idea*—concept that has developed its determinations into reality and is at the same time in their identity their essence *existing in itself*. — The existence of freedom, which was immediately as *right*, is determined in the reflection of self-consciousness as the *good*; the third, here in its transition as the truth of this good and of subjectivity, is therefore just as much the *truth* of the latter and of right. — The *ethical* is subjective disposition, but of right existing in itself; that this Idea is the truth of the concept of freedom cannot be something presupposed, taken from feeling or from wherever else, but—in philosophy—only something *proved*. The deduction of it is contained solely in this, that right and moral self-consciousness show themselves in themselves to return into it as into their *result*. — Those who believe they can be spared proving and deducing in philosophy show that they are still remote from the first thought of what philosophy is, and may talk elsewhere, but in philosophy those have no right to join the talk who want to talk without the concept.

Section 142

142 Third Part.

Ethical Life.

Ethical life is the Idea of freedom as the living good, which has its knowing and willing in self-consciousness, and through the acting of self-consciousness its actuality, just as self-consciousness in turn has in ethical being its foundation, existing in and for itself, and its moving purpose—the concept of freedom become the existing world and the nature of self-consciousness.

Section 143

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

Section 144

- ¹⁴⁴ α) The objective ethical, which takes the place of the abstract good, is the substance made *concrete* by subjectivity *as infinite form*. It therefore posits *differences* within itself, which are thus determined by the concept, and through which the ethical has a firm *content*, necessary for itself and a subsistence exalted above subjective opining and whim: the laws and institutions existing *in and for themselves*.

Section 145

- ¹⁴⁵ That the ethical is the *system* of these determinations of the Idea constitutes its *rationality*. In this way it is freedom, or the will existing in and for itself, as the objective, a circle of necessity whose moments are the *ethical powers* that govern the life of individuals and have in these, as their accidents, their representation, their appearing shape and actuality.

Section 146

¹⁴⁶ β) In this its *actual* self-consciousness the substance is self-knowing and thereby an object of knowing. For the subject, the ethical substance, its laws and powers, have on the one hand, as an object, the relation that *they are*, in the highest sense of independence—an absolute authority and power infinitely firmer than the being of nature.

The sun, the moon, mountains, rivers, the natural objects around us in general, *are*; for consciousness they have the authority not merely of being in general, but also of having a particular nature, which it lets stand and by which it is guided in its conduct toward them, in its dealings with them and its use of them. The authority of the ethical laws is infinitely higher, because natural things exhibit rationality only in a wholly *external* and *isolated* way, and hide it under the form of contingency.

Section 147

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

Faith and trust belong to incipient reflection and presuppose a representation and a difference; as it would be, for example, different to believe in the pagan religion and to be a pagan. That relation, or rather relationless identity, in which the ethical is the actual livingness of self-consciousness, can indeed pass over into a relation of faith and conviction, and into one mediated by *further reflection*, into an insight through reasons, which may also begin from some

particular purposes, interests and considerations, from fear or hope, or from historical presuppositions. The *adequate cognition* of them, however, belongs to the thinking concept.

Section 148

148 As these substantial determinations, they are, for the individual, who distinguishes himself from them as the subjective and in himself undetermined, or as particularly determined, and who *thereby stands in a relation* to them as to his substantial element—*duties* binding his will.

The ethical *doctrine of duties*, that is, as it is objective and is not to be comprised in the empty principle of moral subjectivity, which on the contrary determines nothing (§ 134), is therefore the systematic development of the circle of ethical necessity that follows in this *third part*. The difference of this exposition from the form of a *doctrine of duties* lies solely in this, that in what follows the ethical determinations emerge as the necessary relations, and one stops with this, without adding to each of them the further clause, *therefore this determination is a duty for the human being*. — A doctrine of duties, insofar as it is not philosophical science, takes its material from the relations as existing, and shows its connection with one's own representations, with generally found principles and thoughts, with purposes, drives, feelings, and so on, and can add as reasons the further consequences of each duty in relation to the other ethical relations, as well as to welfare and opinion. An immanent and consistent doctrine of duties, however, can be nothing other than the development of *the relations* which are necessary through the Idea of freedom, and therefore *actual* in their whole extent, in the state.

Section 149

- ¹⁴⁹ Binding duty can appear as a *limitation* only against indeterminate subjectivity or abstract freedom, and against the drives of the natural will, or of the moral will that determines its indeterminate good out of its arbitrary choice. The individual, however, has in duty rather his *liberation*: partly from the dependence in which he stands in the mere natural drive, and from the oppression in which, as subjective particularity, he is in the moral reflections of ought and may; partly from the indeterminate subjectivity which does not come to existence and to the objective determinacy of action, and remains *within itself* and as an unreality. In duty the individual liberates himself to substantial freedom.

Section 150

- ¹⁵⁰ The ethical, insofar as it is reflected in the individual character determined by nature as such, is *virtue*, which, insofar as it shows nothing but the simple fitness of the individual to the duties of the relations to which he belongs, is *uprightness*.

What a human being must do, what the duties are which he has to fulfill in order to be virtuous, is easy to say in an ethical community—there is nothing else for him to do than what is prescribed, declared and known to him in his relations. Uprightness is the universal that can be demanded of him partly in terms of right, partly in terms of ethics. For the moral standpoint, however, it easily appears as something subordinate, beyond which one must demand still more of oneself and others; for the craving to be something *particular* is not satisfied with what is in and for itself and universal; it finds the consciousness of peculiarity only in an *exception*. — The *various sides* of uprightness may just as well be called *virtues*, because they are just as much the property of the *individ-*

ual, although in comparison with others not something particular. But talk of virtue easily borders on empty declamation, because it speaks only of something abstract and indeterminate, just as such talk with its reasons and exhibitions addresses the individual as an arbitrary choice and subjective whim. Under an existing ethical condition whose relations are fully developed and realized, *virtue proper* has its place and actuality only in extraordinary circumstances and collisions of those relations—in true *collisions*, for moral reflection can create collisions everywhere and give itself the consciousness of something particular and of *sacrifices* made. In the uncultivated condition of society and community, therefore, the form of virtue as such occurs more, because here the ethical and its realization is more an individual whim and a peculiar, inspired nature of the individual, as the ancients especially predicated virtue of *Hercules*. In the ancient states too, because ethical life in them had not matured into this free system of independent development and objectivity, it had to be the peculiar genius of individuals that made up for this lack. — The doctrine of virtues, insofar as it is not merely a doctrine of duties and so embraces the particular, what in the character is grounded in natural determinacy, will accordingly be a *spiritual natural history*.

Since the virtues are the ethical in application to the particular, and on this subjective side something indeterminate, the quantitative element of more and less enters for their determination; their consideration therefore brings in the opposite defects or vices, as in *Aristotle*, who accordingly determined the particular virtue, in its right sense, as the mean between an *excess* and a *deficiency*. — The same content which takes the form of *duties* and then of *virtues* also has the form of *drives* (§ 19, remark). They too have the same content as their foundation; but because in them it still belongs to the immediate will and natural feeling, and has not been raised to the determination of ethical life, they have in common with the content of duties and virtues only the abstract object, which, as undetermined in itself, does not contain for them the limit of good or evil—or, according to the abstraction of the positive, they are *good*, and conversely, according to the abstraction of the negative, *evil* (§ 18).

Section 151

- ¹⁵¹ In simple identity with the actuality of individuals, however, the ethical appears as their universal way of acting—as *custom*—and the *habit* of it as a second nature, set in the place of the first, merely natural will, and as the pervading soul, meaning and actuality of their existence: the spirit living and present as a world, whose substance thus first is as *spirit*.

Section 152

- ¹⁵² *Ethical substantiality* has in this way come into its *right*, and this into its *validity*, in that in it the self-will and the own conscience of the single individual, which would be for itself and make an opposition to it, have vanished; for the ethical character knows the unmoved universal, opened up in its determinations to actual rationality, as its moving purpose, and recognizes that its dignity and all subsistence of particular purposes are grounded in it, and actually has them in it. Subjectivity is itself the absolute form and the existing actuality of the substance, and the difference of the subject from it as its object, purpose and power is only the difference of form, which has at the same time vanished just as immediately.

Subjectivity, which makes the ground of existence for the concept of freedom (§ 106) and in the moral standpoint is still in difference from this its concept, is in the ethical the existence adequate to it.

Section 153

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

To a father's question about the best way to educate his son ethically, a Pythagorean (it is put in the mouths of others too) gave the answer: if you make him the *citizen of a state with good laws*.

Section 154

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

Section 155

- ¹⁵⁵ In this identity of the universal and the particular will, *duty* and *right* thus coincide, and the human being has rights through the ethical insofar as he has duties, and duties insofar as he has rights. In abstract right I have the right, and another has the duty corresponding to it; in the moral sphere only the right of my own knowing and willing, as well as of my welfare, *ought* to be united with duties and to be objective.

Section 156

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

Section 157

- ¹⁵⁷ The concept of this idea exists only as spirit, as knowing itself and actual, in that it is the objectification of itself, the movement through the form of its moments. It is therefore:

A) the immediate or *natural* ethical spirit—the *family*.

This substantiality passes over into the loss of its unity, into division and into the standpoint of the relative, and is thus

B) *civil society*, a connection of its members as *self-sufficient individuals* in a *formal universality*, through their *needs*, and through the *constitution of right* as a means of securing persons and property, and through an *external order* for their particular and common interests; and this *external state*

C) withdraws and gathers itself back into the end and the actuality of the substantial universal and of the public life devoted to it—into the *constitution of the state*.

Section 158

- ¹⁵⁸ First Section.
The Family.

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

Section 159

- ¹⁵⁹ The *right* that falls to the *individual* on the ground of the unity of the family, and which at first is his very life within this unity, steps forth into the *form of right* as the abstract moment of *determinate individuality* only insofar as the family passes into dissolution, and those who are to be members become, in their disposition and in actuality, self-sufficient persons, and what they constituted in the family as a determinate moment they now receive in separation, and so only according to external aspects (wealth, maintenance, the costs of education, and the like).

Section 160

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

Section 161

- ¹⁶¹ A. Marriage.

Marriage, as the *immediate* ethical relation, contains, *first*, the moment of *natural* vitality, and indeed, as a substantial relation, vitality in its totality, namely as the actuality of the *species* and its process (see Encyclopedia of the Philosophical Sciences, § 167 ff. and § 288 ff.). But in self-consciousness, *secondly*, the unity of the natural sexes, which is merely *inward* or *in itself*, and for that very reason merely external in its existence, is transformed into a *spiritual* unity, into self-conscious love.

Section 162

¹⁶² As the subjective point of departure of marriage there may appear rather the *particular inclination* of the two persons who enter into this relation, or the *foresight* and arrangement of the parents, and so on; but the objective point of departure is the free consent of the persons, and indeed their consent to *make up one person*, to give up their natural and single personality within that unity, which in this respect is a self-limitation, but precisely because they gain in it their substantial self-consciousness, is their liberation.

The objective determination, and so the ethical duty, is to enter the estate of marriage. How the external point of departure is constituted is by its nature contingent, and depends in particular on the cultivation of reflection. The extremes here are, on one side, that the arrangement of well-meaning parents makes the beginning, and that in the persons destined for union in love, the inclination arises from their becoming acquainted with each other as destined for this; on the other side, that the inclination first appears in the persons as in *these* infinitely particularized individuals.—The former extreme, or generally the path in which the decision to marry makes the beginning and the inclination follows, so that in the actual wedding both are united, can itself be regarded as the more ethical way.—In the other extreme it is the *infinitely particular* peculiarity that asserts its pretensions, and this is connected with the subjective principle of the modern world (see above § 124, Remark).—But in

modern dramas and other artistic representations in which the love of the sexes forms the fundamental interest, the element of penetrating frostiness that is found in them is brought into the heat of the passion portrayed by the wholly *contingent* character bound up with it, namely because the whole interest is represented as resting only on *this one*, who may well be of infinite importance for *this person*, but is not so *in itself*.

Section 163

¹⁶³ The *ethical* aspect of marriage consists in the consciousness of this unity as a substantial end, hence in love, trust and the community of the whole individual existence—in which disposition and actuality the natural drive is reduced to the modality of a natural moment, one destined to be extinguished precisely in its satisfaction, while the spiritual bond raises itself out in *its right* as the substantial, hence as that which is exalted above the contingency of the passions and of temporary, particular liking, and is *in itself* indissoluble.

That marriage is not a relation of contract in regard to its essential basis has been remarked above (§ 75), for it is precisely this: to start from the standpoint of contract, from the personality that is self-sufficient in its individuality, *in order to sublate it*. The identification of the personalities, by which the family is *one person* and its members are accidents (substance, however, is essentially the relation of itself to accidents; see Encyclopedia of the Philosophical Sciences, § 98), is ethical spirit, which, for itself, stripped of the manifold externality that it has in its existence, in *these* individuals and in the interests of appearance determined in time and in many ways, has been raised out as a shape for representation and revered as the *Penates* and so on, and in general constitutes that in which the *religious* character of marriage and the family, *piety*, lies. It is a further abstraction when the divine, the substantial, is separated from its existence, and so too the feeling and consciousness of the spiritual unity is fixed as the falsely so-called *Platonic* love; this separation is connected with the monastic

view, by which the moment of natural vitality is determined as the absolutely *negative*, and precisely through this separation is given an infinite importance on its own account.

Section 164

164 As the stipulation of a contract already contains in itself the true transfer of property (§ 79), so the solemn declaration of consent to the ethical bond of marriage, and the corresponding recognition and confirmation of it by the family and the community (that the *church* enters in this respect is a further determination, not to be developed here), constitute the formal *conclusion* and *actuality* of marriage, so that this union is constituted as ethical only through the *preceding* of this ceremony, as the accomplishment of the *substantial* by means of the *sign*, language, as the most spiritual existence of the spiritual (§ 78). With this the sensuous moment, which belongs to natural vitality, is placed in its ethical relation as a consequence and accidentality, belonging to the external existence of the ethical union, which can also be exhausted in mutual love and assistance alone.

If it is asked what must be regarded as the *chief end* of marriage, in order to draw from it or to judge by it the legal provisions, then by this chief end is meant which of the individual aspects of its actuality must be taken as essential before the others. But none of them by itself makes up the whole compass of its content, which exists in and for itself, the ethical, and one or another aspect of its existence can be lacking without harm to the essence of marriage.—If the *conclusion of marriage* as such, the solemnity through which the essence of this union is declared and *established* as an ethical bond exalted above the *contingency* of feeling and of *particular inclination*, is taken for an *external* formality and a so-called merely *civil requirement*, then nothing remains for this act except perhaps the purpose of edification and the authentication of the civil relation, or even to be the merely positive arbitrary choice of a civil or ecclesias-

tical command, one that is not only indifferent to the nature of marriage, but that also, insofar as the heart on account of the command places a value on this formal conclusion and regards it as a preceding condition of the perfect mutual surrender, divides the disposition of love and, as something alien, runs counter to the intimacy of this union. Such an opinion, while it pretends to give the highest concept of the freedom, intimacy and perfection of love, rather denies the ethical character of love, the higher restraint and subordination of the mere natural drive, which is already contained in a natural way in *shame*, and is raised by the more determinate spiritual consciousness to *chastity* and *modesty*. More closely, that view rejects the ethical determination, which consists in this: that consciousness gathers itself out of its naturalness and subjectivity to the thought of the substantial, and instead of still reserving to itself the contingency and arbitrary choice of sensuous inclination, withdraws the union from this arbitrary choice and hands it over to the substantial, pledging itself to the Penates, and reduces the sensuous moment to something merely *conditioned* by the true and ethical element of the relation and by the recognition of the union as an ethical one.—It is impudence, and the understanding that supports it, which cannot grasp the speculative nature of the substantial relation, but to which, however, the ethical, uncorrupted heart, as well as the legislations of Christian peoples, corresponds.

Section 165

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

Section 166

- ¹⁶⁶ The *one* sex is therefore the spiritual as that which divides itself into personal self-sufficiency existing *for itself* and into the knowing and willing of *free universality*, the self-consciousness of conceptual thought and the willing of the objective final end; the *other* is the spiritual as that which maintains itself in unity, as knowing and willing of the substantial in the form of concrete *individuality* and of *feeling*; the former, in relation to the outside, is the powerful and active, the latter the passive and subjective. Man therefore has his actual substantial life in the state, in science and the like, and otherwise in struggle and labor with the external world and with himself, so that only out of his division does he fight his way to self-sufficient unity with himself, whose calm intuition and the feeling, subjective ethical life he has in the family, in which the *woman* has her substantial determination and in this *piety* her ethical disposition. Piety is therefore, in one of its most sublime representations, the *Antigone of Sophocles*, expressed pre-eminently as the law of woman, and presented as the law of feeling, subjective substantiality, of inwardness that has not yet attained its perfect actualization, as the law of the ancient gods, of the nether world, as an eternal law of which no one knows where it came from, and in opposition to the manifest law, the law of the state;—an opposition that is the highest ethical and therefore the highest tragic one, and is there individualized in womanhood and manhood; compare *Phenomenology of Spirit*, pp. 383 ff., 417 ff.

Section 167

- ¹⁶⁷ Marriage is essentially *monogamy*, because it is personality, the immediate exclusive *individuality*, that lays itself and surrenders itself into this relation, whose truth and *intimacy* (the subjective form of *substantiality*) therefore pro-

ceeds only from the mutual, *undivided* surrender of this personality; this attains its right, to be conscious of itself *in the other*, only insofar as the other is in this identity as a person, that is, as atomic individuality.

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

Section 168

¹⁶⁸ Because, further, it is this personality of the two sexes, infinitely their own, from whose *free* surrender marriage proceeds, marriage must not be concluded within the circle that is already *naturally identical*, that knows itself and is familiar in every detail, a circle in which the individuals do not have a personality peculiar to themselves over against one another, but must be found out of separate families and originally different personalities. Marriage between *blood relatives* is therefore contrary to the concept, according to which marriage is an ethical act of freedom and not a union of immediate naturalness and its drives, and so also contrary to true natural feeling.

When marriage itself has been considered as grounded not in *natural right* but merely in the natural sexual drive, and as an arbitrary contract; likewise when external grounds for monogamy have been given even from the physical proportion of the number of men and women, and for the prohibition of marriage between blood relatives only obscure feelings, the common notion of a state of nature and of a naturalness of right lay at the bottom of it, together with the lack of the concept of rationality and freedom.

Section 169

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

Section 170

- ¹⁷⁰ B. The Wealth of the Family.

The family not only has property, but for it, as a *universal* and *enduring* person, there arises the need and the determination of an *abiding* and secure possession, of wealth. The moment, arbitrary in abstract property, of the particular need of the *merely single person*, and the self-seeking of desire, is changed here into care and acquisition for something *common*, into something *ethical*.

The introduction of fixed property appears connected with the introduction of marriage in the legends of the founding of states, or at least of a sociable, civilized life.—In what that wealth consists, moreover, and what is the true manner of its securing, emerges in the sphere of civil society.

Section 171

- ¹⁷¹ The man, as its head, has to represent the family as a legal person toward others. Further, it falls to him pre-eminently to acquire from outside, to care for the needs, as well as to dispose of and administer the family wealth. This is common property, so that no member of the family has a particular property, but each has his right to what is common. This right and the disposition belonging

to the head of the family can, however, come into collision, since the element of the ethical disposition that is still immediate in the family (§ 158) is open to particularization and contingency.

Section 172

- ¹⁷² Through a marriage a *new family* is constituted, which is *self-sufficient* over against the stocks or houses from which it has issued; the connection with these has natural blood relationship as its basis, but the new family has ethical love. The property of an individual therefore stands also in essential connection with his marital relation, and only in a more remote one with his stock or house. The *marriage contracts*, when they contain a limitation of the community of goods between the spouses, the establishment of a standing legal counsel for the wife, and the like, have insofar the sense of being directed against the case of the dissolution of the marriage by natural death, divorce and the like, and of being attempts at security, by which the distinct members, in such a case, retain their share in what is common.

Section 173

- ¹⁷³ C. The Education of the Children and the Dissolution of the Family. In the children the *unity* of the marriage, which as substantial is only *intimacy* and disposition, but as existing is divided between the two subjects, becomes, as *unity itself*, an existence for itself and an object, which they love as their love, as their substantial existence.—On the natural side, the presupposition of *immediately* present persons—as parents—becomes here a *result*—a progression that runs out into the infinite progress of generations begetting and presupposing one another—the way in which, in finite naturalness, the simple spirit of the Penates presents its existence as species.

Section 174

- 174 The children have the right to be *nourished* and *educated* out of the common wealth of the family. The right of the parents to the services of the children, as services, is grounded on and limited to what is common in the care of the family in general. In the same way the right of the parents over the *arbitrary choice* of the children is determined by the end of keeping them in discipline and educating them. The end of punishments is not justice as such, but of a subjective, moral nature: to deter freedom that is still caught in nature, and to raise the universal into their consciousness and will.

Section 175

- 175 The children are *in themselves* free, and life is the immediate existence only of this freedom; they therefore belong neither to others nor to the parents as things. Their education has, with regard to the family relation, the *positive* determination that ethical life be brought in them to immediate *feeling*, still without opposition, and that the heart may have lived its first life in this, as the *ground* of ethical life, in love, trust and obedience—and then the *negative* determination, with regard to the same relation, of raising the children out of the natural immediacy in which they originally find themselves to self-sufficiency and free personality, and thereby to the capacity to leave the natural unity of the family.

The slave relation of Roman children is one of the institutions that most stain that legislation, and this injury to ethical life in its innermost and tenderest life is one of the most important moments for understanding the world-historical character of the Romans and their bent toward legal formalism.—The necessity of being educated is present in the children as their own feeling of being

dissatisfied with themselves as they are—as the drive to belong to the world of the grown-ups, which they sense to be a higher one, the wish to become big. The playful pedagogy takes what is childish as already valid in itself, gives it to the children as such, and lowers the serious, and itself, to a childish form despised by the children themselves. In that it strives to present them as finished in the unfinishedness in which they feel themselves to be, and to make them content in it, it disturbs and defiles their true, own, better need, and produces partly indifference and dullness toward the substantial relations of the spiritual world, partly contempt for human beings, since the world presented itself to them as children as itself childish and contemptible, and then vanity and conceit, feeding on their own excellence.

Section 176

- ¹⁷⁶ Because marriage is as yet only the immediate ethical idea, and hence has its objective actuality in the intimacy of subjective disposition and feeling, the first contingency of its existence lies therein. Just as there can be no compulsion to enter into marriage, so there is otherwise no merely legal positive bond that could hold the subjects together when hostile and adverse dispositions and actions have arisen. But a third ethical authority is required, which maintains the right of marriage, of ethical substantiality, against the mere opinion of such a disposition and against the contingency of merely temporary mood, and so on, distinguishes these from total estrangement, and establishes the latter, in order only in this case to be able to *dissolve the marriage*.

Section 177

- ¹⁷⁷ The ethical dissolution of the family lies in this: that the children, educated to free personality, are recognized in *majority* as legal persons and as capable, partly of having free property of their own, partly of founding families of their own—the sons as heads, and the daughters as wives—a family in which they now have their substantial determination, against which their first family recedes as only the first ground and point of departure, and still more the abstraction of the stock has no rights.

Section 178

- ¹⁷⁸ The natural dissolution of the family through the death of the parents, in particular of the man, has as its consequence *inheritance* with regard to the wealth; in its essence an entering into the proper possession of the wealth that is *in itself* common—an entering that becomes the more indeterminate with the more remote degrees of kinship, and in the condition of dispersion in civil society, which makes persons and families self-sufficient, the more the disposition of unity is lost, and as every marriage becomes the giving up of the former family relations and the founding of a new self-sufficient family. The notion of taking as the ground of inheritance the circumstance that through death the wealth becomes *ownerless goods*, and as such falls to whoever first takes possession, and that this taking possession will *for the most part* be undertaken by the relatives, as the *usually* nearest surroundings—which usual chance is then raised into a rule by positive laws for the sake of order—this notion leaves the nature of the family relation out of account.

Section 179

¹⁷⁹ Through this falling apart there arises freedom for the arbitrary choice of individuals, partly in general to use their wealth more according to the pleasure, opinions and ends of individuality, partly, as it were, to regard a circle of friends, acquaintances and so on in place of a family, and to make this declaration, with the legal consequences of inheritance, in a *will*.

Into the formation of such a circle, in which the ethical entitlement of the will to such a disposition over wealth would lie, there enters, especially insofar as it already carries with it the reference to making a will, so much contingency, arbitrary choice, and deliberateness for selfish ends, and so on, that the ethical moment is something very vague, and the recognition of the authority of arbitrary choice to make a will becomes far more easily an occasion for the violation of ethical relations and for base machinations and equally base dependencies, just as it also gives foolish arbitrary choice and malice opportunity and entitlement to attach conditions of vanity and of domineering torment to the so-called benefactions and gifts that are to take effect in the case of death, in which my property in any case ceases to be mine.

Section 180

¹⁸⁰ The principle that the members of the family become self-sufficient legal persons (§ 177) lets something of this arbitrary choice and distinction among the natural heirs enter within the circle of the family, which can, however, take place only within the narrowest limits, so as not to violate the fundamental relation.

The mere direct arbitrary choice of the deceased cannot be made the principle for the *right to make a will*, especially not insofar as it stands opposed to the substantial right of the family, whose love and reverence toward its former member could alone chiefly be what would heed his arbitrary choice after his death. Such an arbitrary choice contains in itself nothing that would have to be respected as higher than the right of the family itself; on the contrary. The otherwise valid force of a last-will disposition would lie solely in the arbitrary recognition of the others. Such validity can be conceded to it chiefly only insofar as the family relation, in which it is absorbed, becomes more remote and less effective. But ineffectiveness of that relation, where it is actually present, belongs to the unethical, and the extended validity of that arbitrary choice against such a relation contains within it the weakening of its ethical character.—To make this arbitrary choice within the family the chief principle of succession belonged, however, to the hardness and unethical character of the Roman laws noted earlier, according to which the son could also be sold by the father, and if he was set free by others returned into the father's power, and became truly free only upon the third emancipation from slavery—according to which the son in general did not become of age by law and a legal person, and could possess as property only the spoils of war, *peculium castrense*, and if through that threefold sale and release he left the father's power, did not inherit without testamentary appointment together with those who had remained in family bondage—likewise that the wife (insofar as she did not enter marriage as into a slave relation, *in manum conveniret, in mancipio esset*, passing into her husband's hand and being held in bondage, but as a *matron*) remained belonging not so much to the family which she had for her part founded through marriage and which was now truly *her own*, as rather to the one from which she descended, and was therefore excluded from inheriting the wealth of the family that was *truly her own*, just as the wife and mother was not inherited from by its members.—That the unethical character of these and other rights, as the feeling for rationality awoke in the course of time, was evaded by way of the administration of justice, for example with the help of the expression *bonorum possessio*, possession of an estate (that *possessio bonorum*, possession of goods, is

again distinguished from this belongs to such knowledge as makes the learned jurist), instead of *hereditas*, inheritance, through the fiction of renaming a *filia*, a daughter, into a *filius*, a son, has already been remarked above (§ 3, Remark) as the sad necessity for the judge of smuggling in the rational *cunningly* against bad laws, at least in some of its consequences. The fearful instability of the most important institutions, and a tumultuous legislating against the outbreaks of the evils springing from it, is connected with this.—What unethical consequences this right of arbitrary choice in making a will had among the Romans is sufficiently known from history and from the portrayals of Lucian and others.—It lies in the nature of marriage itself, as immediate ethical life, that the substantial relation, natural contingency and inner arbitrary choice are mixed together;—if now arbitrary choice, through the bondage relation of the children and the other determinations noted and otherwise connected with it, and finally also through the ease of divorce among the Romans, is given precedence over the right of the substantial, so that even *Cicero*—and how much that is beautiful has he not written on the honorable and the seemly in his *On Duties* and everywhere else!—made the speculation of sending his wife away in order to pay his debts with the dowry of a new one, then a legal path is paved for the corruption of morals, or rather the laws are the necessity of it.

The institution of the law of inheritance for the *preservation* and the *splendor* of the *family* through *substitutions* and *family entails*, whether to exclude the daughters from the inheritance in favor of the sons, or the other children in favor of the eldest son, or generally to let an inequality enter, violates partly the principle of the freedom of property (§ 62), partly rests on an arbitrary choice that has in and for itself no right to be recognized—more closely, on the thought of wanting to maintain *this* stock or house, not so much *this* family. But it is not *this* house or stock, but the *family* as such, that is the idea that has such a right, and through the freedom of wealth and the equality of the law of inheritance the ethical disposition is preserved just as much as the *families* are preserved better than by the opposite.—In such institutions, as in the Roman ones, the right of marriage (§ 172) is in general misjudged, that it is the complete founding of a peculiar, actual family, and that over against it what is called

family in general, *stirps, gens*, stock and clan, becomes only an abstraction, ever more remote with the generations and ever more unreal (§ 177). Love, the ethical moment of marriage, is as love a feeling for actual, present individuals, not for an abstraction.—That the abstraction of the understanding shows itself as the world-historical principle of the Roman Empire, see below § 356.—That the higher political sphere, however, brings with it a right of primogeniture and an iron family estate, yet not as an arbitrary choice but as necessary from the idea of the state, on this see below § 306.

Section 181

- 181 *Transition of the Family into Civil Society.* The family divides, in a natural way and essentially through the principle of personality, into a multiplicity of families, which stand toward one another as independent concrete persons and therefore in an external relation. Or, the moments bound together in the unity of the family as the ethical Idea, which is still in its concept, must be released by that concept into independent reality—the stage of *difference*. Expressed initially in abstract terms, this yields the determination of *particularity*. Particularity does indeed relate to universality, but in such a way that universality is its foundation only *inwardly*, and therefore *appears* in the particular only formally. This relation of reflection thus presents, initially, the loss of ethical life; or, since ethical life, as essence, necessarily appears (Encykl. der phil. Wiss. § 64 ff. § 81 ff.), it constitutes the *phenomenal world* of ethical life: *civil society*. The expansion of the family, as its passage into another principle, takes the form in existence either of its peaceful expansion into a people—a *nation*, which thus has a common natural origin—or of the gathering of scattered family communities, whether through domineering force or through a voluntary union initiated by the needs that link them and by the reciprocal action of satisfying those needs.

Section 182

Second Division

Civil Society

- ¹⁸² The concrete person, who as *particular* is his own purpose, a whole of needs and a compound of natural necessity and arbitrary choice, is the *one principle* of civil society—but the particular person, as essentially in *relation* to another such particularity, so that each asserts and satisfies himself through the other and at the same time absolutely only as mediated by the form of *universality*—which is the *other principle*.

Section 183

- ¹⁸³ The selfish purpose in its realization, thus conditioned by universality, grounds a system of all-around dependence, such that the subsistence and welfare of the individual and his existence in respect of right are interwoven with the subsistence, the welfare and the right of all, founded upon them, and actual and secure only within this connection.—This system can be regarded in the first instance as the *external state*—the *state of need and of understanding*.

Section 184

- ¹⁸⁴ The Idea in this its division grants its moments a *Dasein of their own*: to particularity, the right to develop and go forth in all directions, and to universality the right to prove itself as the foundation and necessary form of particularity, and likewise as the power over it and its final purpose.—It is the system of ethi-

cal life lost in its extremes that makes up the abstract moment of the *reality* of the Idea, which is present here only as the *relative totality* and *inner necessity* in this external appearance.

Section 185

185 Particularity on its own account: on the one side, as the satisfaction of its needs, of contingent arbitrary choice and of subjective preference, discharging itself in all directions, it destroys in its enjoyments itself and its substantial concept; on the other side, as infinitely stimulated and, in its thoroughgoing dependence on external contingency and arbitrary choice no less than on the power of universality, restricted, the satisfaction of necessary and of contingent need alike is contingent. In these opposites and their realization, civil society presents the spectacle of excess, of misery, and of the physical and moral corruption common to both.

The independent development of particularity (compare § 124. Remark) is the moment that shows itself in the ancient states as the corruption of morals breaking in upon them and as the ultimate ground of their downfall. These states, resting partly on the patriarchal and religious principle, partly on the principle of a more spiritual but simpler ethical life, in general built upon *original* natural intuition, could not endure the division of that intuition and the infinite reflection of self-consciousness into itself, and they succumbed to this reflection as it began to emerge, first in disposition and then in actuality, because their still simple principle lacked the truly infinite power that lies only in that unity which lets the *opposition* of reason *disperse to its full strength*, and has overcome it, and so preserves itself in it and holds it together within itself. —*Plato*, in his state, sets forth substantial ethical life in its ideal *beauty* and *truth*, but he is unable to come to terms with the principle of independent particularity, which in his time had broken in upon Greek ethical life, otherwise than by setting against it his merely substantial state and excluding that princi-

ple entirely, down into its beginnings, which it has in *private property* (§ 46. Remark) and in the *family*, and then in its further development as the individual's own arbitrary choice and choice of estate, and so forth. It is this deficiency that also causes the great substantial truth of his state to be misjudged, and that state to be commonly taken for a reverie of abstract thought, for what people are often even inclined to call an ideal. The principle of the *independent, inwardly infinite personality* of the individual, of subjective freedom, which arose inwardly in the Christian religion and outwardly, and therefore bound up with abstract universality, in the Roman world, does not come into its right in that merely substantial form of actual spirit. This principle is historically later than the Greek world, and the philosophical reflection that descends to this depth is equally later than the substantial idea of Greek philosophy.

Section 186

- ¹⁸⁶ But the principle of particularity, precisely by developing itself for itself into a totality, passes over into *universality*, and only in the latter has its truth and the right of its positive actuality. This unity—which, because both principles are independent, is not the ethical identity at this standpoint of division (§ 184.)—is therefore not *freedom* but *necessity*: namely that the particular raise itself to the *form of universality*, and seek and have its subsistence in this form.

Section 187

- ¹⁸⁷ As citizens of this state, individuals are *private persons*, who have their own interest as their purpose. Since this purpose is mediated by the universal, which thus appears to them as a *means*, they can attain it only insofar as they themselves determine their knowing, willing and doing in a universal manner, and make themselves a member of the chain of this interconnection. The interest of

the Idea in this—an interest that does not lie in the consciousness of these members of civil society as such—is the process of raising *individuality* and its naturalness, through natural necessity no less than through the arbitrary choice of needs, to *formal freedom* and to the *formal universality of knowing and willing*, and of *cultivating* subjectivity in its particularity.

It belongs together with the notions of the *innocence* of the state of nature and of the *simplicity of morals* among uncultivated peoples, on the one side, and on the other side with the disposition that regards needs, their satisfaction, the enjoyments and conveniences of particular life and so forth as *absolute* purposes, that *culture* is regarded there as something merely *external*, belonging to corruption, and here as a mere *means* to those purposes; the one view no less than the other shows unfamiliarity with the nature of spirit and with the purpose of reason. Spirit has its actuality only by dividing itself within itself, by giving itself in natural needs and in the interconnection of this external necessity that limit and finitude, and precisely by *forming itself into* them, overcoming them and therein gaining its *objective* existence. The purpose of reason is therefore neither that natural simplicity of morals, nor, in the development of particularity, the enjoyments as such that are attained through culture, but rather that the *natural simplicity*, that is, in part the passive selflessness, in part the crudeness of knowing and willing, namely the *immediacy* and *individuality* into which spirit is sunk, be worked away, and that this, its *externality*, first receive the rationality of which it is capable, namely the *form of universality*, the rationality of the understanding. Only in this way is spirit at home and with itself in this externality as such. Its freedom thus has a Dasein in the same, and in this element, foreign in itself to its determination to freedom, spirit comes to be *for itself*: it has to do only with what bears its seal impressed upon it and is produced by it.—Thereby the *form of universality* comes into existence for itself in thought—the form that alone is the worthy element for the existence of the Idea.—*Culture* is therefore, in its absolute determination, *liberation*, and the *labor* of the higher liberation: the absolute point of passage to the substantiality of ethical life that is no longer immediate and natural but spiritual, and equally raised to the shape of universality, infinitely subjective.—In the subject, this lib-

eration is the *hard labor* against the mere subjectivity of conduct, against the immediacy of desire, and equally against the subjective vanity of feeling and the arbitrariness of preference. That it is this hard labor makes up part of the disfavor that falls upon it. But it is through this labor of culture that the subjective will itself gains in itself the *objectivity* in which, for its part, it alone is worthy and capable of being the *actuality* of the Idea.—At the same time, this form of universality to which particularity has worked itself up and formed itself, the rationality of the understanding, brings it about that particularity becomes the true *being-for-self* of individuality, and, in giving universality its fulfilling content and its infinite self-determination, is itself, within ethical life, infinitely self-existent free subjectivity. This is the standpoint that demonstrates culture to be an immanent moment of the Absolute, and shows its infinite worth.

Section 188

188 Civil society contains the three moments:

- A) The mediation of *need* and the satisfaction of the *individual* through his labor and through the labor and satisfaction of the needs of *all others*—the *system of needs*.
- B) The actuality of the universal of *freedom* contained therein, the protection of property through the *administration of justice*.
- C) Provision against the contingency remaining in those systems, and the care of the particular interest as a *common* one, through *police* and *corporation*.

Section 189

A. *The System of Needs*

189 Particularity, taken in the first instance as what is determined over against the universal of the will as such (§ 60.), is *subjective need*, which attains its objectivity, that is, its *satisfaction*, by means of α) external things, which are now equally the *property* and product of other needs and *wills*, and β) activity and labor, as that which mediates the two sides. Since its purpose is the satisfaction of subjective *particularity*, but in the relation to the needs and the free arbitrary choice of others *universality* asserts itself, it is this appearing of rationality into this sphere of finitude—the *understanding*—that is the side on which everything depends in the consideration of it, and which constitutes the reconciling element within this sphere itself.

Political economy is the science that sets out from these viewpoints, but must then exhibit the relation and movement of the masses in their qualitative and quantitative determinateness and entanglement.—It is one of the sciences that arose on the soil of modern times. Its development shows the interesting spectacle of how *thought* (see Smith, Say, Ricardo) discovers, out of the infinite multitude of particulars that initially lie before it, the simple principles of the matter, the understanding that is effective within it and governs it.—Just as, on the one side, it is the reconciling element to recognize in the sphere of needs this appearing of rationality that lies in the matter itself and is active there, so conversely this is the field in which the understanding of subjective purposes and moral opinions vents its discontent and moral peevishness.—

Section 190

a) *The Nature of Need and Satisfaction*

190 The *animal* has a limited circle of means and ways of satisfying its equally limited needs. Even in this dependence, *man* at the same time proves his going beyond it and his universality, first through the *multiplication* of needs and

means, and then through the *decomposition* and *distinction* of the concrete need into individual parts and sides, which become different *particularized*, and thereby more abstract, needs.

In right, the subject matter is the *person*; at the moral standpoint, the *subject*; in the family, the *family member*; in civil society generally, the *citizen* (as bourgeois)—here, at the standpoint of needs (compare § 123. Remark), it is the concrete thing of *representation* that is called *man*; so it is first here, and indeed properly only here, that *man* in this sense is spoken of.

Section 191

- ¹⁹¹ In the same way the *means* for the particularized needs, and generally the ways of their satisfaction, *divide* and *multiply*, themselves becoming in turn relative purposes and abstract needs; an endlessly continuing multiplication, which is in the same measure a *distinction* of these determinations and a *judgment* of the appropriateness of the means to their purposes—*refinement*.

Section 192

- ¹⁹² As real Dasein, needs and means become a *being for others*, since satisfaction is reciprocally conditioned by their needs and labor. The abstraction that becomes a quality of the needs and of the means (see the preceding section) also becomes a determination of the mutual relation of individuals to one another; this universality as *being recognized* is the moment that makes them, in their isolation and abstraction, *concrete* as *social* needs, means and ways of satisfaction.

Section 193

- ¹⁹³ This moment thus becomes a particular determination of purpose for the means as such and for their possession, as well as for the manner and mode of satisfying needs. It further contains immediately the demand for *equality* with others in this respect; the need for this equality, on the one side, and the making of oneself equal, *imitation*, as on the other side the need of the *particularity* just as much present therein, to assert itself through some mark of distinction—this becomes itself a real source of the multiplication of needs and of their diffusion.

Section 194

- ¹⁹⁴ Since in social need, as the conjunction of immediate or natural need with the spiritual need of *representation*, the latter makes itself predominant as the universal, this social moment contains the side of *liberation*: the strict natural necessity of need is concealed, and man relates to *his own*—and indeed universal—*opinion* and to a necessity merely of his own making, so that, instead of only external contingency, he relates to inner contingency, to *arbitrary choice*. The notion that man, in a so-called state of nature in which he had only so-called simple natural needs and used for their satisfaction only such means as a contingent nature immediately granted him, lived in *freedom* with respect to needs—this notion, even apart from consideration of the moment of liberation that lies in labor, of which more later, is an untrue opinion, because natural need as such and its immediate satisfaction would be only the condition of spirituality sunk in nature, and thereby of crudeness and unfreedom, and freedom lies solely in the reflection of the spiritual into itself, in its distinction from the natural and its reflection upon it.

Section 195

- ¹⁹⁵ This liberation is *formal*, since the particularity of purposes remains the underlying content. The direction of the social condition toward the indeterminate multiplication and specification of needs, means and enjoyments—which, like the distinction between natural and uncultivated need, has no limits—this direction, *luxury*, is an equally infinite increase of dependence and distress, and this increase has to do with a material that offers infinite resistance, namely with external means of the particular kind of being property of the free will, and that is therefore absolutely hard.

Section 196

b) The Nature of Labor

- ¹⁹⁶ The mediation that prepares and acquires *particularized means* suited to *particularized* needs is *labor*, which specifies the material immediately supplied by nature for these manifold purposes through the most varied processes. This formation now gives the means its value and its purposiveness, so that man in his consumption relates chiefly to *human* productions, and it is such efforts that he consumes.

Section 197

- ¹⁹⁷ In the multiplicity of the determinations and objects that engage interest, *theoretical culture* develops—not only a multiplicity of representations and cognitions, but also a mobility and quickness of representing and of passing from one representation to another, the grasp of involved and universal relations,

and so forth—the culture of the understanding generally, and thereby also of language.—*Practical culture* through labor consists in the need, generated in the process, and the *habit* of occupation generally, then in the *limitation* of one's doing, partly according to the nature of the material, but partly and chiefly according to the arbitrary choice of others, and in a habit, acquired through this discipline, of *objective* activity and of *universally valid* skills.

Section 198

¹⁹⁸ But the universal and the objective in labor lie in the *abstraction* that brings about the specification of means and needs, and thereby equally specifies production and gives rise to the *division of labor*. Through the division, the labor of the individual becomes *simpler*, and thereby his skill in his abstract labor, as likewise the quantity of his productions, becomes greater. At the same time, this abstraction of skill and of the means completes the *dependence* and the *interrelation* of human beings for the satisfaction of their remaining needs into complete necessity. The abstraction of producing further makes labor more and more *mechanical*, and thereby in the end capable of this: that man can step away from it and let the *machine* take his place.

Section 199

c) Wealth

¹⁹⁹ In this dependence and reciprocity of labor and of the satisfaction of needs, *subjective selfishness* turns into the *contribution toward the satisfaction of the needs of all others*—into the mediation of the particular through the universal as a dialectical movement—so that in acquiring, producing, and enjoying for himself, each one thereby produces and acquires for the enjoyment of the rest. This necessity, which lies in the all-sided entanglement of the dependence of all,

is now for each individual the *universal, abiding wealth* (see § 170.), which contains for him the possibility of partaking of it through his cultivation and skill, so as to be secure in his subsistence, just as this acquisition, mediated through his labor, sustains and increases the universal wealth.

Section 200

200 The *possibility of partaking* in the universal wealth, the *particular wealth*, is however *conditioned*, partly by an immediate foundation of one's own (capital), partly by skill, which in turn is itself conditioned by that foundation, and then by contingent circumstances whose multiplicity brings forth the *diversity in the development* of the natural endowments, bodily and spiritual, that are already in themselves *unequal*—a diversity that asserts itself in this sphere of particularity in all directions and from every level, and which, together with the remaining contingency and arbitrary choice, has as its necessary consequence the *inequality of the wealth and the skills* of individuals.

To set the demand of *equality* against the objective *right of the particularity* of spirit contained in the Idea—a right that in civil society does not merely fail to abolish the inequality of human beings posited by nature, the element of inequality, but produces that inequality out of spirit and raises it to an inequality of skill, of wealth, and even of intellectual and moral cultivation—belongs to the empty understanding, which takes this abstraction of its own, and its *ought*, for the real and the rational. This sphere of particularity, which forms the universal into itself, retains within itself, in this merely relative identity with the universal, natural as much as arbitrary particularity, and with them the remnant of the state of nature. Further, it is the reason immanent in the system of human needs and in their movement that articulates that system into an organic whole of differences; see the following section.

Section 201

- ²⁰¹ The endlessly manifold means, and the equally endless interlacing of their movement in mutual production and exchange, gathers itself through the universality dwelling in its content, and *differentiates itself* into *universal masses*, so that the whole interconnection develops into *particular* systems of needs, of their means and labors, of the kinds and modes of satisfaction, and of theoretical and practical cultivation—systems to which individuals are assigned—and thus into a distinction of *estates*.

Section 202

- ²⁰² The estates determine themselves according to the *concept* as the *substantial* or *immediate* estate, the *reflective* or *formal* estate, and then as the *universal* estate.

Section 203

- ²⁰³ a) The *substantial* estate has its wealth in the natural products of a soil that it cultivates—a soil capable of being exclusive private property, and requiring not merely indeterminate wearing away but an objective forming. Against the attachment of labor and acquisition to *single* fixed epochs of nature, and the dependence of the yield on the changeable constitution of the natural process, the end of need sets itself up as a provision for the future, but through its conditions retains the mode of a subsistence less mediated by reflection and by one's own will, and in this generally the substantial disposition of an immediate ethical life resting on the family relation and on trust.

The true beginning and the first founding of states has rightly been placed in the introduction of *agriculture*, together with the introduction of *marriage*, since that principle brings with it the forming of the soil and thereby exclusive private property (compare § 170. Remark), and leads the wandering life of the savage, who seeks his subsistence in wandering, back to the repose of private right and to the security of the satisfaction of need; and with this the restriction of sexual love to marriage is bound up, therewith the expansion of this bond into a union that is *enduring* and universal within itself, of need into *care for the family*, and of possession into *family property*. Security, consolidation, duration of the satisfaction of needs, and so forth—the characters by which these institutions first commend themselves—are nothing other than forms of universality and configurations in which rationality, the absolute final end, asserts itself in these objects.—What could be more interesting on this matter than the *disclosures* of my greatly esteemed friend, Herr *Creuzer*, no less ingenious than learned, which he has given us especially in the *fourth* volume of his *Mythology and Symbolism* concerning the *agronomic* festivals, images, and sanctuaries of the ancients, who were conscious of the introduction of agriculture and of the institutions connected with it as divine deeds, and so devoted religious veneration to them.

That the substantial character of this estate brings modifications in its wake on the side of the laws of private right, and especially of the administration of justice, as also on the side of instruction and cultivation, and of religion too—not as regards the *substantial content*, but as regards the *form* and the *development of reflection*—is a further consequence, which holds equally in regard to the other estates.

Section 204

- ²⁰⁴ b) The *estate of industry* has the *forming* of the natural product as its business, and for the means of its subsistence it is referred to its *labor*, to *reflection* and the *understanding*, and essentially to mediation with the needs and the labors of others. What it brings forth and enjoys, it owes principally to *itself*, to its own activity.—Its business in turn differentiates itself: as labor for individual needs in a more concrete manner, and at the request of individuals, into the *estate of craftsmen*;—as the more abstract aggregate mass of labor for individual needs, though of a more general demand, into the *estate of manufacturers*;—and as the business of exchange of the isolated means one against another, principally through the universal means of exchange, money, in which the abstract value of all wares is actual, into the *estate of commerce*.

Section 205

- ²⁰⁵ c) The *universal estate* has the *universal interests* of the social condition as its business; it must therefore be released from direct labor for needs, either through private wealth or through being indemnified by the state, which claims its activity, so that private interest finds its satisfaction in its labor for the universal.

Section 206

- ²⁰⁶ The *estate*, as particularity that has become objective, thus divides itself on the one hand, according to the concept, into its universal differences. On the other hand, however, which particular estate the *individual* belongs to is a matter on

which natural disposition, birth, and circumstances have their influence; but the last and essential determination lies in *subjective* opinion and *particular arbitrary choice*, which in this sphere gives itself its right, its merit, and its honor, so that what happens in it through *inner necessity* is at the same time *mediated by arbitrary choice*, and for subjective consciousness has the shape of being the work of its will.

In this respect too, with regard to the principle of particularity and of subjective arbitrary choice, the difference that obtains in the political life of East and West, of the ancient and the modern world, comes to the fore. With the former, to be sure, the division of the whole into estates generates itself *objectively of itself*, because it is in itself rational, but the principle of subjective particularity does not thereby receive its right at the same time, since for example the assignment of individuals to the estates is left to the rulers, as in Plato's state (de Rep. III. p. 320. ed. Bip. T. VI.), or to *mere birth*, as in the Indian castes. Thus not taken up into the organization of the whole, and not reconciled within it, subjective particularity therefore shows itself—since as an essential moment it equally emerges—as hostile, as the corruption of the social order (see § 185. Remark): either as overthrowing it, as in the Greek states and in the Roman republic, or, if the order maintains itself as possessing power or perhaps as religious authority, as inner depravity and complete degradation—as is in some measure the case among the Lacedaemonians, and now most completely among the Indians.—But maintained by the objective order, in conformity with it and at the same time in its right, subjective particularity becomes the principle of all animation of civil society, of the development of thinking activity, of merit, and of honor. The recognition and the right that what is necessary in civil society and in the state through reason should at the same time come about mediated by *arbitrary choice* is the more precise determination of what is principally called *freedom* in the general representation. (§ 121.).

Section 207

²⁰⁷ The individual gives himself actuality only by entering into *existence* in general, and thus into *determinate particularity*, and hereby, in an *exclusive* way, confines himself to one of the particular spheres of need. The ethical disposition in this system is therefore *probity* and the *honor of one's estate*: to make himself a member of one of the moments of civil society, and to maintain himself as such—by his own determination, through his activity, diligence, and skill—and to provide for himself only through this mediation with the universal, and thereby to be *recognized* in his own representation and in the representation of others.—*Morality* has its peculiar place in this sphere, where reflection on one's own doings, the end of particular needs and of welfare, is dominant, and where the contingency in their satisfaction makes contingent and isolated assistance into a duty as well.

That the individual at first (that is, especially in youth) resists the representation of resolving upon a particular estate, and looks on this as a limitation of his universal determination and as a merely external necessity, lies in abstract thinking, which stays fixed on the universal and hence on the unreal, and does not recognize that—in *order to exist*—the concept in general enters into the difference between the concept and its reality, and thus into determinateness and particularity (see § 7.), and that only thereby can it win actuality and ethical objectivity.

Section 208

²⁰⁸ The principle of this system of needs has, as the own particularity of knowing and willing, the universality that is *in and for itself*, the universality of *freedom*, within itself only *abstractly*, and thus as the *right of property*, which however is

here no longer merely *in itself*, but in its valid actuality, as the protection of property through the *administration of justice*.

Section 209

B. The Administration of Justice

²⁰⁹ The *relative* character of the interrelation of needs and of labor for them has its *reflection into itself* first of all in infinite personality, that is, in general in the (abstract) right. But it is this sphere of the relative itself, as *cultivation*, that gives right *existence*—gives it to be *universally recognized*, known, and willed—and, mediated by this being known and willed, to have validity and objective actuality.

It belongs to cultivation, to *thinking* as the consciousness of the individual in the form of universality, that I be grasped as a *universal* person, in which all are identical. The *human being* thus counts as such *because he is a human being*, not because he is a Jew, a Catholic, a Protestant, a German, an Italian, and so forth—this consciousness, for which the *thought* counts, is of infinite importance—deficient only when it fixes itself as *cosmopolitanism*, so as to stand opposed to concrete state life.

Section 210

²¹⁰ The objective actuality of right is partly to be for consciousness, that is, in general to be *known*, partly to have the power of actuality and to *be valid*, and thereby also to be known as *universally valid*.

Section 211

a) Right as Law

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

To posit something as *universal*, that is, to bring it to consciousness as universal, is, as is well known, *to think* (compare above § 13. Remark and § 21. Remark); in that it thus brings the content back to its simplest form, it gives it its final *determinateness*. Only in becoming law does what is right receive not merely the form of its universality, but its true determinateness. In the representation of legislating, therefore, we are not to have before us merely the one moment, that something be pronounced as the rule of conduct valid for all; rather, the inner essential moment is, before this other one, the *cognition* of the content in its *determinate universality*. Even customary rights contain the moment of being thoughts and of being known, since only animals have their law as instinct, while only human beings are those who have it as habit. Their difference from laws consists only in this, that they are known in a subjective and contingent manner, and are therefore in themselves less determinate and more turbid with respect to the universality of thought; besides which the knowledge of right in this or that direction, and in general, is a contingent possession of few. That they should have the advantage, through their form of being *habits*, of having passed over into *life* (—by the way, nowadays it is precisely where people dwell in the dearest material and in the dearest thoughts that *life* and *passing over into life* are spoken of most) is a deception, since the valid laws of a nation do not cease, by being written down and collected, to be its habits. If customary rights come to be collected and compiled—which must soon happen with a people that has reached even some cultivation—then this collection is the *code of laws*, which indeed, because it is a mere collection, will

distinguish itself by its shapelessness, indeterminacy, and gaps. It will be distinguished chiefly from a code properly so called by this, that the latter grasps and expresses the principles of right in their *universality*, and thus in their determinateness, in a thinking way. England's territorial law, or common law, is well known to be contained in *statutes* (formal laws) and in a so-called *unwritten law*; this unwritten law, moreover, is just as much written, and knowledge of it can and must be acquired by reading alone (the many quartos that it fills). But what enormous confusion prevails in the administration of justice there, as in the matter itself, those who know it describe. In particular they remark the circumstance that, since this unwritten law is contained in the decisions of the courts and judges, the judges thereby continually act as the *legislators*, in that they are as much *bound to* the authority of their predecessors, who have done nothing but pronounce the unwritten law, as they are *not bound to* it, since they themselves have the unwritten law within them, and from it have the right to judge whether the preceding decisions are in accordance with it or not.—Against a similar confusion, which in the later Roman administration of justice could arise from the authorities of all the various famous jurisconsults, an emperor devised the ingenious expedient that bears the name *Citing Law*, and introduced a kind of collegial arrangement among the *long since deceased* legal scholars, with majority of votes and a president. (See Herr Hugo's History of Roman Law, § 354.)—To deny a cultivated nation, or the juristic estate within it, the capacity to make a code of laws—since the endeavor cannot be to make a system of *new* laws in their content, but to recognize the existing legal content in its determinate universality, that is, to grasp it *thinkingly*, with the addition of its application to the particular—would be one of the greatest insults that could be inflicted on a nation or on that estate.—

Section 212

²¹² In this identity of *being in itself* and *being posited*, only what is *law* has binding force as right. Since being posited constitutes the side of existence, in which the contingent element of self-will and of other particularity can also enter, what is law can in its content still be different from what is right in itself.

In positive right, therefore, what is *lawful* is the source of the cognition of what is right, or, more properly, of what is *of right*;—the positive science of right is in this respect a historical science, which has authority for its principle. What can still be done besides is a matter for the understanding, and concerns external order, compilation, consistency, further application, and the like. When the understanding engages with the nature of the matter itself, the theories—of criminal law, for example—show what it accomplishes with its reasoning from grounds.—Since the positive science, on the one hand, not only has the right but the necessary duty to deduce from its positive data both the historical progressions and the applications and ramifications of the given legal determinations into all their particulars, and to show their consistency, it may, on the other hand, at least not be absolutely astonished—even if it regards it as an incidental question extraneous to its occupation—when the question is now asked whether, after all these proofs, a legal determination is *rational*.—Compare, on understanding, § 3. Remark.

Section 213

²¹³ Right, in that it enters existence at first in the form of being posited, enters also, as to its content, as *application*, into relation to the *material* of the relations and kinds of property and of contract that particularize and entangle themselves to infinity in civil society;—and further of the ethical relations resting on

feeling, love, and trust, though these only insofar as they contain the side of abstract right (§ 159.); the moral side and moral commandments, as concerning the will according to its most proper subjectivity and particularity, cannot be the object of positive legislation. Further material is supplied by the rights and duties flowing from the administration of justice itself, from the state, and so forth.

Section 214

²¹⁴ Beyond the application to the *particular*, however, the being posited of right includes within itself applicability to the *single case*. Therewith it enters the sphere of the *quantitative*, which is undetermined by the concept (of the quantitative for itself, or as determination of value in the exchange of one qualitative thing for another qualitative thing). The determinateness of the concept gives only a universal limit, within which a going back and forth still takes place. But this must be broken off for the sake of *realization*, whereby a decision that is contingent and arbitrary within that limit enters in.

It is in this *sharpening* of the universal—not merely to the particular, but to singularization, that is, to *immediate application*—that the *purely positive* element of laws chiefly lies. It cannot be determined rationally, nor decided by the application of a determinateness derived from the concept, whether for an offense a corporal punishment of forty strokes or of forty less one is the just one; nor whether a fine of five thalers or of four thalers and three and twenty groschen, and so forth, is the just one; nor whether a prison sentence of one year, or of three hundred and sixty-four days, and so forth, or of one year and one, two, or three days, is the just one. And yet one stroke too many, one thaler or one groschen, one week, one day of imprisonment too much or too little, is already an injustice.—It is reason itself which recognizes that contingency, contradiction, and semblance have their sphere and right, but a *limited* one, and does not exert itself to bring such contradictions into equality and justice; here

there remains present only the interest of realization, the interest that a determination and decision be made at all, in whatever manner (within a limit) it be made. This deciding belongs to the formal certainty of itself, to abstract subjectivity, which may attach itself entirely to this, that—*within that limit*—it merely breaks off and fixes, so that something be fixed—or also to such grounds of determination as a *round number* is, or as the number forty less one may contain.—That the law perhaps does not itself fix this final determinateness, which actuality requires, but leaves it to the judge to decide, and limits him only by a minimum and a maximum, makes no difference to the matter; for this minimum and maximum is itself each such a round number, and does not remove the fact that the judge must then grasp such a finite, purely positive determination, but concedes it to him, as is necessary.

Section 215

b. The Existence of the Law

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

To hang the laws so high, as *Dionysius the Tyrant* did, that no citizen could read them—or else to bury them in the extensive apparatus of learned books, collections, decisions of divergent judgments and opinions, habits, and so forth, and in addition in a foreign language, so that knowledge of the valid right is accessible only to those who apply themselves to it learnedly—is one and the same wrong.—Those rulers who have given their peoples even a formless collection, as Justinian did, and still more a territorial code, as an ordered and determinate code of laws, have not only become the greatest benefactors of those peoples and been praised by them with thanks for it, but have thereby exercised a great *act of justice*.

Section 216

²¹⁶ For the public code of law, *simple*, universal determinations are to be demanded on the one hand; on the other, the nature of *finite subject matter* leads to endless further determination. On the one hand, the compass of the laws ought to be a *finished*, closed whole; on the other, there is the continuing need for new legal provisions. But since this antinomy falls within the *specialization* of the universal principles, which remain firmly established, the right to a finished code of law is left undiminished, as is the right to hold that these universal, simple principles are, in themselves and distinct from their specialization, comprehensible and capable of being set down.

A chief source of complication in legislation is, to be sure, the case where, over time, what is rational and right in and for itself penetrates into original institutions that contain a wrong and are therefore merely historical, as was remarked above of the Roman institutions (§ 180, Remark), of the old feudal law, and so on. But it is essential to see that the very nature of finite subject matter brings it about that the application, even of determinations that are rational in and for themselves and universal in themselves, leads to a progress into the infinite. — To demand of a code of law that it be absolutely finished and incapable of any further determination — a demand that is chiefly a *German* sickness — and, on the ground that it cannot be completed in this way, not to let it arrive at something merely so-called imperfect, that is, not to let it arrive at actuality, both rest on a misapprehension of the nature of finite objects such as private right, in which so-called perfection is the *perennial approximation*, and on a misapprehension of the difference between the universal of reason and the universal of the understanding, and of its *application* to the material of finitude and individuality, which goes on into the infinite. — “Le plus grand ennemi du

Bien c'est le Meilleur," that is, the greatest enemy of the good is the better, is the expression of true, sound common sense against vain ratiocinating and reflecting.

Section 217

²¹⁷ As right *in itself* becomes law in civil society, so too the previously *immediate* and *abstract* existence of my individual right passes over into the significance of being recognized, as an existence within the existing universal will and knowledge. Acquisitions and transactions concerning property must therefore be undertaken and furnished with the *form* that this existence gives them. Property now rests on *contract* and on the *formalities* that make it provable and legally effective.

The original, that is, immediate, modes of acquisition and titles (§ 54 ff.) properly drop away in civil society and appear only as individual accidents or limited moments. — It is partly the abiding feeling that dwells in the subjective, partly the reflection that clings to the abstraction of its essentialities, which rejects the formalities; the dead understanding, for its part, can in turn hold on to them against the matter itself and multiply them into the infinite. — Moreover, it lies in the course of cultural formation that, through long and hard labor, a content passes from its sensuous and *immediate* form to the form of its thought, and thereby to a simple expression adequate to it; hence, in a condition where the formation of right has only just begun, solemnities and formalities of great elaborateness count as the thing itself rather than as its sign. For this reason, too, a multitude of provisions in Roman law, and especially of expressions, have been retained from the solemnities, instead of having been replaced by determinations of thought and their adequate expression.

Section 218

218 Since property and personality have legal recognition and validity in civil society, *crime* is no longer merely the violation of something *subjectively infinite*, but of the *universal* cause, which has an existence firm and strong in itself. With this the standpoint of the *dangerousness* of the action to society enters, whereby on the one hand the magnitude of the crime is increased; but on the other hand the power of society, having become sure of itself, lowers the external *importance* of the violation, and therefore brings about greater mildness in punishing it.

That in *one* member of society *all* the others are injured does not change the nature of the crime according to its concept, but according to the side of external existence, of the injury, which now strikes the representation and consciousness of civil society, not merely the existence of the one immediately injured. In the heroic ages (see the tragedies of the ancients) the citizens do not regard themselves as injured by the crimes that the members of royal houses commit against one another. — Since crime, which is *in itself* an infinite injury, must be measured as an existence according to qualitative and quantitative differences (§ 96), an existence that is now essentially determined as *representation and consciousness* of the *validity of the laws*, the *dangerousness to civil society* is a determination of its magnitude, or also *one* of its qualitative determinations. — This quality or magnitude, however, varies with the *condition* of civil society, and in this lies the warrant for punishing a theft of a few sous or of a turnip with death, and a theft amounting to a hundred times such values or more with a mild penalty. The standpoint of dangerousness to civil society, though it seems to aggravate crimes, is rather what has chiefly lessened their punishment. A penal code therefore belongs chiefly to its time and to the condition of the civil society within it.

Section 219

c. *The Court of Justice*

219 Right, having entered into existence in the form of law, is for itself, stands independent over against *particular willing and opining* about right, and has to make itself valid as the *universal*. This *cognition and realization* of right in the particular case, without the subjective feeling of *particular* interest, falls to a public power, the *court of justice*.

The historical origin of the judge and of courts may have had the form of the patriarchal relation, or of force, or of free election; for the concept of the matter this is a matter of indifference. To regard the introduction of the administration of justice by princes and governments as merely a matter of *arbitrary favor* and grace, as *Herr von Haller* does (in his *Restoration of the Science of the State*), belongs to that thoughtlessness which has no inkling that, in the case of law and the state, what is at issue is that their institutions are in general necessary as rational in and for themselves, and that the form in which they arose and were introduced is not what matters in considering their rational ground. — The other extreme to this view is the crudity that, as in the times of the right of the fist, takes the administration of justice for improper violence, oppression of freedom, and despotism. The administration of justice is to be regarded as much a duty as a right of the public power, and this duty and right rests just as little on the pleasure of individuals to entrust a power with it or not.

Section 220

²²⁰ The right against crime in the form of revenge (§ 102) is right only *in itself*, not in lawful form, that is, it is not just in its existence. In place of the injured party, the injured *universal* appears, which has its own actuality in the court of justice, and takes over the prosecution and punishment of the crime. Thereby these cease to be merely *subjective* and contingent retaliation through revenge and are transformed into the true reconciliation of right with itself, into *punishment*. In objective regard this is the reconciliation of the law, which restores itself by sublating the crime and thereby *realizes itself as valid*; in subjective regard, that of the criminal, it is the reconciliation of *his law, known by him* and valid for him and for *his protection*, in whose execution upon him he himself therefore finds the satisfaction of justice, only the deed of his own.

Section 221

²²¹ The member of civil society has the right *to appear in court*, as well as the *duty to present himself before the court* and to receive his disputed right only from the court.

Section 222

²²² Before the courts, right acquires the determination that it must be *provable*. The *course of legal procedure* puts the parties in a position to assert their means of proof and their legal grounds, and the judge in a position to inform himself

about the matter. These *steps* are *themselves rights*; their course must therefore be determined by law, and they also make up an essential part of the theoretical science of right.

Section 223

²²³ Through the fragmentation of these actions into ever more isolated actions and their rights, which contains no limit within itself, legal procedure, itself already a means, comes to stand as something external over against its end. — Since the parties have the right to go through such extensive formalism, which is *their* right, and since it can equally be turned into an evil and even an instrument of wrong, it is made a duty for them by the court, in order to take the parties and right itself, as the substantial matter at stake, under protection against legal procedure and its abuse, to submit to a simple court (a court of arbitration or of the peace) and to the attempt at a settlement before they proceed to that procedure.

Equity involves an infringement upon formal right made for moral or other considerations, and relates first of all to the *content* of the legal dispute. A *court of equity*, however, will have the significance that it decides the individual case without keeping to the formalities of legal procedure and in particular to the objective means of proof as they can be framed by law, and likewise decides in accordance with the individual case's own interest as *this* case, and not in the interest of a general legal disposition to be made.

Section 224

²²⁴ As the public promulgation of the laws falls under the rights of subjective consciousness (§ 215), so too does the possibility of knowing the *realization* of the law in the particular case, namely the course of external actions, of legal

grounds, and so on, since this course is in itself a generally valid history, and the case, according to its particular content, concerns only the interest of the parties, but its universal content, the right at stake in it, and the decision upon it, concerns the interest of all: the *publicity* of the administration of justice. Deliberations among the members of the court over the judgment to be delivered are expressions of still *particular* opinions and views, and by their nature therefore nothing public.

Section 225

²²⁵ In the business of administering justice, as the application of the law to the *individual case*, two sides are distinguished: *first*, the cognition of the character of the case in its *immediate* individuality, whether a contract and so on exists, whether an injurious action has been committed, and who its perpetrator is, and in *criminal* law the reflection that determines the action according to its *substantial*, criminal character (§ 119, Remark); *second*, the subsumption of the case under the law of the restoration of right, within which, in criminal law, punishment is comprised. The decisions on these two different sides are different functions.

In the Roman constitution of the courts, the distinction of these functions appeared in the fact that the praetor gave his decision *in case* the matter stood thus or thus, and appointed a special judex to investigate how it stood. — The characterization of an action according to its determinate criminal quality (whether, for example, murder or manslaughter) is, in English legal procedure, left to the discernment or arbitrary choice of the accuser, and the court cannot adopt any other determination if it finds that one incorrect.

Section 226

- ²²⁶ Chiefly the direction of the whole course of the inquiry, then the legal acts of the parties, which are themselves rights (§ 222), and then also the second side of the legal judgment (see the preceding §), is the proper business of the juridical judge, for whom, as organ of the law, the case must have been prepared for the possibility of subsumption, that is, raised out of its apparent empirical constitution into acknowledged fact and universal qualification.

Section 227

- ²²⁷ The first side, the cognition of the case in its *immediate* individuality and its qualification, involves in itself no administration of justice. It is a cognition such as belongs to *every educated* person. Insofar as the subjective moment of the agent's insight and intention (see Part II) is essential for the qualification of the action, and proof in any case concerns not objects of reason or of the abstract understanding but only singulars, circumstances, and objects of sensuous intuition and subjective certainty, and therefore contains no absolutely objective determination, the last word in the decision is *subjective conviction* and conscience (*animi sententia*, the verdict of the mind), just as, with respect to proof that rests on the statements and assurances of others, the oath is the confirmation that is indeed subjective but final.

In the matter under discussion it is of chief importance to keep in view the nature of the *proving* that is at issue here, and to distinguish it from cognizing and proving of other kinds. To prove a determination of reason, as the concept of right itself is, that is, to cognize its necessity, requires a different method from the proof of a geometrical theorem. Furthermore, in the latter the figure is determined by the understanding and already made abstract in accordance

with a law; but with an empirical content, such as a *fact* is, the material of cognition is given sensuous intuition and sensuous subjective certainty, and the declaring and affirming of it, — in which inference and combination from such statements, testimonies, circumstances, and the like are then at work. The objective truth that proceeds from such material and the method fitted to it, in the attempt to determine it objectively for itself — an attempt that leads to *half-proofs* and, in further true consistency, which at the same time contains a formal inconsistency, to extraordinary *punishments* — has a quite different sense from the truth of a determination of reason or of a proposition whose material the understanding has already determined abstractly. That the cognition of such empirical truth of an event lies in the properly juridical function of a court, that there is in this function a peculiar qualification for it and thereby an exclusive right *in itself* and a necessity, to show this was a chief point of view in the question to what extent the judgment upon the fact, as upon the question of right, is to be ascribed to the formal juridical courts.

Section 228

- 228 The right of the party's self-consciousness is preserved in the judicial verdict, on the side where the verdict is the *subsumption* of the qualified case under the law, with respect to the law by the fact that the law is known and thereby is the party's own law, and with respect to the *subsumption* by the fact that the legal proceeding is public. But with respect to the decision on the *particular*, subjective, and external *content* of the matter, the cognition of which falls under the first of the sides indicated in § 225, that right finds its satisfaction in *trust* in the subjectivity of those who decide. This trust is founded chiefly on the equality of the party with them in their particularity, in station, and the like. The right of self-consciousness, the moment of subjective *freedom*, can be regarded as the substantial point of view in the question of the necessity of public administration of justice and of the so-called *trial by jury*. To it is

reduced what is essential in whatever can be advanced for these institutions in the form of *utility*. On other considerations and grounds, concerning this or that advantage or disadvantage, one can argue back and forth; like all grounds of ratiocination they are secondary and not decisive, or else are drawn from other, perhaps higher, spheres. That the administration of justice *could* be exercised well, perhaps better than under other institutions, by purely juridical courts is not the question here, insofar as, even if this possibility could be raised to probability, indeed to necessity, it is always, on the other side, the *right of self-consciousness* that retains its claims in the matter and does not find them satisfied. — If the knowledge of right, by the constitution of what the laws comprise in their compass, and further of the course of judicial proceedings and the possibility of pursuing right, is the *property* of an estate that also makes itself exclusive by a terminology which is a foreign language to those whose right is at stake, then the members of civil society, who for their subsistence are dependent on *their own activity* and *their own knowing and willing*, are kept *strangers* to what is not only most personal and their own but also what is substantial and rational in it, *right*, and are placed under *tutelage*, even into a kind of serfdom toward such an estate. If they do indeed have the right to be bodily present in court, with their *feet* (in *judicio stare*, to stand in court), this is little if they are not to be present *spiritually*, with their own *knowing*, and the right they obtain remains for them an external *fate*.

Section 229

- 229 In the administration of justice, civil society, in which the idea has lost itself in particularity and has fallen apart into the separation of the inner and the outer, leads itself back to its *concept*, the unity of the universal that is in itself with subjective particularity, though the latter in the individual case and the former in the significance of *abstract* right. The realization of this unity, in extension over

the whole compass of particularity, at first as a relative union, constitutes the determination of the *police*, and, in a limited but concrete totality, of the *corporation*.

Section 230

C. Police and Corporation

- ²³⁰ In the system of needs, the subsistence and welfare of each individual is a *possibility*, whose actuality is conditioned as much by his arbitrary choice and natural particularity as by the objective system of needs; through the administration of justice, the violation of property and personality is expunged. But right *actual in particularity* contains both that the *contingencies* in the way of this end or that be *sublated*, and that the *undisturbed security* of person and *property* be brought about, and also that there be *securing* of the subsistence and welfare of individuals — that *particular welfare be treated and realized as right*.

Section 231

a. The Police

- ²³¹ The securing power of the universal remains at first, insofar as the particular will is still the principle for one end or another, partly restricted to the sphere of *contingencies*, and partly an *external order*.

Section 232

- ²³² Besides crimes, which the universal power has to prevent or bring to judicial treatment — contingency as the arbitrary choice of evil — permitted arbitrary choice in lawful actions and in the private use of property also has external rela-

tions to other individuals, as well as to other public arrangements for a common end. Through this universal side, private actions become a contingency that passes out of my power and can bring, or does bring, harm and wrong to others.

Section 233

- ²³³ This is, to be sure, only a *possibility* of harm; but that the thing does no harm is, as a contingency, equally no more than a possibility. This is the side of *wrong* that lies in such actions, and thus the ultimate ground of the punitive justice of the police.

Section 234

- ²³⁴ The relations of external existence fall within the infinity of the understanding; there is therefore no limit *in itself* as to what is harmful or not harmful, also with regard to crimes, what is suspicious or not suspicious, what is to be forbidden or supervised, or to be spared prohibitions, supervision and suspicion, inquiry and the rendering of accounts. It is the customs, the spirit of the rest of the constitution, the condition of the time, the danger of the moment, and so on, that provide the closer determinations.

Section 235

- ²³⁵ In the indeterminate multiplication and interlacing of daily needs there arise, with regard to the *procuring* and *exchange of the means* of their satisfaction, on whose unhindered availability everyone relies, and with regard to the inquiries and negotiations about them, which are to be shortened as much as possible,

sides that are a common interest and at the same time, for *all*, the business of *one*, together with means and arrangements that can be for common use. These *universal tasks* and *arrangements of common utility* call for the supervision and provision of the public power.

Section 236

²³⁶ The different interests of producers and consumers can come into collision with one another, and although the right relation is restored of itself in the *whole*, the adjustment also needs a regulation undertaken consciously and standing above both. The right to such regulation for the particular case (for example, the fixing of prices for articles of the most common necessities of life) lies in this: that wares of entirely universal, everyday use are offered in public display not so much to an individual as such but to him as a universal, to the public, whose right not to be deceived, and the inspection of the wares, can be represented and attended to by a public power as a common task. — Chiefly, however, the dependence of great branches of industry on foreign circumstances and distant combinations, which the individuals assigned and bound to those spheres cannot survey in their connection, makes a universal provision and direction necessary.

Against the freedom of trade and commerce in civil society, the other extreme is provision for, and determination of, the work of all by public arrangement, as with the ancient work of the pyramids and the other enormous Egyptian and Asiatic works, which were produced for public ends without the mediation of the individual's work through his particular arbitrary choice and particular interest. This interest calls upon that freedom against the higher regulation, yet the more blindly it is sunk in its selfish end, the more it needs such regulation in order to be led back to the universal, and in order to shorten and soften the dangerous convulsions, and the duration of the interval, in which the collisions are to be adjusted by way of unconscious necessity.

Section 237

- ²³⁷ Now if the possibility of participation in the universal wealth exists for individuals and is secured by the public power, it nevertheless remains, quite apart from the fact that this securing must remain incomplete, still subject on the subjective side to contingencies, and the more so the more it presupposes conditions of skill, health, capital, and so on.

Section 238

- ²³⁸ First of all, the family is the substantial whole to which belongs the provision for this particular side of the individual, both with regard to the means and skills for being able to acquire for himself from the universal wealth, and with regard to his subsistence and support in case of incapacity. But civil society tears the individual out of this bond, estranges its members from one another, and recognizes them as self-subsistent persons. It further substitutes its own in place of the external inorganic nature and the paternal soil in which the individual had his subsistence, and subjects the very existence of the whole family to dependence on it, to contingency. Thus the individual has become a son of civil society, which has as many claims upon him as he has rights to it.

Section 239

- ²³⁹ In this character of the *universal family* it has the duty and the right, against the *arbitrary choice* and contingency of the *parents*, to exercise supervision and influence over *education*, insofar as it bears on the capacity to become a mem-

ber of society, chiefly when education is to be completed not by the parents themselves but by others; and likewise, insofar as common arrangements can be made for it, to make these.

Section 240

²⁴⁰ In the same way it has the duty and the right to take under guardianship those who by wastefulness destroy the security of their own and their family's subsistence, and to carry out in their place the end of society and their own.

Section 241

²⁴¹ But just as arbitrary choice can do so, contingent, physical circumstances, and circumstances lying in external relations (§ 200), can bring individuals down to *poverty*. This is a condition that leaves them the needs of civil society, while it withdraws from them the natural means of acquisition (§ 217) and dissolves the wider bond of the family as a clan (§ 281), and thereby deprives them, more or less, of all the advantages of society: the capacity to earn through skills and education generally, and likewise the administration of justice, the care of health, and often even the consolation of religion, and so on. The universal power takes the place of the family with respect to the *poor*, as much in regard to their immediate want as in regard to the disposition of aversion to work, of malignity, and of the further vices that spring from such a situation and from the feeling of their wrong.

Section 242

²⁴² The subjective side of poverty, and of distress of every kind to which each individual is already exposed within his natural sphere, calls also for *subjective* help, as much with regard to the *particular* circumstances as with regard to feeling and *love*. Here is the place where, whatever general provisions are made, *moral-ity* finds enough to do. But because this help, in itself and in its effects, depends on contingency, society strives to discover and to arrange what is universal in need and its remedy, and so to make that help less necessary.

The contingency of almsgiving, of endowments, of the burning of lamps before the images of saints, and so on, is supplemented by public institutions for the poor, hospitals, street lighting, and the like. Charity still has enough left to do on its own account, and it is a false view when it wishes to reserve this relief of distress solely for the *particularity* of feeling and the *contingency* of its disposition and knowledge, and feels injured and offended by the *obligatory* general ordinances and commands. The public condition, on the contrary, is to be esteemed the more perfect, the less is left for the individual to do on his own, according to his private opinion, in comparison with what has been arranged in a general way.

Section 243

²⁴³ When civil society is in unimpeded activity, it is engaged within itself in *progressive population and industry*. — Through the generalization of the connection among human beings by way of their needs, and of the ways of preparing and bringing in the means to satisfy them, the *accumulation of wealth* increases; for the greatest gain is drawn from this twofold universality. On the one side there is this accumulation; on the other side there is the *isolation and limitation* of

particular labor, and with it the *dependence and distress* of the class tied to such labor, with which is bound up the inability to feel and enjoy the further freedoms, and especially the spiritual advantages, of civil society.

Section 244

²⁴⁴ The sinking of a large mass below the level of a certain standard of subsistence, which regulates itself of its own accord as the necessary one for a member of society, — and with it the loss of the feeling of right, of rectitude and of honor in maintaining oneself by one's own activity and labor, — brings about the creation of the *rabble*, which in turn brings with it, at the same time, a greater facility for concentrating disproportionate wealth in a few hands.

Section 245

²⁴⁵ If the direct burden were laid on the wealthier class, or if the direct means were available in other public property (rich hospitals, endowments, monasteries) to maintain the mass sinking into poverty at the level of its ordinary way of life, then the subsistence of the needy would be secured without being mediated by labor, which would be contrary to the principle of civil society and to the feeling its individuals have of their independence and honor. Or else it would be mediated by labor (through the opportunity for it), and then the quantity of products would be increased, and it is precisely in their superabundance, together with the lack of a proportionate number of consumers who are themselves productive, that the evil consists, which in both ways only grows greater. What appears here is that, despite an *excess of wealth*, civil society is *not wealthy enough*, that is, does not possess enough in the resources proper to it, to check the excess of poverty and the creation of the rabble.

These phenomena can be studied on a large scale in the example of *England*, as can, more closely, the results which the poor tax, immense endowments and equally unbounded private benevolence have had, above all the abolition of the corporations in connection with them. The most direct means against poverty, and in particular against the casting off of shame and honor, the subjective bases of society, and against the laziness and extravagance and so on from which the rabble proceeds, has proved there (chiefly in Scotland) to be this: to leave the poor to their fate and to direct them to public begging.

Section 246

- ²⁴⁶ By this its dialectic, civil society is driven beyond itself, first of all *this determinate* society, in order to seek outside itself, among other peoples that are behind it in the means of which it has a surplus, or in general in industrious skill and so on, consumers, and with them the necessary means of subsistence.

Section 247

- ²⁴⁷ As the earth, firm *ground and soil*, is the condition for the principle of family life, so for industry the natural element that animates it outwardly is the *sea*. In the passion for gain, by exposing it to danger, industry at the same time rises above gain, and exchanges attachment to the clod of earth and the bounded circles of civil life, with its enjoyments and desires, for the element of fluidity, danger and ruin. Thus, through this greatest medium of connection, it also brings distant lands into the relation of commerce, a legal relation that introduces contract, and in this commerce is found at once the greatest means of education and the world-historical significance of trade.

That rivers are *not natural* boundaries, as in modern times they have been claimed to be, but that they, and the seas likewise, rather connect human beings; that it is a mistaken thought when *Horace* says (*Carm. I. 3.*): — — *deus absceidit Prudens Oceano dissociabili Terras*, — — (“a god in his providence cut the lands off by the sundering ocean”) is shown not only by the basins of rivers, which are inhabited by one tribe or people, but also, for example, by the other relations of Greece, Ionia and Magna Graecia, of Brittany and Britain, of Denmark and Norway, Sweden, Finland, Livonia, and so on, — and especially also in contrast with the slighter connection between the inhabitants of the coast and those of the interior. — But as to what means of education lies in the connection with the sea, compare the relation to the sea of the nations in which industrious skill has flourished with that of those which have forbidden themselves navigation, and which, like the Egyptians and the Indians, have become stagnant and dull within themselves and sunk into the most dreadful and shameful superstition; and observe how all great nations striving within themselves press toward the sea.

Section 248

- ²⁴⁸ This extended connection also offers the means of *colonization*, to which developed civil society is driven, whether sporadic or systematic, and by which it provides, partly for a portion of its population, a return to the family principle on new soil, and partly for itself a new demand and a new field for its industrious labor.

Section 249

²⁴⁹ Police provision first of all realizes and maintains the universal that is contained in the particularity of civil society, as an *external order and arrangement* for the protection and security of the masses of particular ends and interests, which have their subsistence in this universal; and, as a higher direction, it takes care of the interests (§ 246) that lead beyond this society. Since, according to the Idea, particularity itself makes this universal, which lies in its immanent interests, the end and object of its will and activity, the ethical *returns* into civil society as something immanent; this constitutes the determination of the *corporation*.

Section 250

²⁵⁰ b. The Corporation.

The *agricultural estate* has, in the substantiality of its family and natural life, its concrete universal immediately in itself, in which it lives; the *universal estate* has in its determination the universal as such as the end of its activity and as its ground. The middle between the two, the estate of trade and industry, is essentially directed to the *particular*, and the corporation is therefore chiefly proper to it.

Section 251

²⁵¹ The business of labor in civil society divides, according to the nature of its particularity, into different branches. When this likeness, which is in itself the likeness of particularity, comes into existence as something *common* in the *association*, the *self-seeking* end, directed to its own particular, grasps and realizes itself

at the same time as universal; and the member of civil society is, according to his *particular skill*, a member of the corporation, whose universal end is thus wholly *concrete* and has no wider scope than lies in the trade, in its own proper business and interest.

Section 252

²⁵² According to this determination, the corporation has the right, under the supervision of the public power, to look after its own interests enclosed within it; to admit members according to the objective qualification of their skill and rectitude, in a number determined by the general connection; and to bear the care for those belonging to it against particular contingencies, as well as for the training that gives the capacity to be admitted into it — in general, to step in for them as a *second* family; a position which remains more indeterminate for the universal civil society, which is more remote from individuals and their particular necessities.

The man of trade is different from the day laborer, and from the one who is ready for some single, casual service. The former, the *master*, or he who wishes to become one, is a member of the association not for a single casual gain, but for the *whole* scope, the universal, of his particular subsistence. — *Privileges*, as the rights of a branch of civil society constituted as a corporation, and privileges in the proper sense according to their etymology, differ from one another in that the latter are exceptions to the general law, according to contingency, while the former are only determinations made lawful, which lie in the *nature of the particularity* of an essential branch of society itself.

Section 253

253 In the corporation the family *has* not only its firm ground, as the *security* of subsistence conditioned by *capacity*, a firm *property* (§ 170), but both are also *recognized*, so that a member of a corporation has no need to demonstrate by any further *external manifestations* his competence and his regular livelihood and prospects, that he is something. Thus it is likewise recognized that he belongs to a whole which is itself a member of universal society, and that he has interest and takes pains for the more disinterested end of this whole: — he thus has *his honor in his estate*.

The institution of the corporation, by securing property, corresponds to the introduction of agriculture and of private property in another sphere (§ 203, Remark). — If complaints are to be raised about the luxury and the craving for extravagance of the trading classes, with which the creation of the rabble (§ 244) is connected, then among the other causes (for example, the ever more mechanical character of labor) the *ethical* ground, as it lies in what was said above, is not to be overlooked. Without being a member of a legitimate corporation (and only as legitimate is a common body a corporation), the individual is without *honor of estate*; by his isolation he is reduced to the self-seeking side of his trade, and his subsistence and enjoyment are nothing *standing*. He will therefore seek to attain *his recognition* through the external display of his success in his trade — a display which is unbounded, because living in a manner befitting his estate does not take place, since the estate does not exist — for in civil society only what is lawfully constituted and recognized as common *exists* — and so he makes for himself no more general way of life suited to him either. — In the corporation, the help which poverty receives loses its contingent character, as well as the humiliation it wrongly carries; and wealth, in its

duty toward its association, loses the arrogance and the envy which it can arouse, the former in its possessor, the latter in others; — rectitude receives its true recognition and honor.

Section 254

- ²⁵⁴ There lies in the corporation a restriction of the so-called *natural right* to exercise one's skill and thereby to acquire what is there to be acquired only in so far as in it that right is determined to rationality, that is, freed from one's own opinion and contingency, from one's own danger as well as from danger to others, and is recognized, secured, and at the same time raised to conscious activity for a common end.

Section 255

- ²⁵⁵ Together with the *family*, the *corporation* constitutes the second *ethical* root of the state, the one grounded in civil society. The former contains the moments of subjective particularity and objective universality in *substantial* unity; the second, however, unites in an inward way these moments, which in civil society are at first sundered into particularity *reflected* into itself, as the particularity of need and enjoyment, and into *abstract* legal universality, so that in this union the particular welfare is present as right and is actualized. The sanctity of marriage and honor in the corporation are the two moments around which the disorganization of civil society turns.

Section 256

256 The end of the corporation, as limited and finite, has its truth — as does the separation present in the external arrangement of police, and its relative identity — in the *end that is universal* in and for itself, and in its absolute actuality; the sphere of civil society therefore passes over into the *state*.

Town and country, the former the seat of civil trade, of reflection absorbed in itself and isolating itself, the latter the seat of the ethical life resting on nature; the individuals who mediate their self-preservation in relation to other legal persons; and the family — these constitute the two still ideal moments from which the state *proceeds* as their true *ground*. — This development of immediate ethical life, through the sundering of civil society, to the state, which shows itself as their true ground, and only such a development, is the *scientific proof* of the concept of the state. — Because in the course of the scientific concept the state appears as a *result*, in that it proves to be the *true ground*, that *mediation* and that semblance just as much *sublate* themselves into *immediacy*. In actuality, therefore, the *state* in general is rather what comes first, within which the family first develops into civil society; and it is the Idea of the state itself which divides itself into these two moments. In the development of civil society the ethical substance gains its *infinite* form, which contains the two moments in itself: 1) that of infinite *distinction*, up to the being-within-itself, existing for itself, of self-consciousness, and 2) the form of *universality*, which is in culture, the form of *thought*, by which spirit is objective and actual in laws and institutions, its thought will, as an *organic* totality.

Section 257

The Third Section.

The State.

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

The penates are the inner, *lower* gods; the *spirit of a people* (Athena) is the divine that *knows* and *wills* itself; *piety* is ethical life as feeling and as conducting itself in feeling — *political virtue* is the willing of the thought end that is in and for itself.

Section 258

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

If the state is confused with civil society and its determination is placed in the security and protection of property and personal freedom, then the *interest of individuals as such* is the ultimate end for which they are united, and it follows equally from this that to be a member of the state is something optional. — But the state has a wholly different relation to the individual. Since it is objective spirit, the individual himself has objectivity, truth and ethical life only in so far as he is a member of it. *Union* as such is itself the true content and end, and the destiny of individuals is to lead a universal life; their further particular satisfaction, activity and mode of conduct have this substantial and universally valid element as their point of departure and result. — Rationality, considered abstractly, consists in general in the interpenetrating unity of universality and

individuality, and here, concretely, in respect of content, in the unity of objective freedom, that is, of the universal substantial will, and subjective freedom, as individual knowledge and its will seeking particular ends — and therefore, in respect of form, in an action determining itself according to laws and principles that are thought, that is, *universal*. — This Idea is the eternal and necessary being, in and for itself, of spirit. — But what the *historical* origin of the state in general, or rather of each particular state, of its rights and determinations, is or has been, whether it first proceeded from patriarchal relations, from fear or trust, from the corporation, and so on, and how that on which such rights rest has been grasped and established in consciousness, as divine positive right, or contract, custom, and so forth, does not concern the Idea of the state itself; with regard to scientific cognition, of which alone there is question here, it is, as appearance, a historical matter; with regard to the authority of an actual state, in so far as it enters into grounds, these are taken from the forms of the right valid in it. — Philosophical consideration has to do only with the inward side of all this, the *thought concept*. In the search for this concept, *Rousseau* had the merit of setting up a principle which is *thought* not only in its form (as, say, the social instinct or divine authority are) but in its content, and is indeed *thinking* itself: namely, the *will* as the principle of the state. But since he grasped the will only in the determinate form of the *individual* will (as *Fichte* did later), and the general will not as what is rational in and for itself in the will, but only as the *common element* proceeding from this individual *will as conscious*, the union of individuals in the state becomes a *contract*, which thus has their arbitrary choice, opinion and optional, express consent as its foundation; and there follow the further consequences, merely of the understanding, which destroy the divine that is in and for itself, and its absolute authority and majesty. Having attained to power, these abstractions have therefore, on the one hand, produced the first prodigious spectacle since we have known of the human race: that of wanting to begin the constitution of a great actual state entirely afresh, with the overthrow of everything existing and given, from the beginning and from *thought*, and of *wanting* to give it as its basis merely what was *supposed to be rational*; on the other hand, because they are only abstrac-

tions without Idea, they have made the attempt the most terrible and glaring event. — Against the principle of the individual will, one must recall the fundamental concept that the objective will is what is rational in itself in its *concept*, whether or not it is recognized by individuals and willed by their liking; — that the opposite, the subjectivity of freedom, knowing and willing, which is held fast in that principle *alone*, contains only the *one* moment, and therefore the one-sided moment, of the *Idea of the rational* will, which is rational only through being as much in itself as for itself. — The other opposite of the thought of grasping the state in cognition as something rational for itself is to take the *externality* of appearance, the contingency of need, of the want of protection, of strength, of wealth, and so on, not as moments of historical development but for the *substance* of the state. Here too it is the individuality of individuals that makes up the principle of cognition, yet not even the *thought* of this individuality, but on the contrary empirical individualities according to their contingent qualities, strength and weakness, wealth and poverty, and so on. Such a notion, of overlooking what is *infinite and rational* in and for itself in the state and of *banishing* thought from the grasping of its inner nature, has surely never appeared so unmixd as in Herr von Haller's Restoration of Political Science — *unmixed*, for in all attempts to grasp the essence of the state, however one-sided or superficial the principles may still be, this very intention to *comprehend* the state brings with it thoughts and universal determinations; here, however, not only has renunciation been made with full awareness of the rational content which the state is, and of the form of thought, but there is a storming against both with passionate heat. This *Restoration* owes a part of the widespread effect of its principles, as Herr von Haller assures us, to the circumstance that he has known how to rid himself of *all thoughts* in the presentation, and how to keep the whole thus thoughtless, of a single piece; for in this way there falls away the confusion and disturbance which weakens the impression of a presentation in which, amid the contingent, an admonition of the substantial, and amid the merely empirical and external, a reminder of the universal and rational, is mixed in, and so in the sphere of the needy and the empty, the higher infinite is recalled. — This presentation is

therefore *consistent* as well; for since, in place of the substantial, the sphere of the contingent is taken as the essence of the state, the consistency, with such a content, consists precisely in the complete inconsistency of a thoughtlessness that lets itself run on without looking back, and feels just as much at home in the opposite of what it has just approved.

The book named is of an original kind because of the character indicated. The author's indignation could have something noble in itself, in that it has been kindled by the false theories mentioned above, which proceeded chiefly from *Rousseau*, and mainly by the attempt to realize them. But Herr von Haller, in order to save himself, has thrown himself into an opposite which is a complete lack of thoughts, and of which, therefore, there can be no question of substance; — namely, into the bitterest hatred of all *laws*, of *legislation*, of *all right formally and lawfully determined*. The hatred of law, of lawfully determined *right*, is the shibboleth by which fanaticism, feeble-mindedness and the hypocrisy of good intentions reveal themselves and infallibly make known what they are, whatever clothes they may otherwise put on. — An originality like Haller's is always a remarkable phenomenon, and for those of my readers who do not yet know the book, I will cite a few things as a sample. After Herr von H. (page 342 ff., vol. 1) has set up his main principle, "that, namely, just as in the *inanimate* world the greater displaces the smaller, the mighty the weak, and so on, so among the *animals*, and then among human beings, the same law recurs in nobler shapes (often, no doubt, in ignoble ones too?)," and "that this is therefore the eternal, *unalterable* order of God, that the *mightier* rules, must rule, and will always rule;" — one sees already from this, and equally from what follows, in what sense *might* is meant here: not the might of the just and ethical, but contingent natural force; — he now supports this further, and among other grounds with this too (p. 365 f.): that nature has ordered it with admirable wisdom in such a way that precisely the feeling of *one's own superiority* irresistibly ennobles the character and favors the development of just those virtues that are most necessary for subordinates. He asks, with much scholastic rhetorical elaboration, "whether in the realm of the sciences it is the strong or the weak who misuse authority and trust more for low, selfish ends and to the

ruin of credulous people; whether among jurists it is the masters of the science who are the pettifoggers and quibblers who deceive the hope of trusting clients, who make white black and black white, who misuse the laws as a vehicle of injustice, lead those who need their protection toward the beggar's staff, and like hungry *vultures* tear the innocent lamb to pieces," and so on. Here Herr von H. forgets that he is bringing in such rhetoric precisely in support of the proposition that the *rule of the mightier* is the eternal order of God, the order according to which the vulture tears the innocent lamb to pieces, so that those who are mightier through knowledge of the law do quite right to plunder the trusting people who need their protection, as the weak. But it would be asking too much that two thoughts should be brought together where not even one is to be found. — That Herr von Haller is an enemy of *law codes* goes without saying; civil laws are, according to him, in general partly "unnecessary, since they are self-evident from the *natural law*," and much trouble would have been spared, since states have existed, that has been spent on legislation and law codes, and that is still spent on them and on the study of lawful right, if people had always rested content with the profound thought that *all this is self-evident*, — "and partly the laws are really not given to private persons, but as instructions for the lower judges, to make known to them the will of the lord of the court. *Jurisdiction* is anyway (vol. 1, p. 297; part 1, p. 254; and everywhere) not a duty of the state but a benefit, namely a helping hand from the mightier, and merely supplementary; among the means for securing right it is not the most perfect, but rather *unsafe and uncertain*, the means which our modern jurists alone leave us, robbing us of the *three other* means, precisely those that *lead* most quickly and surely *to the goal*, and which, besides that one, *kindly* nature has given to man for the security of his rightful freedom" — and these *three* are (what does one suppose?) "1) *one's own observance* and inculcation of the natural law, 2) *resistance* to injustice, 3) *flight* where no more help is to be found." (How unkind jurists are, compared with kindly nature!) "But the *natural divine law* that (vol. 1, p. 292) all-bountiful nature has given to each is: *honor* in each your equal (according to the author's principle it ought to read: honor not your equal, but him who is the mightier), *offend no one who does not*

offend you; demand nothing that he does not owe you, (but what does he owe?) indeed still more: love your neighbor and be of use to him where you can.” — The *implanting* of this law is supposed to be what makes legislation and constitutions superfluous. It would be remarkable to see how Herr von H. makes it comprehensible to himself that, despite this implanting, legislations and constitutions have nevertheless come into the world! — In vol. III, p. 362 f., the author comes to the “so-called national freedoms” — that is, the laws of right and constitution of nations; every lawfully determined right was called in this great sense *a freedom*; — he says of these laws, among other things, “that their content is usually *very insignificant*, even though in books great value may be set on such *documentary* freedoms.” When one then sees that the national freedoms of the German imperial estates, of the English nation — Magna Carta, “which, however, is *little read and, because of its antiquated expressions, still less understood*,” the Bill of Rights, and so on — of the Hungarian nation, and so on, are what the author speaks of, one is amazed to learn that these possessions, otherwise held to be so important, are something insignificant, and that among these nations value is placed on their laws, which have concurred in every piece of clothing the individuals wear, in every piece of bread they eat, and every day and hour concur in everything, merely in books. — Against the *Prussian General Code* (to cite this as well), Herr von H. is especially ill-disposed (vol. 1, p. 185 ff.), because the unphilosophical errors (at least not yet the Kantian philosophy, against which Herr von Haller is most embittered) have proved their *incredible* influence in it, among other things chiefly because in it there is talk of the state, of state property, of the end of the state, of the head of the state, of the *duties* of the head, of state officials, and so on. Worst of all to Herr von H. is “the right to impose taxes on the private property of persons, their trade, products or consumption, *to meet the needs of the state*; — because thereby, since the property of the state is qualified not as the private property of the prince but as state property, even the king himself, and thus the *Prussian citizens too have nothing of their own* any more, neither their bodies nor their goods, and all subjects are *legally serfs*, for — *they may not withdraw from the service of the state*.” Amid all this incredible crudity one might find most comical the emotion with

which Herr von Haller describes the unspeakable pleasure over his discoveries (vol. 1, Preface) — “a joy such as only the friend of truth can feel when, after honest inquiry, he obtains the certainty that he has *as it were* (yes indeed, as it were!) hit upon the pronouncement of *nature, the word of God itself*” (the word of God distinguishes its revelations very expressly from the pronouncements of nature and of the natural man) — “how from sheer admiration he could have sunk down, a stream of joyful tears welled from his eyes, and living religiosity arose in him from that moment.” — Herr von H., out of religiosity, ought rather to have wept over it as God’s severest judgment, for it is the severest thing that can befall a human being — to have strayed so far from thinking and rationality, from reverence for the laws and from the knowledge of how infinitely important and divine it is that the duties of the state and the rights of citizens, like the rights of the state and the duties of citizens, are determined *by law* — that the absurd is substituted for him as the *word of God*.

Section 259

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

Section 260

- ²⁶⁰ A. Internal Public Law.

The state is the actuality of concrete freedom; but *concrete freedom* consists in this: that personal individuality and its particular interests both have their complete development and the *recognition* of their right for themselves (in the sys-

tem of the family and of civil society), and also, on the one hand, *pass over* of their own accord into the interest of the universal, and on the other, knowingly and willingly acknowledge it as their own *substantial* spirit and are active for it as their *final end*. The result is that neither does the universal count or get accomplished without particular interest, knowing and willing, nor do individuals live merely for the latter as private persons, without at the same time willing in and for the universal and having an activity conscious of this end. The principle of modern states has this immense strength and depth: it lets the principle of subjectivity perfect itself into the *self-sufficient* extreme of personal particularity, and at the same time *leads it back* into *substantial unity*, and so preserves this unity within subjectivity itself.

Section 261

²⁶¹ In relation to the spheres of private right and private welfare, of the family and civil society, the state is on one side an *external* necessity and their higher power, to whose nature their laws, as well as their interests, are subordinate and on which they depend; but on the other side it is their *immanent* end, and has its strength in the unity of its universal final end and the particular interest of individuals, in the fact that they have *duties* toward it to the extent that they at the same time have rights. (§ 155.)

That the dependence of the laws, those of private right in particular, on the determinate character of the state, and the philosophical view that considers the part only in its relation to the whole, were taken in view—and an attempt made to carry them out in detail as well—chiefly by *Montesquieu* in his famous work, *The Spirit of the Laws*, has already been remarked above, in the Remark to § 3. — Since *duty* is in the first place conduct *toward* something *substantial* for me, something universal in and for itself, while right, by contrast, is the *existence* in general of this substantial thing, and thereby the side of its *particularity* and of *my particular* freedom, the two appear, at the formal stages, divided

between different sides or persons. The state, as something ethical, as the interpenetration of the substantial and the particular, contains this: that my obligation toward the substantial is at the same time the existence of my particular freedom; that is, in the state duty and right are *united in one and the same relation*. But because, furthermore, the distinct moments in the state at the same time come to their *own proper* shape and reality, and the distinction between right and duty therefore reappears, they are, while *in themselves*, that is formally, identical, at the same time *different in their content*. In the realm of private right and of morality, the *actual* necessity of the relation is lacking, and so only the *abstract* equality of content is present: what is right for one in these abstract spheres is to be right for the other too, and what is duty for one is to be duty for the other too. That absolute identity of duty and right occurs only as an identity of *content*, in the determination that this content is itself the wholly universal, namely the one principle of duty and of right, the personal freedom of the human being. Slaves therefore have no duties, because they have no rights; and conversely—(religious duties are not under discussion here). — But in the concrete Idea, developing itself within itself, its moments are distinguished, and their determinacy at the same time becomes a different content. In the family the son does not have rights *of the same content* as he has duties toward the father, and the citizen does not have rights *of the same content* as he has duties toward prince and government. — That concept of the union of duty and right is one of the most important determinations, and contains the inner strength of states. — The abstract side of duty stops short at overlooking and banishing particular interest as an unessential, even unworthy moment. The concrete view, the Idea, shows the moment of particularity to be just as essential, and its satisfaction therefore to be absolutely necessary. In fulfilling his duty the individual must in some way at the same time find his own interest, his satisfaction or account, and a right must arise for him out of his relation in the state, through which the universal cause becomes his *own particular* cause. Particular interest is truly not to be set aside or, worse, suppressed, but brought into accord with the universal, whereby both it and the universal are preserved. The individual, a subject according to his duties, finds as a citizen, in fulfilling them,

the protection of his person and property, regard for his particular welfare, and the satisfaction of his substantial essence, the consciousness and self-feeling of being a member of this whole; and in this accomplishment of duties as services and tasks for the state, the state has its preservation and its continued existence. From the abstract side, the interest of the universal would be only that its tasks, the services it requires, be accomplished as duties.

Section 262

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

Section 263

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

Section 264

- ²⁶⁴ The individuals of the multitude, since they are themselves spiritual natures and therefore contain within themselves the doubled moment, namely the extreme of *individuality* knowing and willing *for itself* and the extreme of *uni-*

versality knowing and willing the substantial, and therefore attain to the right of both these sides only insofar as they are actual both as private persons and as substantial persons—reach in those spheres, partly immediately the former and partly the latter. They do so in that they have their essential self-consciousness in the institutions, as the *universal* of their particular interests that is in itself, and in that the institutions afford them, in the corporation, a business and activity directed to a universal end.

Section 265

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

Section 266

- ²⁶⁶ But spirit is objective and actual to itself not only as this necessity and as a realm of appearance, but as the *ideality* of that necessity and as its inner; thus this substantial universality is *itself* its own object and end, and that necessity is thereby just as much in the *shape* of freedom.

Section 267

- ²⁶⁷ *Necessity* in ideality is the development of the Idea within itself; as *subjective* substantiality it is political disposition, and as *objective* substantiality, in distinction from that, it is the *organism* of the state, the state properly so called, the

political state and its *constitution*.

Section 268

²⁶⁸ Political *disposition*, patriotism in general, as certainty standing in *truth* (merely subjective certainty does not proceed from truth, and is only opinion) and as willing that has become habit, is solely a result of the institutions existing in the state, in which rationality is *actually* present, just as it receives its activation through action in conformity with them. — This disposition is in general *trust* (which can pass over into more or less educated insight)—the consciousness that my substantial and particular interest is preserved and contained in the interest and end of another (here, of the state), in its relation to me as an individual—whereby precisely this other is immediately no other for me, and in this consciousness I am free.

By patriotism is often understood only a readiness for *extraordinary* sacrifices and actions. Essentially, however, it is the disposition that, in the ordinary condition and circumstances of life, is accustomed to know the commonwealth as the substantial ground and end. It is this consciousness, proving itself in all relations in the ordinary course of life, from which readiness for extraordinary exertion is then also grounded. But as people are often more ready to be magnanimous than upright, they easily persuade themselves that they possess that extraordinary patriotism, in order to spare themselves this true disposition, or to excuse its lack. — If, further, *disposition* is regarded as something that can begin on its own and proceed from subjective notions and thoughts, then it is confused with opinion, since on this view it lacks its true ground, objective reality.

Section 269

269 Disposition takes its specially determined *content* from the different sides of the organism of the state. This *organism* is the development of the Idea into its distinctions and into their objective actuality. These distinct sides are thus the *different powers*, with their tasks and activities, by which the universal continually produces itself—and does so in a *necessary* way, because they are determined by the *nature of the concept*—and, since it is equally presupposed to its production, preserves itself. This organism is the *political constitution*.

Section 270

270 That the end of the state is the universal interest as such, and, in it as their substance, the preservation of particular interests, is its (1) *abstract actuality* or substantiality; but this is (2) its *necessity*, inasmuch as it divides itself into the *distinctions of the concept* belonging to its activity, which through that substantiality are just as much actual, *firm* determinations—powers; (3) but this very substantiality is spirit knowing and willing itself, as spirit *that has passed through the form of culture*. The state therefore knows what it wills, and knows it in its *universality*, as something *thought*; it therefore works and acts according to known ends, familiar principles, and laws that are such not only *in themselves* but for consciousness; and likewise, insofar as its actions relate to existing circumstances and relations, according to a determinate knowledge of them. This is the place to touch on the *relation of the state to religion*, since in recent times it has been so often repeated that religion is the foundation of the state, and since this assertion is also made with the pretension that the science of the state is exhausted by it—and no assertion is better suited to produce so much confusion, indeed to elevate confusion itself into the constitution of the state,

into the form that knowledge is supposed to have. — It may seem suspect at the outset that religion is recommended and sought above all for times of public misery, disorder and oppression, and that people are directed to it for consolation against *injustice* and for the hope of compensation for *loss*. When it is further regarded as an instruction of religion to be indifferent to worldly interests and to the course and business of actuality, while the state is spirit *that stands in the world*, the reference to religion seems either unsuited to raise the interest and business of the state to an essential, serious end, or else to declare everything in the government of the state a matter of indifferent arbitrary choice—whether it is only that the language is used as though in the state the ends of the passions, of wrongful force and so on were the ruling thing, or that such a reference to religion wants to hold good by itself alone and to claim the determining and administering of what is right. Just as it would be regarded as mockery if all feeling against tyranny were turned aside with the remark that the oppressed finds his consolation in religion, so it is equally not to be forgotten that religion can assume a form that brings with it the harshest servitude under the fetters of superstition and the degradation of the human being beneath the animal (as among the Egyptians and Indians, who venerate animals as their higher beings). This phenomenon can at least draw attention to the fact that one should not speak of religion quite in general, and that against it, as it is in certain shapes, a saving power is rather required that takes up the rights of reason and of self-consciousness. — The essential determination of the relation of religion and state, however, emerges only when their concept is recalled. Religion has absolute truth for its content, and thus the highest disposition falls within it. As intuition, feeling, representational cognition, occupied with God as the unrestricted ground and cause on which everything depends, it contains the demand that everything be grasped in this relation too, and obtain in it its confirmation, justification, assurance. State and laws, like duties, receive in this relation, for consciousness, their highest corroboration and highest obligation; for even state, laws and duties are, in their actuality, something determinate that passes over into a higher sphere as into its ground. (Encyclopedia of the Philosophical Sciences, § 453.) For this reason religion also contains the place

that, amid all change and in the loss of actual ends, interests and possessions, affords the consciousness of the unchangeable and of the highest freedom and satisfaction. If religion thus makes up the *foundation* that contains the ethical in general and, more closely, the nature of the state as the divine will, it is at the same time *only* foundation that it is, and here is where the two part ways. The state is divine will as present spirit, unfolding itself into the actual shape and *organization of a world*. — Those who want to stay with the form of religion as against the state behave like those who think they have what is right in cognition if they only keep always to the *essence* and do not advance from this abstraction to existence, or like those (see above, § 140, Remark) who will only the *abstract* good and reserve to arbitrary choice the determining of what is good. Religion is the relation to the Absolute *in the form of feeling, representation, faith*, and in its all-containing center everything is only something accidental, even vanishing. If this form is held to in relation to the state as well, so that it is the essentially determining and valid thing for the state too, then the state, as the organism developed into lasting distinctions, laws and institutions, is abandoned to wavering, insecurity and disorder. The objective and universal, the laws, instead of being determined as standing and valid, receive the determination of a negative against that form which enshrouds everything determinate and thereby turns it into the subjective; and for the conduct of human beings the consequence follows: for the righteous no law is given; be pious, and for the rest you may do as you like—you may give yourselves over to your own arbitrary choice and passion, and refer the others, who suffer injustice thereby, to the consolation and hope of religion, or, still worse, reject and condemn them as irreligious. But insofar as this negative attitude does not remain merely an inner disposition and view, but turns to actuality and asserts itself in it, there arises religious *fanaticism*, which, like the political, banishes all state institutions and legal order as confining barriers unsuited to the inner life, to the infinity of the heart, and therefore banishes private property, marriage, the relations and labors of civil society and so on as unworthy of love and of the freedom of feeling. Since, however, a decision must be made for actual existence and action, the same thing occurs as with the subjectivity of the will that knows

itself as the Absolute in general (§ 140): the decision is made out of subjective representation, that is, out of *opining* and the *whim of arbitrary choice*. — But the true, as against this truth enshrouding itself in the subjectivity of feeling and representation, is the immense passage of the inner into the outer, of the building of reason into reality, on which the whole of world history has labored, and through which labor cultivated humanity has won the actuality and the consciousness of rational existence, of state institutions and of laws. From those who seek the *Lord*, and in their uncultivated opining assure themselves that they possess everything *immediately*, instead of imposing on themselves the labor of raising their subjectivity to the cognition of truth and to the knowledge of objective right and duty, nothing can proceed but the shattering of all ethical relations, folly and abomination—the necessary consequences of the disposition of religion that rests exclusively on its form and so turns against actuality and against the truth present in the form of the universal, of laws. Yet it is not necessary that this disposition should advance in this way to realization; with its negative standpoint it can indeed also remain something inward, submit to the institutions and laws, and let matters rest with resignation and sighing, or with contempt and wishing. It is not strength but weakness that in our times has made religiosity a *polemical* kind of piety, whether it be connected with a true need or merely with unsatisfied vanity. Instead of subduing one's opining by the labor of study and subjecting one's willing to discipline, and thereby raising it to free obedience, the cheapest course is to renounce the cognition of objective truth, to preserve a feeling of oppression and with it self-conceit, and to have in devoutness already every requirement for seeing through the nature of laws and state institutions, for pronouncing on them, and for stating how they ought and must be constituted—and indeed, because it comes from a pious heart, in an infallible and untouchable manner; for, since intentions and assertions make religion their foundation, nothing, it is claimed, can be done against them, whether on account of their shallowness or of their wrongfulness.

Religion, like cognition and science, has as its principle a form of its own, different from that of the state; they therefore enter the state, partly in the relation of *means* of culture and disposition, partly, insofar as they are essentially *ends in themselves*, on the side that they have external existence. In both respects the principles of the state relate to them as *applied*; in a fully concrete treatise on the state those spheres, like art, the merely natural relations and so on, would likewise have to be considered in the relation and position they have in the state; but here, in this treatise, where it is the principle of the state that is carried through in its *own proper* sphere according to its Idea, their principles and the application of the state's right to them can be spoken of only in passing.

But insofar as religion, when it is of a true kind, is without such a negative and polemical bearing toward the state, and rather acknowledges and confirms it, it has further for itself its own *condition* and its *expression*. The business of its worship consists in actions and doctrine; for this it needs *possessions* and *property*, as well as *individuals* devoted to the *service* of the congregation. Thereby a relation arises between state and church community. The determination of this relation is simple. It lies in the nature of the matter that the state fulfills a duty in giving the community every support and protection for its religious end, and indeed, since religion is for the state the integrating moment of the deepest part of disposition, in requiring of all its members that they belong to a church community—to some church or other, moreover, for the state cannot enter into the content, insofar as it concerns the inner side of representation. The state that is developed in its organization, and therefore strong, can behave all the more liberally in this matter, overlook altogether particulars that touch it, and even endure within itself communities (where, to be sure, numbers matter) that do not acknowledge, on religious grounds, even their direct duties toward it, in that it leaves their members to civil society under its laws, and is content with a passive fulfillment of the direct duties toward it, perhaps mediated by conversion and exchange. — But insofar as the church community possesses *property*, performs other *actions* of worship, and has individuals in its service for this, it steps out of the inner into the worldly and thereby into the domain of the state, and so places itself *immediately* under its laws. The oath, the ethical

in general, like the relation of marriage, do bring with them the inner interpenetration and the elevation of *disposition* which receives its deepest assurance through religion; but since the ethical relations are essentially relations of *actual rationality*, it is the rights of this that are first to be asserted in them, and to which the church's assurance is added as the merely inner, more abstract side. — With regard to further expressions proceeding from the church association, in the case of *doctrine* the inner outweighs the outer more than in the case of the *actions* of worship and other conduct connected with them, where the *legal* side at least immediately appears of itself as a matter for the state (churches, to be sure, have also taken for themselves the exemption of their servants and their property from the power and jurisdiction of the state, even jurisdiction over secular persons in matters in which, as in divorce cases, oath affairs and so on, religion concurs). — The *police* side with regard to such actions is, to be sure, less determinate, but this lies in the nature of this side, just as it does with other, wholly civil actions (see above, § 234). Insofar as the religious community of individuals rises to a congregation, a corporation, it stands in general under the higher police supervision of the state. — But *doctrine* itself has its domain in conscience, stands in the right of the subjective freedom of self-consciousness—the sphere of inwardness, which as such does not make up the domain of the state. Yet the state too has a doctrine, since its institutions and what holds good for it in general concerning what is lawful, the constitution and so on, is essentially in the form of thought, as law; and since it is not a mechanism but the rational life of self-conscious freedom, the system of the ethical world, *disposition*, and then the consciousness of it in *principles*, is an essential moment in the actual state. Conversely, the church's doctrine is not merely something inward in conscience but, as doctrine, rather *expression*, and expression at the same time about a content that is most intimately connected with the ethical principles and laws of the state, or immediately concerns them. State and church therefore here *coincide* directly or come *into conflict* with each other. The difference of the two domains can be driven by the church to the sharp opposition in which it, as containing in itself the absolute content of religion, regards the *spiritual* in general, and so also the ethical element, as its part,

but the state as a mechanical scaffolding for unspiritual external ends; in which it conceives itself as the kingdom of God, or at least as the way and forecourt to it, but the state as the kingdom of the world, that is, of the transitory and finite; and thereby conceives itself as the end in itself, but the state as a mere *means*. With this pretension there is then joined, with regard to *teaching*, the demand that the state not only leave the church in this perfectly free, but show unconditional respect for its teaching, whatever it may be, since this determination belongs to it alone, as teaching. As the church arrives at this pretension on the broad ground that the spiritual element in general is its property, *science* and cognition in general stand likewise in this domain, and for themselves form, like a church, a totality of their own principle, which can also regard itself as stepping into the place of the church itself with still greater title; so the same independence from the state is then demanded for science, the state having to care for it only as a means, since science is an end in itself. — It is, moreover, a matter of indifference for this relation whether the individuals and heads devoted to the service of the community have perhaps driven things to an existence separated from the state, so that only the remaining members are subject to the state, or whether they otherwise stand within the state and their ecclesiastical vocation is only one side of their station, which they hold apart from the state. It is first to be noted that such a relation is connected with that conception of the state according to which it has its vocation only in the protection and security of everyone's life, property and arbitrary choice, insofar as these do not injure the life, property and arbitrary choice of others, and the state is thus regarded only as an arrangement of need. The element of the higher spiritual, of what is true in and for itself, is in this way placed, as subjective religiosity or as theoretical science, beyond the state, which as the *layman* in and for itself has only to respect it, and the properly ethical thus drops out altogether for the state. That there have been historically times and conditions of barbarism in which all the higher spiritual had its seat in the church, and the state was only a worldly regime of violence, arbitrary choice and passion, and that abstract opposition was the chief principle of actuality (see § 358), belongs to history. But it is too blind and shallow a procedure to give out this position as the one

truly corresponding to the Idea. The development of this Idea has rather proved this to be the truth: that spirit, as free and rational, is in itself ethical, and the true Idea is *actual* rationality, and that this is what exists as the state. It further resulted equally from this Idea that the ethical *truth* in it is, for *thinking* consciousness, as *content* worked into the form of *universality*, law—that the state in general knows its ends, and recognizes and puts them into effect with determinate consciousness and according to principles. As noted above, religion has the true as its universal object, yet as a *given* content, which in its fundamental determinations is not cognized through thinking and concepts; likewise the individual's relation to this object is an obligation founded on authority, and the *testimony* of one's *own* spirit and heart, in which the moment of freedom is contained, is *faith* and *feeling*. It is philosophical insight that recognizes that church and state stand not in opposition as to the *content* of truth and rationality, but in difference of form. If, therefore, the church passes over into *teaching* (there are and have been also churches that have only a worship; others in which it is the main thing and teaching and the more cultivated consciousness only a side matter), and its teaching concerns *objective* principles, the thoughts of the ethical and the rational, then in this expression it passes immediately over into the domain of the state. Against its *faith* and its authority over the ethical, right, laws, institutions, against its *subjective conviction*, the state is rather the *knowing*; in its principle the content essentially does not remain standing in the form of feeling and faith, but belongs to determinate thought. As the content that is in and for itself appears, in the shape of religion, as particular content, as the doctrines peculiar to the church as a religious community, so these remain outside the sphere of the state (in Protestantism there is also no clergy that would be the exclusive depositary of church doctrine, because in it there are no *laymen*); since the ethical principles and the order of the state in general draw over into the domain of religion, and can not only be put into relation to it but ought to be, this relation on one side gives the state itself religious authentication; on the other side there remains to it the right and the form of self-conscious, objective rationality, the right to make it valid and to maintain it against assertions that spring from the *subjective* shape of truth,

with whatever *assurance* and *authority* it may surround itself. Because the principle of its form, as universal, is essentially thought, it has also come about that the *freedom* of *thought* and of *science* has proceeded from its side (and it was a church that burned *Giordano Bruno*, and made Galileo, for the *exposition* of the *Copernican* solar system, beg pardon on his knees, and so on). On its side, therefore, *science* too has its place; for it has the same element of form as the state, it has the end of *cognizing*, and indeed of thought, *objective* truth and rationality. Thinking cognition can, to be sure, also fall away from science into opining, and into reasoning from grounds; turning to ethical objects and to the organization of the state, it can set itself in contradiction to their principles, and this perhaps with the same pretensions as the church makes for what is peculiar to it, appealing for this *opining* to reason and to the right of subjective self-consciousness to be free in its opinion and conviction. The principle of this subjectivity of knowing has been considered above (§ 140, Remark); here belongs only the remark that on one side the state can exercise an infinite indifference toward *opining*, precisely insofar as it is only opinion, a subjective content, and therefore, however loftily it may puff itself up, has no true force or power in itself—just as painters who keep to the three primary colors on their palette can toward the *school wisdom* of the seven primary colors. On the other side, however, the state has to take under its protection objective truth and the principles of ethical life against this *opining* of bad principles, when it makes itself into a universal existence eating away at actuality—all the more so insofar as it is the formalism of unconditioned subjectivity, which would take the scientific point of departure for its ground and would raise the teaching arrangements of the state itself to the pretension of a church and turn them against it; just as, on the whole, against the church that claims an unrestricted and unconditioned *authority*, it has conversely to assert the formal right of self-consciousness to its own insight, conviction, and in general thinking of what is to count as objective truth.

Of Quakers, Anabaptists and the like one may say that they are only active members of civil society, and as private persons stand only in private dealings with others, and even in this relation they have been excused from the oath; the

direct duties toward the state they fulfill in a passive way, and as to one of the most important duties, that of defending it against enemies, which they directly disown, it is perhaps allowed that they fulfill it by exchange for another service. Toward such sects it is in the proper sense the case that the state exercises *toleration*; for since they do not acknowledge their duties toward it, they cannot lay claim to the right of being members of it. When once in the North American Congress the abolition of the slavery of Negroes was being pressed with greater emphasis, a deputy from the southern provinces made the telling reply: "Give us the Negroes, and we will give you the Quakers." — Only through its strength in other respects can the state overlook and tolerate such anomalies, relying in this chiefly on the power of customs and the inner rationality of its institutions, which, in that the state does not strictly assert its rights in this matter, will diminish and overcome the distinction. However much formal right one might have had against the *Jews* with regard to the granting of even civil rights, in that they were supposed to regard themselves not merely as a particular religious party but as belonging to a foreign people, the outcry raised from this and other points of view has overlooked that they are first of all *human beings*, and that this is not merely a flat, abstract quality (§ 209, Remark), but that it lies in this that, through the civil rights conceded, the *self-feeling* of counting as *legal* persons in civil society rather comes about, and from this infinite root, free from everything else, the demanded equalization of ways of thinking and disposition comes about. The separation reproached to the Jews would rather have been preserved, and would justly have become a fault and reproach to the excluding state; for it would thereby have misjudged its principle, the objective institution and its power (compare § 268, Remark at the end). The maintenance of this exclusion, while it thought it had the highest right, has also proved itself in experience the most foolish, and the way the governments acted, by contrast, the wise and worthy. —

Laplace, Exposition of the System of the World, Book V, Chapter 4. "When Galileo made known his discoveries (to which the telescope helped him, the phases of Venus and so on), he showed at the same time that they proved the motions of the earth beyond contradiction. But the notion of this motion was

declared heretical by an assembly of cardinals, Galileo, its most famous defender, was summoned before the tribunal of the Inquisition, and compelled to recant it in order to escape a harsh imprisonment. In a man of spirit the passion for truth is one of the strongest passions. — *Galileo*, convinced by his own observations of the motion of the earth, thought for a long time of a new work in which he had resolved to set out all the proofs for it. But in order at the same time to escape the persecution of which he would have had to become the victim, he chose the expedient of presenting them in the form of dialogues among three persons; one sees well that the advantage lay on the side of the defender of the Copernican system; but since Galileo did not decide between them, and gave the objections of the followers of Ptolemy as much weight as was possible, he might well expect not to be disturbed in the enjoyment of the peace that his great age and his labors deserved. In his seventieth year he was summoned anew before the tribunal of the Inquisition; he was shut up in a prison, where a second recantation of his opinions was demanded of him, under threat of the penalty appointed for relapsed heretics. He was made to sign the following formula of abjuration: ‘I, *Galileo*, who in my seventieth year have appeared in person before the court, kneeling, and with my eyes fixed on the holy Gospels, which I touch with my hands, abjure, curse and detest, with a sincere heart and true faith, the absurdity, falsity and heresy of the doctrine of the motion of the earth, and so on.’ What a sight it was, to see a venerable old man, famous for a long life devoted solely to the investigation of nature, abjure on his knees, against the testimony of his own conscience, the truth that he had proved with convincing force. A judgment of the Inquisition condemned him to perpetual imprisonment. A year later he was set free, at the intercession of the Grand Duke of Florence. — He died in 1642. Europe, enlightened by his labors, and indignant at the judgment passed by a hated tribunal against so great a man, mourned his loss.”

The *unity of state and church*, a determination much discussed also in recent times and set up as the highest ideal, may still be mentioned. If their essential unity is that of the truth of principles and disposition, it is just as essential that with this unity the *difference* they have in the form of their consciousness

should have come to *particular existence*. In oriental despotism there is that so often wished-for unity of church and state—but with it the state is not present—not the self-conscious shape, worthy of spirit alone, in right, free ethical life, and organic development. — Further, in order that the state may come into existence as the *self-knowing* ethical actuality of spirit, its distinction from the form of authority and of faith is necessary; but this distinction emerges only insofar as the ecclesiastical side comes to division within itself; only so, above the *particular* churches, has the state gained the *universality* of thought, the principle of its form, and brings it to *existence*; to recognize this, one must know not only what universality is in itself, but what its *existence* is. It is therefore so far from being the case that the ecclesiastical division is or was a misfortune for the state that only *through* it could it become what its vocation is, self-conscious rationality and ethical life. It is likewise the happiest thing that could have befallen the church for its own sake, and thought for its freedom and rationality.

Section 271

²⁷¹ The political constitution is, *in the first place*, the organization of the state and the process of its organic life *in its relation to itself*, in which it differentiates its moments within itself and unfolds them into *subsistence*.

In the second place, as an individuality it is an exclusive One, which thereby relates to *Others*, turns its differentiation *outward*, and, in accordance with this determination, posits its subsisting internal differences in their *ideality*.

Section 272

Internal Constitution in Its Own Right

272 The constitution is rational insofar as the state *differentiates* and determines its activity within itself *according to the nature of the concept*, in such a way that *each* of these powers is itself the totality, because it has the other moments active within itself and contains them; and because they express the difference of the concept, they remain wholly within its ideality and constitute *only one individual* whole.

In recent times there has been an infinite amount of chatter about the constitution, as about reason itself; in Germany, indeed, the shallowest talk has been brought into the world by those who persuaded themselves that they understood best—and even to the exclusion of everyone else, and first of all the governments—what a constitution is, and who thought they had an indisputable warrant for doing so in the claim that religion and piety ought to be the foundation of all these shallownesses of theirs. It is no wonder that this chatter has made reasonable men sick of the words reason, enlightenment, right, and so forth, as well as constitution and freedom, and that one might feel ashamed even to join in a discussion of the political constitution. Yet one may at least hope that this weariness will spread the conviction that philosophical knowledge of such objects cannot arise from reasoning about purposes, grounds, and utilities, still less from feeling, love, and enthusiasm, but only from the concept; and that those who regard the divine as incomprehensible and knowledge of the true as a vain undertaking must refrain from joining in. Whatever undigested talk or edifying sentiment they produce out of their feelings and enthusiasm, neither can at least lay claim to philosophical consideration.

Among current conceptions, the *necessary division of the powers of the state* should be mentioned in connection with § 269—a determination of the highest importance, which could rightly be regarded as the guarantee of public freedom if it were understood in its true sense. Yet precisely those who suppose themselves to speak from enthusiasm and love know nothing, and wish to know nothing, of this conception; for it is here that the moment of *rational determinacy* lies. The principle of the division of powers contains the essential moment of *difference*, of *real* rationality. But as abstract understanding apprehends it, it contains, on the one hand, the false determination that the powers

are *absolutely independent* of one another, and on the other the one-sided view of their relation as something negative, as *mutual restriction*. On this view it becomes a hostility, a fear of what each may do against the other as against an evil, with the purpose of confronting it and, through these counterweights, producing a general equilibrium, but not a living unity. Only the concept's *self-determination* within itself, not any other purposes and utilities, contains the absolute origin of the distinct powers; and only through it is the organization of the state what is rational in itself and the image of eternal reason. How the *concept*, and then, concretely, the Idea, determine themselves within themselves and thereby posit their moments—abstractly, universality, particularity, and individuality—is to be known from logic, though certainly not from the logic otherwise current. To take the negative as one's starting point at all, to make the will to evil and distrust of it the primary thing, and on that presupposition cunningly to devise dams that themselves require opposing dams in order to work, characterizes in thought the *negative understanding* and in disposition the outlook of the rabble. See § 244 above. With the *independence* of the powers—for example, of what have been called the *executive* and *legislative* powers—the destruction of the state is immediately posited, as has also been seen on a grand scale; or, insofar as the state essentially maintains itself, a struggle is posited in which one power subordinates the other, thereby first bringing about unity, whatever its character may otherwise be, and thus alone saving what is essential: the state's subsistence.

Section 273

- 273 The political state thus divides itself into the substantial distinctions:
- a) the power to determine and establish the universal: the *legislative* power;
 - b) the subsumption of the *particular* spheres and individual cases under the universal: the *executive* power;

c) subjectivity as the ultimate decision of the will: the *princely* power, in which the distinct powers are gathered into an individual unity, and which is therefore the apex and beginning of the whole—the *constitutional* monarchy.

The development of the state into constitutional monarchy is the work of the modern world, in which the substantial Idea has attained infinite form. The *history* of this deepening of the world's spirit within itself—or, what is the same, of this free development in which the Idea releases its moments, and only its moments, from itself as totalities, and precisely thereby contains them within the ideal unity of the concept, in which real rationality consists—the *history* of this true formation of ethical life belongs to universal world history.

The old division of constitutions into *monarchy*, *aristocracy*, and *democracy* rests upon substantial unity still undivided, which has not yet attained its *internal differentiation*—an organization developed within itself—and thus *depth* and *concrete rationality*. For that standpoint of the ancient world, therefore, this division is true and correct. For difference, in that substantial unity which has not yet unfolded itself absolutely within itself, is essentially *external*, and appears at first as a difference in the *number* (Encyclop. der Phil. § 82) of those in whom that substantial unity is supposed to be immanent. These forms, which in this way belong to distinct wholes, are reduced to moments within constitutional monarchy: the monarch is *One*; with the executive power a *Few* enter, and with the legislative power the *Many* in general. But such merely quantitative differences are, as has been said, only superficial and do not yield the concept of the matter. It is likewise inappropriate that in recent times so much has been said of the democratic and aristocratic element in *monarchy*; for these determinations, insofar as they find a place within *monarchy*, are no longer democratic or aristocratic. There are conceptions of constitutions in which nothing but the *abstraction* of a state is set on high, to govern and command, and it is left undecided, and regarded as immaterial, whether *One* or *Several* or *All* stand at the head of this state. “All these forms,” *Fichte* says in his *Naturrecht*, Part 1, p. 196, “are consistent with right, provided only that an *ephorate*”—a counterweight, supposedly, to the supreme power, invented by him—“is present, and can produce and maintain universal right in the state.”

Such a view, like that invention of an ephorate itself, arises from the superficiality in the concept of the state noted above. In a wholly simple condition of society these distinctions admittedly have little or no significance. Thus *Moses*, in his legislation for the case in which the people should demand a king, makes no further alteration in the institutions, but merely adds for the king the command that his cavalry, his wives, and his gold and silver should not be numerous (5. B. Mose 17, 16 ff.). In one sense it may indeed be said that for the Idea, too, these three forms—including the *monarchical* in the restricted sense in which it is placed *beside* the *aristocratic* and *democratic*—are immaterial; but this is in the opposite sense, because all of them fail to accord with the Idea in its rational development (§ 272), and in none of them could the Idea attain its right and actuality. Hence the question of which is the most excellent among them has become wholly idle; such forms can be discussed only historically. In this respect, as in so many others, one must acknowledge *Montesquieu's* profound insight in his celebrated account of the principles of these forms of government, but must not misunderstand that account if one is to acknowledge its correctness. As is well known, he assigned virtue as the principle of *democracy*; for such a constitution does indeed rest upon *disposition*, the merely substantial form in which the rationality of the will that is in and for itself still exists within it. But when Montesquieu adds that *England* in the seventeenth century offered the beautiful spectacle of efforts to establish a democracy proving powerless, because virtue was lacking in the leaders; and when he further adds that, if virtue disappears from the republic, ambition seizes those whose minds are capable of it, and greed seizes everyone, so that the state, a universal prey, then has its strength only in the power of a few individuals and the license of all—one must observe that, in a more developed condition of society, and with the development and liberation of the powers of *particularity*, the virtue of the heads of the state is insufficient. Another form of rational law than merely that of disposition becomes necessary, so that the whole may possess the strength to hold itself together and to allow the powers of developed particularity their positive as well as their negative right. Likewise, one must remove the misunderstanding that, because the disposition of virtue is the substantial form in the

democratic republic, this disposition is declared dispensable, or even absent, in monarchy; or, conversely, that virtue and activity determined *by law* within an *articulated* organization are opposed and incompatible. That *moderation* is the principle in aristocracy follows from the division, beginning here, between public power and private interest; yet these also touch one another so directly that this constitution stands poised to become immediately the harshest condition of tyranny or anarchy—see Roman history—and to destroy itself. That Montesquieu recognizes *honor* as the principle of *monarchy* already makes it clear that he understands neither the patriarchal or ancient monarchy in general, nor the monarchy developed into an objective constitution, but *feudal monarchy*, insofar as the relations of its internal constitutional law have been fixed as legal private property and privileges of individuals and corporations. Since in this constitution the life of the state rests upon privileged personality, and much of what must be done for the state's subsistence is left to its pleasure, the objective character of these services rests not upon *duties* but upon *representation* and *opinion*; thus, instead of duty, *honor* alone holds the state together.

Another question readily presents itself here: *who is to make the constitution?* This question seems clear, but on closer examination immediately proves meaningless. For it presupposes that no constitution exists, and that therefore a mere atomistic *heap* of individuals is assembled. How a *heap* should arrive at a constitution, whether by itself or through others, by kindness, thought, or force, would have to be left to it; for the concept has nothing to do with a heap. But if the question already presupposes an existing constitution, *making* it means only altering it; and the presupposition of a constitution immediately entails that alteration can take place only by constitutional means. In general, however, it is absolutely essential that the constitution, though it has arisen in time, should *not be regarded as something made*. Rather, it is what is absolutely in and for itself, and must therefore be regarded as divine and enduring, and as standing above the sphere of what is made.

Section 274

²⁷⁴ Since spirit is actual only as what it knows itself to be, and the state, as the spirit of a people, is at the same time the law *pervading all its relations*, the custom and consciousness of its individuals, the constitution of a particular people depends in general upon the character and development of its self-consciousness. In this lies its subjective freedom, and thus the actuality of the constitution.

To wish to give a people a constitution *a priori*, even one more or less rational in its content, is a notion that overlooks precisely the moment through which it would be more than a thing of thought. Every people therefore has the constitution appropriate to it and belonging to it.

Section 275

A. The Princely Power

²⁷⁵ The princely power itself contains within it the three moments of the totality (§ 272): the *universality* of the constitution and the laws; deliberation, as the relation of the *particular* to the universal; and the moment of ultimate *decision*, as the *self-determination* into which everything else returns and from which it takes its beginning in actuality. This absolute self-determination constitutes the distinguishing principle of the princely power as such, which must first be developed.

Section 276

- ²⁷⁶ 1) The fundamental determination of the political state is substantial unity as the *ideality* of its moments. Within this unity, α) its particular powers and functions are as much dissolved as preserved, and are preserved only insofar as they have no independent authorization, but only such authorization, and to such an extent, as is determined in the Idea of the whole: they proceed from its power and are fluid members of it, as of their simple self.

Section 277

- ²⁷⁷ β) The particular functions and activities of the state *belong to it* as its essential moments. They are attached to the *individuals* who administer and perform them not according to those individuals' immediate personality, but only according to their universal and objective qualities; hence their connection with a particular personality as such is external and contingent. The functions and powers of the state therefore cannot be *private property*.

Section 278

- ²⁷⁸ These two determinations—that the particular functions and powers of the state are neither independent and fixed in themselves nor in the particular will of individuals, but have their ultimate root in the unity of the state as their simple self—constitute the *sovereignty of the state*. This is sovereignty *inwardly*; it has another side, sovereignty *outwardly*: see below. In the former *feudal monarchy* the state was indeed sovereign outwardly, but inwardly neither the monarch nor the state itself was sovereign. On the one

hand (compare § 273, remark), the particular functions and powers of the state and of civil society were established in independent corporations and communities, so that the whole was more an aggregate than an organism; on the other hand, they were the private property of individuals, and thus what was to be done with them in relation to the whole was left to those individuals' opinion and pleasure. The *idealism* that constitutes sovereignty is the same determination through which, in the animal organism, its so-called *parts* are not parts but members, organic moments, whose isolation and independent existence are disease (see Encyklop. der phil. Wissensch. § 293). It is the same principle that appeared in the abstract concept of the will (see the following section, remark) as negativity relating to itself, and thus as universality *determining itself to individuality* (§ 7), in which all particularity and determinacy are sublated: the absolute, self-determining ground. To grasp this, one must in general have mastered the concept of what the substance and true subjectivity of the concept are. Because sovereignty is the ideality of all particular authorization, the misunderstanding readily arises—and is very common—that it is mere might and empty arbitrary choice, and that sovereignty is synonymous with despotism. But despotism designates in general the condition of lawlessness in which the particular will as such, whether that of a monarch or of a people—ochlocracy—counts as law, or rather in place of law. Sovereignty, by contrast, constitutes precisely in the lawful, constitutional condition the moment of the ideality of the particular spheres and functions: such a sphere is not something independent, self-subsisting in its purposes and modes of operation and absorbed only in itself, but is determined in those purposes and modes of operation by *the purpose of the whole*—what has in general been called, in a less definite expression, the *welfare of the state*—and dependent upon it. This ideality appears in two ways. In a *peaceful* condition the particular spheres and functions proceed along the path of satisfying their particular functions and purposes. Here it is partly only the unconscious *necessity* of the matter that turns their self-seeking into a contribution to mutual preservation and the preservation of the whole (see § 183); partly it is *direct intervention* from above that continually brings them back to the purpose of the whole and restricts them accordingly (see exec-

utive power, § 289), while also requiring them to make direct contributions toward this preservation. But in a condition of *emergency*, whether internal or external, it is sovereignty into whose simple concept the organism, subsisting there in its particularities, draws together, and to which the state's salvation is entrusted through the sacrifice of what is otherwise authorized. Here that idealism attains its distinctive actuality (see § 321 below).

Section 279

279 2) Sovereignty, initially only the *universal* thought of this ideality, exists only as *subjectivity* certain of itself, and as the abstract, and to that extent groundless, *self-determination* of the will in which the ultimate decision lies. This is the individual character of the state as such, which itself is *One* only in this. But subjectivity is in its truth only as a *subject*, personality only as a *person*; and in the constitution that has developed into real rationality, each of the three moments of the concept has its distinct shape, *actual in its own right*. This absolutely decisive moment of the whole is therefore not individuality in general, but *one* individual, the *monarch*.

The immanent development of a science, the *derivation of its entire content* from the simple concept—otherwise a science at least does not deserve the name of a philosophical science—has this distinctive character: the one and the same concept, here the will, which is abstract at the beginning because it is the beginning, maintains itself, but condenses its determinations, again only through itself, and in this way acquires a concrete content. Thus it is the fundamental moment of personality, at first abstract in immediate right, that has developed through its different forms of subjectivity and here, in absolute right, the state, the completely concrete objectivity of the will, is the *personality of the state*, its certainty *of itself*. This ultimate point sublates all particularities in the simple self, cuts short the weighing of grounds and countergrounds, between which one may always sway back and forth, resolves them through the “*I will*,”

and begins all action and actuality. But personality, and subjectivity in general, as the infinite that relates to itself, further has *truth*, and indeed its nearest immediate truth, only as a *person*, a subject existing for itself; and what exists for itself is likewise absolutely *One*. The personality of the state is actual only as one *person*, *the monarch*. Personality expresses the concept as such; the person also contains its actuality, and only with this determination is the concept Idea, truth. A so-called *moral person*—a society, community, or family—however concrete it may be within itself, has personality only as a moment, abstractly within it; in it, personality has not attained the truth of its existence. The state, however, is precisely this totality in which the moments of the concept attain actuality according to their distinctive truth. All these determinations have already been discussed, in themselves and in their shapes, throughout the course of this treatise. They have been repeated here because, although one readily grants them in their particular shapes, one fails to recognize and grasp them again precisely where they occur in their true position, not in isolation but in their truth as *moments* of the Idea. The concept of the monarch is therefore the most difficult concept for mere reasoning, that is, for the reflective consideration of the understanding, because this remains caught in isolated determinations and hence knows only grounds, finite points of view, and *deduction* from grounds. It therefore presents the monarch's dignity as something *derived*, not only in its form but in its determination. Rather, its concept is to be not something derived, but that which *begins absolutely from itself*. The conception that regards the monarch's right as founded on divine authority thus comes nearest to it, for this contains its unconditional character. But the misunderstandings that have attached themselves to this are well known, and the task of philosophical consideration is precisely to comprehend this divine character.

Popular sovereignty may be spoken of in the sense that a people is independent outwardly and constitutes a state of its own, as does the people of Great Britain, whereas the people of England, Scotland, Ireland, or Venice, Genoa, Ceylon, and so forth is no longer a sovereign people since it has ceased to have princes or supreme governments of its own. One may likewise say that *inward*

sovereignty resides in the people, provided one speaks only of the whole in general, just as it has been shown above (§§ 277–278) that sovereignty belongs to the *state*. But popular sovereignty, taken in opposition to the sovereignty existing in the *monarch*, is the usual sense in which people have begun to speak of popular sovereignty in recent times. In this opposition it belongs among the confused thoughts founded upon the chaotic conception of the people. The people, taken without its monarch and the *articulation* of the whole necessarily and immediately connected with him, is a formless mass, no longer a state, and possessing *none* of the determinations that belong only to a whole *formed within itself*: sovereignty, government, courts, authorities, estates, or whatever else. Once moments related to an organization, to the life of the state, emerge in a people, it ceases to be that indeterminate abstraction which in the merely general conception is called the *people*. If popular sovereignty means the *republican* form, and specifically democracy—for under the name republic one also comprehends various other empirical mixtures that in any case do not belong to philosophical consideration—then what is necessary has partly been said above, in the remark to § 273; and partly, in the face of the developed Idea, such a conception can no longer be discussed. In a people conceived neither as a patriarchal *tribe* nor in the undeveloped condition in which the forms of democracy or aristocracy are possible—see the same remark—nor otherwise in an arbitrary and inorganic condition, but as a totality developed within itself and truly organic, sovereignty exists as the personality of the whole, and this, in the reality appropriate to its concept, as the *person of the monarch*.

At the stage mentioned above, on which constitutions were divided into democracy, aristocracy, and monarchy—the standpoint of substantial unity still remaining within itself, which has not yet attained its infinite differentiation and deepening within itself—the moment of the *ultimate, self-determining decision of the will does not emerge as an immanent* organic moment of the state with a *distinctive actuality* of its own. Even in those less developed shapes of the state, an individual apex must always either be present in its own right, as in the monarchies belonging to this stage, or arise in statesmen and military commanders, as in aristocracies and above all democracies, contingently and

according to the *particular* need of *circumstances*. For every action and actuality has its beginning and execution in the decided unity of a leader. But, enclosed within the still compact union of the powers, such subjectivity of decision must be partly contingent in its origin and emergence, and partly subordinate altogether. Hence unmixed, pure decision, a fate determining from outside, could lie nowhere but beyond such conditioned apices. As a moment of the Idea it had to come into existence, but rooted outside human freedom and its sphere, which the state embraces. Here lies the origin of the need to obtain from *oracles*, from the daemon—in *Socrates*—from animals' entrails, from the feeding and flight of birds, and so forth, the *ultimate decision* on great affairs and the important moments of the state: a decision that human beings, not yet grasping the depth of self-consciousness, and having passed from the compactness of substantial unity to this division, did not yet have the strength to see *within* human being itself. In the *daemon of Socrates*—compare § 138 above—we may see the beginning of the will, which had previously placed itself only *beyond* itself, transferring itself into itself and recognizing itself within itself: the beginning of *self-knowing* and therefore genuine freedom. This real freedom of the Idea, since it consists precisely in giving each moment of rationality its own present, *self-conscious* actuality, thus assigns the ultimate self-determining certainty, which constitutes the apex in the concept of the will, to the function of one consciousness. But this ultimate self-determination can fall within the sphere of human freedom only insofar as it occupies the position of an apex *set apart in its own right* and *raised above all particularization and condition*; for only thus is it actual according to its concept.

Section 280

- 280 3) This ultimate self of the state's will is, in this abstraction of itself, simple and therefore *immediate individuality*. Its very concept thus contains the determination of *naturalness*. The monarch is therefore essentially determined as *this*

individual, abstracted from all other content; and this individual is determined to the dignity of monarch in an immediately natural way, through natural *birth*.

This transition from the concept of pure self-determination into the immediacy of being, and thus into naturalness, is purely speculative in character; knowledge of it therefore belongs to logical philosophy. Moreover, it is on the whole the same transition that is known as the nature of the will in general: the process of translating a content from subjectivity, as a represented purpose, into existence (§ 8). But the distinctive form of the Idea and of the transition considered here is the *immediate reversal* of the pure self-determination of the will—the simple concept itself—into a *This* and a natural existence, without mediation through a *particular* content, a purpose in action. In the so-called *ontological* proof of *God's* existence, it is this same reversal of the absolute concept into being that has constituted the depth of the Idea in the modern age, but which in the most recent age has been pronounced *incomprehensible*. In doing so, since only the unity of concept and existence is *truth* (§ 23), people have renounced knowledge of *truth*. Since the consciousness of the understanding does not contain this unity, and remains *at the separation* of the two moments of truth, it still perhaps allows a *belief* in that unity in the case of this object. But since the representation of the monarch is regarded as falling wholly within ordinary consciousness, the understanding here persists all the more firmly in its separation and in the conclusions of its argumentative cleverness that flow from it. It then denies that the moment of ultimate decision in the state is *in and for itself*—that is, in the rational concept—connected with immediate naturalness. From this it first infers that this connection is *contin- gent*; and, asserting the absolute difference of those moments as what is rational, it further infers that such a connection is irrational. From this follow the other consequences that shatter the Idea of the state.

Section 281

281 Both moments in their undivided unity—the ultimate, groundless self of the will and the equally groundless existence therewith, as a determination left to *nature*—this Idea of what is *unmoved* by arbitrary choice constitutes the *majesty* of the monarch. In this unity lies the *actual unity* of the state, which only through this inward and outward *immediacy* is removed from the possibility of being drawn down into the sphere of *particularity*, its arbitrary choice, purposes, and views; from the struggle of factions against factions for the throne; and from the weakening and destruction of the power of the state. The *right of birth and inheritance* constitutes the ground of *legitimacy*, a ground not merely in positive right but also in the Idea. That a firmly determined succession to the throne, that is, natural succession, prevents factions when the throne becomes vacant is an aspect that has long and rightly been advanced in favor of its hereditary character. Yet this aspect is only a consequence. Made into the *ground*, it drags majesty down into the sphere of mere reasoning and gives it, whose character is this groundless immediacy and ultimate being-within-itself, not the Idea of the state immanent in it, but something *outside it*, a thought distinct from it, perhaps the welfare of the *state or the people*, as its foundation. From such a determination its hereditary character can indeed be inferred through middle terms; but it also admits other middle terms, and thus other consequences—and it is only too well known what consequences have been drawn from this *welfare* of the people (*salut du peuple*). Hence philosophy *alone may* consider this majesty in thought; for every method of inquiry other than the speculative method of the infinite Idea, grounded within itself, in and for itself sublates the nature of majesty. An *elective monarchy* readily seems the *most natural* conception, that is, the one nearest to superficial thought. Since it is the people's affairs and interest that the monarch is to attend to, it would also have to be left to the people's choice

whom to entrust with attending to its welfare; only from this commission would the right to govern arise. This view, like the conceptions of the monarch as supreme state official, of a contractual relation between him and the people, and so forth, proceeds from the will as the *pleasure*, opinion, and arbitrary choice of the *Many*. As has long since been considered, this determination counts as primary in civil society, or rather only seeks to assert itself there; but it is neither the principle of the family, still less of the state, and is altogether opposed to the Idea of ethical life. That elective monarchy is, on the contrary, the worst of institutions follows even for mere reasoning from its *consequences*, which to such reasoning appear only as something *possible* and *probable*, but which in fact lie essentially within this institution. For in an elective monarchy the constitution becomes, through the nature of the relation in which the *particular* will is made the ultimate decider, an electoral capitulation, that is, a surrender of state power to the discretion of the particular will. From this follow the transformation of the particular powers of the state into private property, the weakening and loss of the sovereignty of the state, and thus its inward dissolution and outward destruction.

Section 282

282 From the monarch's sovereignty flows the right to pardon criminals; for to it alone belongs the actualization of spirit's power to undo what has happened, and to annihilate crime in forgiving and forgetting.

The right of pardon is one of the highest recognitions of the majesty of spirit. This right belongs, moreover, among applications or reflections of the determinations of the higher sphere upon an earlier one. Such applications, however, belong to the particular science that must treat its object in its empirical extent: compare § 270, remark. Such applications also include subsuming injuries to

the state in general, or to the sovereignty, majesty, and personality of the prince, under the concept of crime previously considered (§§ 95–102), and determining them as the *gravest* crimes, with special procedures, and so forth.

Section 283

²⁸³ The *second* moment contained in the princely power is the moment of *particularity*, or of determinate content and its subsumption under the universal. Insofar as it acquires a distinct existence, it consists in the highest advisory offices and individuals, who bring before the monarch for decision the content of current affairs of state, or of statutory provisions made necessary by existing needs, together with their *objective* aspects, the grounds for decision, the relevant laws, circumstances, and so forth. The selection of *individuals* for this work, and their removal, fall within his unrestricted choice, since their dealings are with the monarch's immediate person.

Section 284

²⁸⁴ Insofar as the *objective* element in a decision—the knowledge of its content and circumstances, the statutory and other determining grounds—is alone capable of *responsibility*, that is, of proof of objectivity, and can therefore belong to an advisory body distinct from the monarch's personal will as such, these advisory offices or individuals alone are subject to responsibility. The monarch's distinctive majesty, however, as the ultimate deciding subjectivity, is raised above all responsibility for acts of government.

Section 285

- ²⁸⁵ The *third* moment of the princely power concerns the universal in and for itself, which consists subjectively in the *monarch's conscience*, and objectively in the *whole* of the *constitution* and the laws. To this extent the princely power presupposes the other moments, just as each of them presupposes it.

Section 286

- ²⁸⁶ The *objective guarantee* of the princely power, of rightful succession according to the hereditary character of the throne, and so forth, lies in this: just as this sphere has its actuality distinct from the other moments determined by reason, so the others have, in their own right, the distinctive rights and duties of their determination. Each member, in preserving itself in its own right, thereby preserves the others in their distinctiveness within the rational organism.

To have developed the monarchical constitution into a hereditary succession firmly determined by primogeniture, so that it has thereby been led back to the patriarchal principle from which it historically proceeded, but in the higher determination of the absolute apex of an organically developed state, is one of history's later results. It is of the greatest importance for public freedom and a rational constitution, although, as noted above, even when it is respected it is often understood least of all. Former merely feudal monarchies, like despotisms, therefore display in history this alternation of revolts, acts of violence by princes, civil wars, the downfall of princely individuals and dynasties, and the resulting inward and outward universal devastation and destruction. For in such a condition the division of state affairs, whose parts are entrusted to vassals, pashas, and so forth, is merely mechanical: not a distinction of determination and form, but only a distinction of greater or lesser power. Thus each part,

in preserving itself, preserves and produces only *itself*, not the others along with it, and possesses all the moments completely within itself for an independent self-subsistence. In an organic relation, in which members, not parts, relate to one another, each preserves the others in fulfilling *its own* sphere; for each, *its own* preservation, and likewise the preservation of the *other* members, is its substantial purpose and product. The guarantees people ask for, whether for the stability of the succession, for princely power in general, for justice, public freedom, and so forth, are safeguards through *institutions*. The people's love, character, oath, force, and so forth may count as *subjective* guarantees; but where the *constitution* is in question, only *objective* guarantees are meant: institutions, that is, organically interwoven and mutually conditioning moments. Thus public freedom in general and the hereditary character of the throne are mutual guarantees and stand in an absolute connection, because public freedom is the rational constitution, and the hereditary character of princely power is, as has been shown, the moment lying in its concept.

Section 287

B. The Executive Power

- ²⁸⁷ Distinct from decision are the execution and application of princely decisions, and in general the continuation and maintenance of what has already been decided: the existing laws, arrangements, institutions for common purposes, and the like. This business of *subsumption* in general comprises the *executive power*, which also includes the *judicial* and *police* powers. These relate more immediately to the particular affairs of civil society and assert the universal interest within these purposes.

Section 288

²⁸⁸ The common *particular* interests that fall within civil society and lie outside the universal of the state itself, which is in and for itself (§ 256), are administered in the corporations (§ 251) of communities and other trades and estates, and by their authorities, directors, administrators, and the like. Insofar as the affairs they attend to are, on the one hand, the *private property* and *interest* of these *particular* spheres, and their authority in this respect also rests upon the confidence of their fellow members of the estate and their citizen bodies, while, on the other hand, these circles must be subordinate to the higher interests of the state, the filling of these offices will generally involve a mixture of ordinary election by those concerned with confirmation and determination by a higher authority.

Section 289

²⁸⁹ *Maintaining the universal interest of the state and legality* within these particular rights, and bringing these back to the former, requires attention by delegates of the executive power: *executive state officials* and the higher advisory authorities, constituted to that extent as boards, which converge in the highest offices in contact with the monarch.

Just as civil society is the battlefield of the individual private interest of all against all, here is the seat of the conflict of that interest against common particular affairs, and of these together with the former against the state's higher points of view and requirements. The spirit of the corporation, which arises in the authorization of the particular spheres, at the same time turns within itself into the spirit of the state, since it has in the state the means of preserving its particular purposes. This is the secret of the citizens' patriotism from this side:

they know the state as their substance because it preserves their particular spheres, their authorization and authority, and their welfare. Insofar as the spirit of the corporation immediately contains the *rooting of the particular in the universal*, it contains the depth and strength that the state possesses in *disposition*.

The administration of corporate affairs by their own directors will often be clumsy, since, though they know their distinctive interests and affairs, their knowledge and view of the connection with more remote conditions and universal points of view are less complete. Other circumstances also contribute, for example the directors' close private connection and equality in other respects with those who are also supposed to be subordinate to them, their manifold dependence, and so forth. Yet this sphere may be regarded as left to the moment of *formal freedom*: here one's own knowing, deciding, and executing, as well as petty passions and conceits, have an arena in which to indulge themselves. This is all the more so, the less important to the more universal affairs of the state is the content of the business, which is thereby spoiled, attended to less well, more laboriously, and so forth; and the more the laborious or foolish handling of such insignificant affairs stands in direct proportion to the satisfaction and opinion of oneself derived from it.

Section 290

²⁹⁰ The *division of labor* (§ 198) also enters the work of government. The *organization* of the authorities accordingly has the formal but difficult task of ensuring that, from below, where civil life is *concrete*, it is governed concretely, while this work is divided into its *abstract* branches and dealt with by distinct authorities as separate centers, whose activity converges again downward, as well as in the highest executive power, into a concrete overview.

Section 291

²⁹¹ Government business is *objective* in character, already decided in its substance (§ 287), and must be performed and actualized by *individuals*. There is no immediate natural connection between the two; individuals are therefore not destined to it by natural personality and birth. The objective moment in their appointment is knowledge and proof of their competence—a proof that secures for the state its need, and at the same time, as the sole condition, secures for every citizen the possibility of devoting himself to the universal estate.

Section 292

²⁹² The subjective side—that *this* individual is selected and appointed to an office, and authorized to conduct public business, out of *several* individuals, of whom there are necessarily an indeterminate number, since the objective element here does not lie in genius, as it does, for example, in art, and among whom preference cannot be absolutely determined—this connection of the individual with the office, as two sides always contingent in relation to one another in themselves, belongs to the princely power as the deciding and sovereign power of the state.

Section 293

²⁹³ The particular affairs of state that the monarchy entrusts to the authorities constitute part of the *objective* side of the sovereignty dwelling in the monarch. Their determinate *distinctions* are likewise given by the nature of the matter;

and just as the activity of the authorities is a fulfillment of duty, so their work is also a right removed from contingency.

Section 294

294 The individual connected with an official vocation through the sovereign act (§ 292) is directed to the fulfillment of his duty, the substantial element in his relation, as the condition of this connection. *As a consequence* of this substantial relation, he finds in it the means and secure satisfaction of his particularity (§ 264), and the liberation of his outward circumstances and official activity from other subjective dependence and influence.

The state does not count upon arbitrary services performed at pleasure—for example, justice administered by knights-errant—precisely because they are matters of pleasure and arbitrary choice, and reserve for themselves the performance of services according to subjective views, as well as their omission at pleasure and the pursuit of subjective purposes. The other extreme from the knight-errant, in relation to service of the state, would be that of a state servant attached to his service merely by need, without genuine duty and equally without right. Service of the state demands rather the sacrifice of the independent satisfaction of subjective purposes at pleasure, and precisely thereby gives the right to find their satisfaction in the dutiful performance of service, but only in it. From this side, here lies the connection of the universal and particular interest that constitutes the concept and inward stability of the state (§ 260). The official relation is likewise not a *contractual* relation (§ 75), although it involves consent on both sides and performance by both. The official is not engaged for an individual contingent service, like an agent entrusted with a commission, but places the chief interest of his spiritual and particular existence in this relation. Likewise, what he must perform and what is entrusted to him is not something external in its quality, a merely particular thing. The *value* of such a thing, as inward, is distinct from its externality and is not yet violated by failure

to perform what was stipulated (§ 77). But what the servant of the state must perform is, as it immediately stands, a value in and for itself. Wrong through failure to perform or through a positive violation—action contrary to duty, and both are of this kind—is therefore a violation of the universal content itself, compare § 95, a negatively infinite judgment, and hence a misdemeanor or even a crime. Through the secure satisfaction of particular need, the outward necessity that may prompt one to seek the means of satisfying it at the expense of official activity and duty is removed. Those entrusted with its business find in the universal power of the state protection against the other subjective side, against the private passions of the governed, whose private interest and so forth is offended by the assertion of the universal against it.

Section 295

²⁹⁵ The safeguard of the state and the governed against the abuse of power by the authorities and their officials lies, on the one hand, immediately in their hierarchy and responsibility, and on the other in the authorization of communities and corporations. Through this, the intrusion of subjective arbitrary choice into the power entrusted to officials is checked in its own right, and control from above, which does not reach down to individual conduct, is supplemented from *below*.

The conduct and education of officials are the point at which the laws and decisions of government touch individuality and are brought to bear in actuality. This is therefore the point upon which depend the citizens' satisfaction and trust in government, as well as the realization, or weakening and frustration, of its intentions: the *manner* of execution is readily rated as highly by feeling and disposition as the *content* of what is to be executed, which may in itself already contain a burden. The immediacy and personal character of this contact mean that control from above reaches its purpose less completely from this side. It may also encounter obstacles in the common interest of officials as an estate

uniting against both subordinates and superiors. Removing this, particularly where institutions are otherwise still less complete, requires and justifies the higher intervention of sovereignty—as, for example, that of *Frederick II* in the notorious case of the miller Arnold.

Section 296

²⁹⁶ That dispassion, integrity, and mildness of conduct should become *customary* depends partly upon *direct ethical and intellectual education*, which counterbalances spiritually the mechanical element and the like involved in learning the so-called sciences of these spheres, the necessary training in business, actual work, and so forth. The *size* of the state is also a principal moment: it weakens the weight of family and other private connections, and likewise makes revenge, hatred, and other such passions more powerless and hence more blunted. In attending to the great interests present in a great state, these subjective sides disappear of themselves, and the habit of universal interests, views, and affairs arises.

Section 297

²⁹⁷ The members of government and state officials constitute the principal part of the *middle estate*, in which the educated intelligence and consciousness of right of the mass of a people reside. The institutions of sovereignty from above and the rights of corporations from below prevent this estate from assuming the isolated position of an aristocracy, and prevent education and skill from becoming a means of arbitrary choice and domination.

Thus formerly the administration of justice, whose object is the distinctive interest of all individuals, transformed itself into an instrument of gain and domination by veiling knowledge of right in erudition and a foreign language,

and knowledge of legal procedure in convoluted formalism.

Section 298

C. The Legislative Power

- ²⁹⁸ The *legislative* power concerns the laws as such insofar as they require further determination, and those internal affairs that are wholly universal in content. This power is itself a part of the constitution, which is presupposed for it and which to that extent lies in and for itself outside its direct determination, but it receives its further development in the elaboration of the laws and the progressive character of the universal affairs of government.

Section 299

- ²⁹⁹ In relation to individuals, these objects are more closely determined along two sides: α) what accrues to them through the state and what they are to enjoy; and β) what they must render to it. The former includes the laws of private right in general, the rights of communities and corporations, and wholly universal arrangements, and indirectly (§ 298) the whole of the constitution. What must be rendered, however, can be determined justly, and at the same time in such a way that the *particular* labors and services an individual can perform are mediated through his arbitrary choice, only by being reduced to money, as the existing universal *value* of things and services.

What should be an object of universal legislation and what should be left to the determination of administrative authorities and the regulation of government in general can indeed be distinguished broadly: the former includes only what is wholly universal in the content of statutory provisions, the latter the particular and the manner of *execution*. But this distinction is not completely determinate, if only because the law, in order to be law rather than merely a command

in general—as “You shall not kill”; compare the remark to § 140, p. 144—must be *determined* within itself. Yet the more determinate it is, the nearer its content comes to being capable of execution as it stands. At the same time, determination carried so far would give laws an empirical side that would have to be subject to alteration in actual execution, which would detract from their character as laws. The organic unity of the powers of the state itself entails that it is one spirit that establishes the universal and brings it to its determinate actuality and carries it out. At first it may seem striking that, of the many skills, possessions, activities, talents, and infinitely manifold living *capacities* lying within them, which are also connected with disposition, the state demands no direct service, but lays claim only to the *one* capacity that appears as *money*. Services relating to defense of the state against enemies belong to the duty of the following division. Yet money is in fact not one particular capacity beside the others, but their universal, insofar as they produce themselves in the externality of existence in which they can be grasped as a *thing*. Only at this most external point are *quantitative* determinacy, and hence justice and equality in contributions, possible. *Plato*, in his state, has superiors assign individuals to particular estates and impose their *particular* services upon them—compare § 185, remark. In feudal monarchy, vassals had to perform services that were indeterminate, but also *particular* in character, such as judicial office and so forth. The services in the East, in Egypt for its immeasurable architectural works and so forth, are likewise of a *particular* quality, and so on. These relations lack the principle of *subjective freedom*: the individual’s substantial activity, which in such services is in any case particular in content, should be mediated through his *particular will*. This right is possible only through the demand for contributions in the form of universal value, and it is the ground that has brought about this transformation.

Section 300

- 300 In the legislative power as a totality, the other two moments are active first: the *monarchical* moment, to which the ultimate decision belongs; the *executive power*, as the advisory moment possessing concrete knowledge and oversight of the whole in its manifold aspects and the actual principles that have become firmly established within it, as well as knowledge of the needs of state power in particular; and finally, the element of the *estates*.

Section 301

- 301 The determination of the element of the *estates* is that the universal concern should come to existence within it not only *in itself* but also *for itself*: that is, the moment of subjective *formal freedom*, public consciousness as the *empirical universality* of the views and thoughts of the *Many*.

The expression “the *Many*” (οἱ πολλοί) designates empirical universality more correctly than the current expression “*All*.” For if it is said that it is self-evident that among these *All* at least children, women, and so forth are not initially meant, then it is still more self-evident that one should not use the wholly determinate expression “*All*” where something still quite indeterminate is in question. So indescribably many crooked and false conceptions and expressions about the people, constitution, and estates have entered the circulation of opinion that it would be a futile labor to try to list, discuss, and correct them. The conception ordinary consciousness tends first to have before it concerning the necessity or usefulness of the participation of estates is chiefly that the deputies from the people, or even the people itself, must *best understand* what serves its welfare, and that it has the undoubtedly best will for this welfare. As for the former, the opposite is rather the case: the people, insofar as this word designates a

particular part of the members of a state, expresses the part that *does not know what it wills*. To know what one wills, and still more what the will that is in and for itself—reason—wills, is the fruit of profound knowledge and insight, which is precisely not the people's affair. On some reflection, the guarantee for the universal welfare and public freedom that lies in the estates is not found in their particular insight: the highest state officials necessarily have deeper and more comprehensive insight into the nature of the arrangements and needs of the state, as well as greater skill and familiarity with these affairs, and *can* do what is best without estates, just as they must continually do what is best at the assemblies of estates. Rather, it lies partly in an additional insight provided by the deputies, chiefly into the activities of officials more remote from the eyes of higher authorities, and in particular into more urgent and specific needs and deficiencies, which they have before them in concrete intuition. Partly, however, it lies in the effect of the expected censure of the Many, a public censure: this induces those concerned to apply their best insight in advance to the business and proposed drafts, and to arrange them only in accordance with the purest motives—a pressure that operates just as much upon the members of the estates themselves. But as for the especially *good will* of the estates toward the universal welfare, it has already been remarked above (§ 272, remark) that to presuppose an evil or less good will in government belongs to the outlook of the rabble, to the standpoint of the negative in general. If answered in the same form, this presupposition would produce the countercharge that the estates, since they come from individuality, the private standpoint, and particular interests, might be inclined to use their activity on behalf of these at the expense of the universal interest, whereas the other moments of state power are already placed, in their own right, at the standpoint of the state and devoted to the universal purpose. As for the guarantee in general that is supposed to lie particularly in the estates, every other institution of the state shares with them in being a guarantee of public welfare and rational freedom. Among them are institutions, such as the monarch's sovereignty, the hereditary succession to the throne, the constitution of the courts, and so forth, in which this guarantee lies to a much stronger degree. The distinctive conceptual determination of the

estates must therefore be sought in this: within them the subjective moment of universal freedom—the individual insight and will of the sphere called civil society in this exposition—comes *into existence in relation to the state*. That this moment is a determination of the Idea developed into a totality—this inward necessity, which must not be confused with *external necessities* and *utilities*—follows, here as everywhere, from the philosophical point of view.

Section 302

³⁰² Considered as a *mediating* organ, the estates stand between the government in general on the one side and the people dissolved into particular spheres and individuals on the other. Their determination demands of them the sense and *disposition* of the state and government as much as of the *interests* of *particular* circles and *individuals*. At the same time, this position has the meaning of a mediation common to them and the organized executive power: the princely power must neither be isolated as an *extreme*, and thereby appear as mere domination and arbitrary choice; nor must the particular interests of communities, corporations, and individuals be isolated; still less must individuals come to present themselves as a *multitude* and a *heap*, with a correspondingly inorganic opinion and will, and as merely massive force against the organic state. It belongs among the most important logical insights that a determinate moment which, as standing in opposition, occupies the position of an extreme, ceases to be such and is an *organic* moment through being at the same time a *middle* term. In the object considered here it is all the more important to emphasize this aspect, because it is a frequent but highly dangerous prejudice to represent the estates chiefly from the standpoint of *opposition* to the government, as if this were their essential position. The element of the estates proves itself organic, that is, taken up into the totality, only through the function of mediation. Opposition itself is thereby reduced to a semblance. If, insofar as it appears, it did not merely touch the surface but really became a substantial

opposition, the state would be in the course of its downfall. By the nature of the matter, the sign that a conflict is not of this kind is that its objects concern not the essential elements of the state's organism but more specialized and indifferent things, and that the passion which nonetheless attaches to this content becomes partisanship for a merely subjective interest, perhaps the higher offices of state.

Section 303

303 The *universal* estate, more particularly devoted to the service of *government*, has immediately in its determination the universal as the purpose of its essential activity. In the element of the *estates* within the legislative power, the *private estate* acquires *political significance* and efficacy. It can appear here neither as a mere undifferentiated mass nor as a multitude dissolved into its atoms, but only as *what it already is*: distinguished into the estate founded upon the substantial relation and the estate founded upon particular needs and the labor mediating them (§ 201 ff.). Only thus, in this respect, is the *particular* actually present in the state truly connected with the universal.

This runs counter to another current conception: that when the private estate is raised to participation in the universal concern within the legislative power, it must appear in the form of *individuals*, whether they elect representatives for this function or even each exercise a vote himself. This atomistic, abstract view already disappears in the family as in civil society, where the individual appears only as a member of a universal. But the state is essentially an organization of members that are *themselves circles*, and no moment within it should appear as an inorganic multitude. The *Many* as individuals, which people like to understand by the people, are indeed a *togetherness*, but only as a *multitude*—a formless mass whose movement and activity would thereby be merely elemental, irrational, wild, and terrible. Whenever one still hears talk of the people, this inorganic entirety, in relation to the constitution, one may know in advance

that only generalities and crooked declamations are to be expected. The conception that dissolves the communities already present in those circles back into a multitude of individuals when they enter the political sphere, that is, the standpoint of the *highest concrete universality*, thereby keeps civil and political life separate and leaves the latter, so to speak, hanging in the air, since its basis would be only the abstract individuality of arbitrary choice and opinion, hence the contingent, not a foundation firm and *authorized* in and for itself. Although in the conceptions of so-called theories the *estates of civil society* in general and the *estates* in the *political* sense lie far apart, language has nonetheless preserved this union, which was in any case present formerly.

Section 304

304 The political element of the estates also contains, in its own determination, the distinction of estates already present in the earlier spheres. Its initially abstract position, namely that of the *extreme of empirical universality* against the *princely* or *monarchical principle* in general—a position containing only the *possibility* of agreement, and thereby equally the *possibility of hostile* opposition—becomes a rational relation, a syllogism, compare the remark to § 302, only through its *mediation* coming into existence. Just as the executive power on the side of the princely power already has this determination (§ 300), so on the side of the estates a moment of them must also be directed toward the determination of existing essentially as the moment of the middle term.

Section 305

305 One of the estates of civil society contains the principle that is in itself capable of being constituted for this political relation: the estate of natural ethical life. Its basis is family life and, as regards subsistence, landed property; thus, in

respect of its particularity, it has a willing that rests upon itself and shares with the princely element the determination of nature contained within that element.

Section 306

306 For its political position and significance this estate is more closely constituted in so far as its property is established as independent of the property of the state no less than of the uncertainty of trade, the lust for profit, and the changeability of possession generally—and, just as it is secured against the favor of the executive power, so it is secured against the favor of the multitude, and even against *one's own arbitrary choice*—by this: that the members of this estate who are called to this vocation are denied the right of other citizens, partly to dispose freely of their whole property, partly to know it as passing to their children in accordance with an equal love for them; and so the property becomes an *inalienable entailed estate*, burdened with primogeniture.

Section 307

307 The right of this part of the substantial estate is thus founded, on one side, on the natural principle of the family, yet this principle is at the same time inverted by hard sacrifices made for the *political purpose*. By this the estate is essentially directed to activity for that purpose, and in consequence is likewise called to it and *entitled* to it by *birth*, without the contingency of an election. It thereby has a firm, substantial position between the subjective arbitrary choice, or contingency, of the two extremes; and as it bears within itself (see the preceding §) a likeness of the moment of the princely power, so it also shares with the other extreme the needs, otherwise the same, and the rights, likewise the same, and thus becomes at once a support of the throne and of society.

Section 308

308 Into the other part of the estates element falls the *mobile* side of *civil society*, which, externally because of the multitude of its members, but essentially because of the nature of its vocation and occupation, can enter only through *deputies*. In so far as these are deputed by civil society, it lies immediately at hand that civil society does this as *what it is*—thus not as dissolved atomistically into individuals and gathering for a moment, without further hold, only for a single and temporary act, but as articulated into its already constituted associations, communities and corporations, which in this way acquire a political connection. In their entitlement to such a deputation, summoned by the princely power, as in the entitlement of the first estate to appear (§ 307), the existence of the estates and of their assembly finds a constituted, distinctive guarantee.

That *all* individually should have a share in deliberating and deciding on the universal affairs of the state, because *all* are members of the state and its affairs are the affairs of *all*, in which they have a *right* to take part with their knowledge and will—this notion, which would set the *democratic* element *without any rational form* into the organism of the state, which is an organism only through such form, lies so near at hand because it stops at the *abstract* determination of being a member of the state, and superficial thinking holds to abstractions. Rational consideration, the consciousness of the Idea, is *concrete*, and to that extent coincides with the truly *practical* sense, which is itself nothing other than rational sense, the sense of the Idea—a sense, however, which is not to be confused with mere routine of business and the horizon of a limited sphere. The concrete state is the *whole articulated into its particular circles*; the member of the state is a *member* of such an *estate*; only in this his objective determination can he come into consideration in the state. His universal determination in general contains the twofold moment of being a *private person*

and, as *thinking*, no less consciousness and will of the *universal*; but this consciousness and will is not empty, and is instead *fulfilled* and actually *alive*, only when it is filled with particularity—and this is the particular estate and vocation; or the individual is a *species*, but has his *immanent* universal *actuality* as the *proximate* species. Hence he attains his actual and living determination for the *universal* first of all in his sphere of the corporation, the community and so on (§ 251), where it is left open to him, through his skill, to enter any for which he qualifies himself, including the universal estate. Another presupposition, lying in the notion that *all* should take part in the affairs of the state, namely that *all understand these affairs*, is as preposterous as it is nevertheless often heard. In public opinion (see § 316), however, the way is open to everyone to express and assert his subjective opinion on the universal as well.—

Section 309

- 309 Since the deputation takes place for deliberating and deciding on the *universal* affairs, it has the sense that, through trust, such individuals are designated for it as understand these affairs better than those who depute them, and also that they assert, not the particular interest of a community or corporation against the universal, but essentially the latter. They are therefore not in the relation of being committed mandatories or bearers of instructions, all the less since the meeting has the vocation of being a living assembly, which instructs and convinces its members reciprocally and deliberates in common.

Section 310

- 310 The guarantee of the qualities and the disposition corresponding to this purpose—since independent property already demands its right in the first part of the estates—shows itself in the second part, which issues from the mobile and

changeable element of civil society, chiefly in the disposition, skill and knowledge of the institutions and interests of the state and of civil society, acquired through *actual* conduct of business in *magisterial* or *state offices* and proved *by deed*, and in the *magisterial sense and sense of the state* thereby formed and tested.

Subjective opinion of oneself readily finds the demand for such guarantees superfluous, even offensive, when it is made with regard to the so-called people. But the state has as its vocation the objective, not a subjective opinion and its self-confidence; individuals can be for it only what is objectively recognizable and tested in them, and it has all the more to look to this in this part of the estates element, as that part has its root in interests and occupations directed to the particular, where contingency, changeability and arbitrary choice have their right to range freely. — The external condition, a certain property, taken merely by itself, appears as the one-sided extreme of externality over against the other, equally one-sided extreme, the merely subjective trust and opinion of the electors. The one as much as the other, in its abstraction, forms a contrast with the concrete qualities required for deliberating on affairs of state, which are contained in the determinations indicated in § 302. — Besides, in the election to magisterial and other offices of the associations and communities, the quality of property has already had the sphere in which it could exercise its effect, especially when many of these functions are administered without pay, and directly with regard to the business of the estates, when the members receive no salary. —

Section 311

- ³¹¹ The deputation, as proceeding from civil society, has further the sense that the deputies are acquainted with its special needs, obstacles and particular interests, and belong to it themselves. Since, according to the nature of civil society, it proceeds from its various corporations (§ 308), and the simple manner of this

course is not disturbed by abstractions and atomistic notions, it thereby fulfills that point of view immediately, and electing is either altogether something superfluous or reduces itself to a slight play of opinion and arbitrary choice. — It suggests itself that among the deputies there should be, for each particular great branch of society, for example for commerce and for manufactures and so on, individuals who know it thoroughly and belong to it themselves; in the notion of a loose, indeterminate electing, this important circumstance is abandoned to contingency. Each such branch, however, has the same right as the others to be represented. If the deputies are regarded as *representatives*, this has an organically rational sense only if they are not *representatives* as of individuals, of a multitude, but representatives of one of the essential *spheres* of society, representatives of its great interests. Representing thus no longer has the meaning that one is *in the place of another*; rather the interest itself is *actually present* in its representative, just as the representative is there for his own objective element. — Of election by the many individuals it may further be remarked that, particularly in large states, *indifference* toward casting one's vote necessarily sets in, since in the multitude it has an insignificant effect, and those entitled to vote, however high this entitlement may be rated and represented to them, simply do not appear to cast their votes; — so that from such an institution the opposite of its vocation rather results, and the election falls into the power of a few, of a party, and so of the particular, contingent interest which was precisely to be neutralized.

Section 312

- ³¹² Of the two sides contained in the estates element (§§ 305, 308), each brings a particular modification into the deliberation; and since, moreover, the one moment has the distinctive function of mediation within this sphere, and indeed between existing things, a separate existence results for it likewise; the assembly of estates will therefore divide into *two chambers*.

Section 313

- ³¹³ By this separation not only does the maturity of decision gain greater security through a plurality of *instances*, and the contingency of a mood of the moment be removed, as well as the contingency which decision by a majority of votes can take on, but above all the estates element is less likely to come to stand directly opposed to the government; or, if the mediating moment also finds itself on the side of the second estate, the weight of its view is strengthened all the more, in that it so appears more impartial and its opposition neutralized.

Section 314

- ³¹⁴ The institution of estates does not have the vocation of ensuring that the affairs of the state are deliberated and decided *in themselves* in the best possible way; in that respect they constitute only an addition (§ 301). Their distinguishing vocation consists in this: that in their co-knowing, co-deliberating and co-deciding on the universal affairs, with regard to those members of civil society who have no share in the government, the moment of *formal* freedom attains its right. Hence the moment of *universal* knowledge first receives its extension through the *publicity* of the proceedings of the estates.

Section 315

- ³¹⁵ The opening of this opportunity for knowledge has the more general side that thereby *public* opinion first arrives at *true thoughts* and at *insight* into the condition and concept of the state and its affairs, and so first at a *capacity to judge of them more rationally*; and then also learns to know and to respect the business,

the talents, virtues and skills of the state authorities and officials. As these talents obtain in such publicity a powerful opportunity for development and a stage of high honor, so publicity is in turn the remedy against the self-conceit of individuals and of the multitude, and a means of education for them, and indeed one of the greatest.

Section 316

- 316 The formal subjective freedom that individuals as such have and express their *own* judgment, opinion and counsel on universal affairs has its appearance in that togetherness which is called *public* opinion. What is universal in and for itself, the *substantial* and the true, is here bound up with its opposite, the *peculiar* and *particular* for itself in the opinion of the many; this existence is therefore the present contradiction of itself—knowing as *appearance*; essentiality just as immediately as inessentiality.

Section 317

- 317 Public opinion therefore contains within itself the eternal substantial principles of justice, the true content and the result of the whole constitution, legislation and universal condition in general, in the form of *healthy common sense*, as the ethical foundation that runs through everyone in the shape of prejudices, as well as the true needs and correct tendencies of actuality. — At the same time, as this inner content enters consciousness and comes to representation in universal propositions, partly for itself, partly for the purposes of concrete reasoning about the events, arrangements and relations of the state and felt needs, the whole contingency of opinion enters, with its ignorance and perversity, its false knowledge and judgment. Since what matters here is the consciousness of the *peculiarity* of a view and a knowledge, an opinion is the more peculiar the

worse its content is; for the bad is what is wholly particular and peculiar in its content, while the rational is what is universal in and for itself, and the *peculiar* is that on which opinion *prides itself*.

It is therefore not to be taken for a difference of subjective view when at one time it is said,

Vox populi, vox dei (the voice of the people is the voice of God);

and at another (in Ariosto, for example):

Che'l Volgare ignorante ogn' un riprenda

E parli più di quel che meno intenda.

(Let the ignorant mob censure everyone, and speak most of what it least understands.)

Or in *Goethe*:

The mass can strike a blow,

There it is respectable;

Judging is something it does miserably.

Both lie together in public opinion. — Since truth and endless error are so immediately united in it, neither the one nor the other is truly in earnest. What is in earnest may seem hard to distinguish; and in fact it will be so, if one holds to the *immediate utterance* of public opinion. But since the substantial is its inner content, it is only with this that it is truly in earnest; yet this cannot be known from public opinion, but, precisely because it is the substantial, only from and for itself. Whatever passion may be put into what is opined, and however earnestly it may be asserted or attacked and fought over, this is no criterion of what in fact is at stake; but this opining would least of all let itself be persuaded that its earnestness is nothing earnest. — A great mind once put to public answer the question whether it is *permitted to deceive a people*. One had to answer that a people cannot be deceived about its substantial foundation, the *essence* and determinate character of its spirit, but that about the way in which it knows this, and judges its actions, events and so on according to this way, it is deceived *by itself*. —

Section 318

- 318 Public opinion therefore deserves to be *respected* just as much as to be *despised*: the latter in respect of its concrete consciousness and expression, the former in respect of its essential foundation, which, more or less clouded, only shines through in that concrete. Since it has within itself neither the standard of distinction nor the capacity to raise the substantial side into determinate knowledge, independence of it is the first formal condition of anything great and rational (in actuality as in science). The great and rational, for its part, may be certain that public opinion will afterward put up with it, acknowledge it, and make it one of its prejudices.

Section 319

- 319 The freedom of public communication—(one means of which, the *press*, has over the other, the spoken word, the advantage of far-reaching contact, but falls short of it in liveliness)—the satisfaction of that tingling urge to say one's opinion and to have said it, has its direct safeguard in the police and legal statutes and ordinances which partly prevent and partly punish its excesses; its indirect safeguard, however, lies in its harmlessness, which is grounded chiefly in the rationality of the constitution and the stability of the government, then also in the publicity of the assemblies of estates—in the latter, in so far as in these assemblies solid and cultivated insight into the interests of the state is expressed and leaves little of any importance for others to say, and above all the opinion is taken from them that such saying is of peculiar importance and effect—and further in the indifference and contempt toward shallow and spiteful talk, to which it has necessarily soon brought itself down.

To define freedom of the press as the freedom to speak and write *what one wants* is parallel to giving freedom in general as the freedom *to do what one wants*. — Such talk belongs to the wholly uncultivated crudeness and superficiality of representation. Moreover, by the nature of the matter, there is nowhere that formalism holds on so stubbornly and lets itself be persuaded so little as in this subject. For the object is the most fleeting, the most contingent, the most particular, the most contingent of opinions, in infinite variety of content and turns of phrase; beyond direct incitement to theft, murder, rebellion and so on lies the art and cultivation of expression, which for itself appears wholly universal and indeterminate, but partly at the same time conceals a quite determinate meaning, partly is connected with consequences that are not actually expressed and of which it is indeterminable both whether they follow correctly and whether they are meant to be contained in that expression. This indeterminability of matter and form prevents the laws on the subject from attaining the determinateness that is demanded of law, and, since offense, wrong and injury here have the most particular, *most subjective* shape, makes the judgment likewise a wholly *subjective* decision. Besides, the injury is directed at the thoughts, the opinion and the will of others; these are the element in which it obtains an actuality; but this element belongs to the freedom of others, and it therefore depends on them whether that injurious action is an actual deed. — Against the laws, therefore, their indeterminacy can be pointed out, and turns and shapings of expression can be invented for the utterance by which the laws are evaded or the judicial decision is made out to be a subjective judgment. Further, if the utterance is treated as an *injurious deed*, it can be asserted against this that it is no deed, but only an *opining* and *thinking*, and only a *saying*; so in one breath, from the mere subjectivity of content and form, from the *insignificance and unimportance* of a mere opining and saying, *impunity* for it is claimed, and for this very opining, as being my own and indeed most *spiritual* property, and for the saying, as the expression and use of this my property, *high respect and regard* is demanded. — But the substantial point is and remains that violation of the honor of individuals in general, slander, abuse, the bringing of the government, its authorities and officials, of the

person of the prince in particular, into contempt, derision of the laws, incitement to rebellion and so on are crimes and offenses of the most manifold gradations. The greater indeterminability which such actions receive from the element in which they find their expression does not cancel that substantial character of theirs, and has therefore only the consequence that the *subjective* ground on which they are committed also determines the *nature and shape of the reaction*; it is this ground of the offense itself which, in the reaction, whether this be determined as police prevention of crimes or as actual punishment, makes subjectivity of view, contingency and the like into necessity. Formalism here, as always, sets about reasoning away the substantial and concrete nature of the matter by means of *single* aspects belonging to external appearance, and of abstractions which it draws from them. — The *sciences*, however, since, if they are indeed sciences, they are not on the ground of opinion and subjective views at all, and since their exposition consists not in the art of turns of phrase, of allusion, of half-saying and concealing, but in the unequivocal, determinate and open stating of meaning and sense, do not fall under the category of what constitutes public opinion (§ 316). — Moreover, since, as remarked above, the element in which views and their utterances become, as such, an *executed action* and attain their actual existence is the intelligence, the principles, the opinions of others, this side of the actions, their proper effect and the *dangerousness* for individuals, society and the state (compare § 218), also depends on the constitution of this ground, as a spark thrown on a heap of powder has a wholly different dangerousness than on solid earth, where it vanishes without a trace. — Just as scientific utterance, therefore, has its right and its safeguard in its subject matter and content, so the wrong of an utterance can also find a safeguard, or at least toleration, in the contempt into which it has put itself. A part of such offenses, though punishable by law in themselves, can be set down to the account of that kind of *Nemesis* which inner impotence, feeling itself oppressed by superior talents and virtues, is driven to exert, in order to come to itself against such superiority and to give back to its own nothingness a self-consciousness; as the Roman soldiers, in the triumphal procession, exercised a more harmless Nemesis on their imperators with mock-

ing songs, for the hard service and obedience, above all because their name did not count in that honor, and so set themselves in a kind of equilibrium with them. That bad and spiteful Nemesis is robbed of its effect by contempt, and thereby, like the public that may form a circle about such busyness, is confined to meaningless malicious joy and to the perdition which it bears within itself.

Section 320

320 *Subjectivity*, which has its *most external* appearance as the dissolution of the existing life of the state in the opining and reasoning that would assert its own contingency and in doing so destroys itself, has its true actuality in its opposite, *subjectivity* as identical with the substantial will, which constitutes the concept of the princely power, and which, as the *ideality* of the whole, has not yet in what has gone before come to its right and existence.

Section 321

321 II. Sovereignty toward the Outside.

Sovereignty inwardly (§ 278) is this ideality in so far as the moments of spirit and of its actuality, the state, are unfolded in their necessity and subsist as its members. But spirit, as in freedom an infinitely negative relation to itself, is just as essentially being-for-itself, which has taken the subsisting difference into itself and is thereby exclusive. In this determination the state has *individuality*, which is essentially as an individual, and in the sovereign as an actual, immediate individual (§ 279).

Section 322

³²² Individuality, as exclusive being-for-itself, appears as a relation to other states, each of which is independent of the others. Since in this independence the being-for-itself of the actual spirit has its existence, it is the first freedom and the highest honor of a people.

Those who speak of wishes on the part of a collective body that constitutes a more or less independent state and has a center of its own—wishes to lose this center and its independence in order to form one whole with another—know little of the nature of a collective body and of the self-feeling which a people has in its independence. — The first power in which states appear historically is therefore this independence in general, even if it is quite abstract and has no further inner development; it therefore belongs to this original appearance that an individual stands at its head, a patriarch, a tribal chief and so on.

Section 323

³²³ In *existence* this *negative* relation of the state to itself thus appears as the relation of one *other* to another, and as if the negative were something *external*. The existence of this negative relation therefore has the shape of an occurrence and of entanglement with contingent events that come from *outside*. But it is the state's highest *own* moment—its actual infinity as the ideality of everything finite in it—the side in which substance, as the absolute power over everything single and particular, over life, property and its rights, as over the wider circles, brings the nothingness of these into existence and consciousness.

Section 324

324 This determination, with which the interest and the right of individuals is posited as a vanishing moment, is at the same time the *positive* of their individuality, which is not contingent and changeable but *in and for itself*. This relation, and the recognition of it, is therefore their substantial duty—the duty of preserving, through danger and the sacrifice of their property and life, to say nothing of their opinion and all that is by itself comprised in the compass of life, this substantial individuality, the *independence* and sovereignty of the state. It is a very skewed calculation when, in demanding this sacrifice, the state is regarded only as civil society and its final end only as the safeguarding of the life and property of individuals; for this security is not attained by the sacrifice of what is to be *secured*—on the contrary. — In what has been said lies the ethical *moment of war*, which is not to be regarded as an absolute evil and as a merely external contingency, having its likewise contingent ground in whatever it may be, in the passions of the powerful or of peoples, in injustices and so on, in short in what ought not to be. What is of the nature of the contingent is visited by the contingent, and this fate is therefore itself necessity—as in general the concept and philosophy make the standpoint of mere contingency vanish and recognize in it, as *semblance*, its essence, necessity. It is *necessary* that the finite, property and life, be *posited* as contingent, because this is the concept of the finite. This necessity has on one side the shape of natural force, and everything finite is mortal and transient. But in the ethical essence, the state, this force is taken away from nature, and necessity is raised to a work of freedom, to something ethical; — that transience becomes a passing away that is *willed*, and the underlying negativity becomes the substantial own individuality of the ethical essence. — War, as the condition in which the vanity of temporal goods and things, otherwise a pious phrase, is taken seriously, is thus the moment in which the ideality of the particular receives its right and becomes actuality; — it

has the higher meaning that through it, as I have expressed it elsewhere, “the ethical health of peoples is preserved in their indifference to the hardening of finite determinacies, just as the movement of the winds preserves the sea from the putrefaction into which lasting calm would bring it, as lasting or indeed eternal peace would bring peoples.” — That this is, incidentally, *only* a philosophical idea, or, as it is otherwise put, a justification of *providence*, and that actual wars require a further justification, will be treated afterwards. — That the ideality which comes to appearance in war, as lying in a contingent relation toward the outside, and the ideality according to which the inner powers of the state are organic moments of the whole, are the same, appears in historical manifestation among other forms in this, that successful wars have prevented internal unrest and strengthened the inner power of the state. That peoples who would not or feared to endure sovereignty inwardly have been subjugated by others, and have striven for their independence with the less success and honor the less it was possible inwardly to arrive at a first establishment of the power of the state (—their freedom died of the fear of dying—); — that states which have the guarantee of their independence not in their armed power but in other considerations (as, for example, states disproportionately small in comparison with their neighbors) can subsist with an internal constitution that by itself would guarantee neither tranquility within nor without, and so on — are phenomena that belong precisely here.

Section 325

- 325 Since the sacrifice for the individuality of the state is the substantial relation of *all* and hence a *universal duty*, it becomes at the same time, as the *one side* of ideality over against the reality of particular subsistence, itself a particular relation, and a special estate, the *estate of bravery*, is devoted to it.

Section 326

³²⁶ Disputes between states may have as their object some *particular* side of their relation; for such disputes the *particular* part devoted to the defense of the state also has its chief vocation. But in so far as the state as such, its independence, comes into danger, duty summons all its citizens to its defense. When the whole has thus become power, and has been torn out of its inner life into itself, outward, the war of defense passes over into a war of conquest.

That the armed force of the state, a *standing army*, and the destination to the particular business of its defense becomes an *estate* is the same necessity by which the other particular moments, interests and businesses become a marriage estate, estates of trade, of the state, of business and so on. Reasoning, which goes back and forth over grounds, loses itself in considerations of the greater advantages or the greater disadvantages of introducing standing armies, and opinion gladly decides for the latter, because the concept of the matter is harder to grasp than single and external sides, and then because the interests and purposes of particularity (the costs with their consequences, greater taxes and so on) are rated higher in the consciousness of civil society than what is necessary in and for itself, which in this way counts only as a means for those.

Section 327

³²⁷ Bravery is for itself a *formal virtue*, because it is the highest abstraction of freedom from all particular purposes, possessions, enjoyment and life, but this negation in an *externally actual* way, and the relinquishment, as *accomplishment*, is not in itself of a spiritual nature; the inner disposition may be this ground or that, and its actual result also cannot be *for itself* and can be only for others.

Section 328

328 The substance of bravery as a disposition lies in the true absolute final end, the *sovereignty* of the state; — the *actuality* of this final end, as the work of bravery, has the surrender of personal actuality as its mediation. This shape therefore contains the harshness of the highest oppositions, but the *relinquishment* itself as the *existence* of freedom; — the highest *independence* of being-for-itself, whose *existence* is at the same time in the mechanism of an *external order and of service*, — complete obedience and putting aside of one's own opining and reasoning, thus the *absence* of one's own spirit, and the most intense and comprehensive momentary *presence* of spirit and resolution; — the most hostile and at the same time most personal action against individuals, with a perfectly indifferent, even kind, disposition toward them as individuals.

To risk one's life is indeed more than merely to fear death, but is thus the merely negative, and therefore has no determination and worth for itself; — the positive, the purpose and content, first gives this courage its meaning; robbers, murderers with a purpose that is a crime, adventurers with a purpose made up in their own opinion, and so on, also have that courage to risk their lives. — The principle of the modern world, *thought* and the *universal*, has given bravery the higher shape in which its expression seems more mechanical and not the doing of this *particular* person but only of a *member* of a whole, — likewise in which it is turned not against single persons but against a hostile whole in general, so that personal courage appears as impersonal. That principle has therefore invented the *firearm*, and it is not a contingent invention of this weapon that has transformed the merely personal shape of bravery into the more abstract.

Section 329

- 329 The state has its direction outward in being an individual subject. Its relation to others therefore falls to the *princely power*, to which it consequently belongs immediately and alone to command the armed force, to maintain relations with the other states through envoys and so on, and to conclude war and peace and other treaties.

Section 330

- 330 B. External Constitutional Law.
External constitutional law proceeds from the relation of independent states; what is *in and for itself* in it therefore receives the form of the *ought*, because its being actual rests on *distinct sovereign wills*.

Section 331

- 331 The people as state is spirit in its substantial rationality and immediate actuality, and is therefore the absolute power on *earth*; each state is consequently in sovereign independence over against the others. To be *for another* as such, that is, to be *recognized* by it, is its first absolute entitlement. But this entitlement is at the same time merely formal, and the demand for recognition of the state, simply because it is a state, is abstract; whether it is in fact such a being in and for itself depends on its content, its constitution, its condition, and recognition, since it contains an identity of both, rests just as much on the view and the will of the other.

Just as the individual is not an actual person without relation to other persons (§ 71 and elsewhere), so the state is not an actual individual without relation to other states (§ 322). The legitimacy of a state, and more precisely, insofar as it is turned outward, of its princely power, is on the one hand a relation that refers wholly *inward* (a state should not meddle in the internal affairs of another)—on the other hand it must just as essentially be *completed* by the recognition of the other states. But this recognition demands a guarantee that the state will likewise recognize those others who are to recognize it, that is, that it will respect them in their independence; and so it cannot be a matter of indifference to them what goes on within it. —With a nomadic people, for example, and in general with a people that stands at a low level of culture, the question even arises how far it can be regarded as a state. The religious standpoint (formerly among the Jewish people, among the Mohammedan peoples) can still contain a higher opposition, which does not permit the universal identity that belongs to recognition.

Section 332

- ³³² The immediate actuality in which states stand to one another particularizes itself into manifold relations, whose determination proceeds from the independent arbitrary choice of both sides, and so has the formal nature of *contracts* in general. The *matter* of these contracts, however, is of infinitely less variety than in civil society, where individuals stand in mutual dependence in the most manifold respects, whereas independent states are chiefly wholes that satisfy themselves within themselves.

Section 333

333 The principle of *international law*, as the *universal* right that is to hold in and for itself between states, in contrast to the particular content of positive treaties, is that *treaties*, on which the obligations of states toward one another rest, *ought to be kept*. But because their relation has their sovereignty as its principle, they are to that extent in a state of nature toward one another, and their rights have their *actuality* not in a universal will constituted as a power over them, but in their particular will. That universal determination therefore remains at the level of the *ought*, and the situation becomes an alternation between the relation in accordance with treaties and the suspension of it.

There is no praetor, at most arbitrators and mediators between states, and even these only by chance, that is, in accordance with particular wills. *Kant's* idea of an *eternal peace* through a league of states that would settle every dispute, and as a power recognized by each individual state would resolve every discord, thereby making decision by war impossible, presupposes the *agreement* of the states, which would rest on moral, religious, or whatever grounds and considerations, in general always on particular sovereign will, and would thereby remain afflicted with contingency.

Section 334

334 The dispute between states can therefore, insofar as the particular wills find no agreement, be decided only by *war*. But which injuries, of which in their far-reaching sphere and through the many-sided relations of their members many can easily and in great number occur, are to be regarded as a definite breach of treaties or violation of recognition and honor, remains something *in itself* indeterminable, since a state can place its infinity and honor in each of its single

details, and is all the more inclined to this irritability the more a vigorous individuality is driven, by long internal calm, to seek and create for itself a matter for activity abroad.

Section 335

- ³³⁵ Moreover, the state, as something spiritual, cannot in general stop at wanting to regard merely the *actuality* of an injury; rather, the *idea* of one, as a *danger* threatening from another state, with its rising and falling through greater or lesser probabilities, conjectures about intentions, and so on, enters as a cause of quarrels.

Section 336

- ³³⁶ Since states in their relation of independence stand against one another as *particular* wills, and the *validity* of treaties itself rests on this, while the *particular will* of the whole is, *in its content*, its *welfare* in general, this welfare is the highest law in its conduct toward others, all the more because the Idea of the state is precisely this: that in it the opposition between right as abstract freedom and the fulfilling particular content, welfare, is sublated, and the first recognition of states (§ 331) applies to them as *concrete* wholes.

Section 337

- ³³⁷ The substantial welfare of the state is its welfare as a *particular* state, in its determinate interest and condition and in the equally peculiar external circumstances together with its particular treaty relations; government is thus a *particular wisdom*, not universal providence (compare § 324, Remark)—just as the

end in relation to other states and the principle for the justice of wars and treaties is not a universal (philanthropic) thought, but the welfare actually injured or threatened *in its determinate particularity*.

At one time the opposition between morality and politics, and the demand that the latter conform to the former, was much discussed. All that belongs here is to remark in general that the welfare of a state has an entirely different entitlement from the welfare of the individual, and that the ethical substance, the state, has its existence, that is, its right, immediately in a concrete existence, not an abstract one, and that only this concrete existence, not one of the many universal thoughts held to be moral commandments, can be the principle of its action and conduct. The view of the supposed wrong that politics is always said to commit in this supposed opposition rests far more on the shallowness of ideas about morality, about the nature of the state, and about its relation to the moral standpoint.

Section 338

- 338 In the fact that states mutually recognize one another as such, there remains even in *war*, the condition of rightlessness, violence, and contingency, *a bond* in which they count for one another as beings in and for themselves, so that in war itself war is determined as something that is meant to pass away. War thus contains the determination of international law that the possibility of peace is preserved in it, so that, for example, ambassadors are respected, and in general that it is not waged against the internal institutions and the peaceful family and private life, not against private persons.

Section 339

- 339 Otherwise the mutual conduct in war (for example, that prisoners are taken) and the rights that a state grants in peacetime to the subjects of another for private dealings, and the like, rest chiefly on the *customs* of nations, as the inner universality of conduct that maintains itself under all circumstances.

Section 340

- 340 In the relation of states to one another, because in it they are *particular*, there falls the most restlessly moving play of inner particularity, of passions, interests, ends, of talents and virtues, of violence, wrong, and vice, as of external contingency, on the largest scale of appearance—a play in which the ethical whole itself, the independence of the state, is exposed to contingency. The principles of the *spirits of peoples* are, on account of their particularity, in which they have their objective actuality and their self-consciousness as *existing* individuals, limited in general, and their fates and deeds in their relation to one another are the appearing dialectic of the finitude of these spirits, out of which the *universal* spirit, the *spirit of the world*, produces itself as unlimited, just as it is the one that exercises its right—and its right is the highest of all—upon them in *world history*, as the *judgment of the world*.

Section 341

- 341 C. World History.

The *element* of the existence of the *universal* spirit, which in art is intuition and image, in religion feeling and representation, in philosophy pure, free thought, is in *world history* spiritual actuality in its whole compass of inwardness and outwardness. It is a judgment because in its universality, which is in and for itself, the *particular*, the penates, civil society, and the spirits of peoples in their motley actuality, are only as *ideal*, and the movement of spirit in this element is to present this.

Section 342

- ³⁴² World history, moreover, is not the mere judgment of its power, that is, the abstract and unreasoning necessity of a blind fate; rather, because spirit is reason in and for itself, and reason's being-for-itself in spirit is knowing, world history is the development, necessary from the *concept* of its freedom alone, of the *moments* of reason and thereby of its self-consciousness and its freedom—the interpretation and *realization* of the *universal* spirit.

Section 343

- ³⁴³ The history of spirit is its *deed*, for it is only what it does, and its deed is to make itself, and here indeed as spirit, the object of its consciousness, to grasp itself by interpreting itself for itself. This grasping is its being and its principle, and the *completion* of a grasping is at the same time its externalization and its transition. Spirit that, expressed formally, grasps this grasping *anew*, and, which is the same, goes into itself out of its externalization, is spirit of the higher stage in relation to itself as it stood in that first grasping.
- The question of the *perfectibility* and *education* of the *human race* belongs here. Those who have asserted this perfectibility have had an intimation of something of the nature of spirit, of its nature to have Γνώθι σεαυτόν (“Know

yourself”) as the law of its *being*, and, in grasping what it is, to be a higher shape than the one that constituted its being. But for those who reject this thought, spirit has remained an empty word, just as history has remained a superficial play of *contingent*, so-called *merely human* strivings and passions. If in doing so they also express, in the terms *providence* and *plan of providence*, a belief in a higher governance, these remain unfulfilled ideas, since they expressly declare the plan of providence to be something unknowable and incomprehensible to them.

Section 344

344 States, peoples, and individuals in this business of the world spirit rise up in their *particular determinate principle*, which has its interpretation and actuality in their *constitution* and in the whole *breadth* of their *condition*, of which they are conscious and in whose interest they are absorbed, while they are at the same time unconscious instruments and members of that inner business, in which these shapes pass away, whereas spirit in and for itself prepares and works out for itself the transition to its next higher stage.

Section 345

345 Justice and virtue, wrong, violence, and vice, talents and their deeds, the small and the great passions, guilt and innocence, the splendor of individual and national life, independence, fortune and misfortune of states and of individuals have their determinate meaning and worth in the sphere of conscious actuality, and find in it their judgment and their justice, though an imperfect one. World history falls outside these standpoints; in it that necessary moment of the Idea of the world spirit which is at present *its* stage receives its *absolute right*, and the people living in it and its deeds receive their fulfillment, and fortune and glory.

Section 346

³⁴⁶ Because history is the configuration of spirit in the form of happening, of immediate natural actuality, the stages of development are present as *immediate natural principles*, and these, because they are natural, are a plurality outside one another, and moreover in such a way that *one of them falls to one people*—its *geographical and anthropological* existence.

Section 347

³⁴⁷ To the people to which such a moment falls as a *natural* principle is entrusted its execution in the progress of the self-consciousness of the world spirit as it develops. This people is, in world history, for this epoch—and it can (§ 346) make epoch in it only *once*—the *dominant* one. Against this its absolute right to be the bearer of the present stage of development of the world spirit, the spirits of the other peoples are without right, and they, like those whose epoch is past, no longer count in world history.

The special history of a world-historical people contains in part the development of its principle from its childlike, enveloped state up to its bloom, where, having attained free ethical self-consciousness, it now intervenes in universal history—in part also the period of decline and corruption; for in this way the emergence of a higher principle shows itself in it as merely the negative of its own. With this the transition of spirit into that principle, and so of world history, to an *other* people is indicated—a period from which that people has lost the absolute interest, and though it then also takes up the higher principle positively into itself and forms itself into it, yet does not relate to it, as to something received, with immanent vitality and freshness—perhaps it loses its indepen-

dence, perhaps it also continues or drags itself on as a particular state or a circle of states, and flounders about by chance in manifold internal attempts and external struggles.

Section 348

³⁴⁸ At the head of all actions, and so also of the world-historical ones, stand *individuals*, as the subjectivities that actualize the substantial (§ 279, Remark, p. 289).

As these living embodiments of the substantial deed of the world spirit, and thus immediately identical with it, that deed is hidden from them themselves and is not their object and end (§ 344); they also have the honor and thanks for it neither among their contemporaries (*ibid.*) nor in the public opinion of posterity, but, as formal subjectivities, have their share only in this opinion, as *immortal glory*.

Section 349

³⁴⁹ A people is at first not yet a state, and the transition of a family, horde, tribe, multitude, and so on into the condition of a state constitutes the *formal* realization of the Idea in it in general. Without this form it lacks, as the ethical substance that it is *in itself*, the objectivity of having, in laws as thought determinations, a universal and universally valid existence for itself and for others, and is therefore not recognized; its independence, being merely formal without objective lawfulness and a rationality firm for itself, is not sovereignty.

In ordinary thinking too, a patriarchal condition is not called a constitution, nor a people in this condition a state, nor its independence sovereignty. Before the beginning of actual history there therefore falls, on the one hand, disinter-

ested, dull innocence, on the other, the bravery of the formal struggle of recognition and of revenge. (Compare § 331 and p. 61.)

Section 350

- 350 To step forth in legal determinations and objective institutions, starting from marriage and agriculture (see § 203, Remark), is the absolute right of the Idea, whether the form of this its realization appears as divine legislation and benefaction, or as violence and wrong;—this right is the *heroes' right* to found states.

Section 351

- 351 From the same determination it comes about that civilized nations regard and treat others who lag behind them in the substantial moments of the state (herders the hunting peoples, farmers both, and so on) as barbarians, with the consciousness of an unequal right, and their independence as something formal.

In the wars and disputes that arise under such conditions, therefore, the moment that they are struggles of recognition in relation to a determinate content constitutes the feature that gives them significance for world history.

Section 352

- 352 The concrete Ideas, the spirits of peoples, have their truth and destiny in the concrete Idea as it is *absolute universality*—the world spirit, around whose throne they stand as the accomplishers of its actualization, and as witnesses and ornaments of its glory. Since, as spirit, it is only the movement of its activity to know itself absolutely, thereby to free its consciousness from the form of nat-

ural immediacy and to come to itself, the *principles* of the configurations of this self-consciousness in the course of its liberation—of the *world-historical* realms—are *four*.

Section 353

³⁵³ In the *first*, as *immediate* revelation, it has as its principle the shape of *substantial* spirit, as the identity in which individuality remains submerged in its essence and without right for itself. —

The *second* principle is the knowing of this substantial spirit, so that this is the positive content and fulfillment, and being-for-itself is its living *form*, the *beautiful* ethical individuality. —

The *third* is the deepening of the knowing being-for-itself into *abstract universality*, and with it into the infinite *opposition* to the objectivity which is thereby just as much abandoned by spirit. —

The principle of the *fourth* configuration is the reversal of this opposition of spirit, to receive in its inwardness its truth and concrete essence and to be at home and reconciled in objectivity, and, because this spirit, come back to the first substantiality, is the one returned from the *infinite opposition*, to produce and to know this its truth as thought and as a world of lawful actuality.

Section 354

³⁵⁴ According to these four principles, the world-historical realms are *four*: 1) the *Oriental*, 2) the *Greek*, 3) the *Roman*, 4) the *Germanic*.

Section 355

355 1) The Oriental Realm.

This first realm is the substantial view of the world, proceeding from the patriarchal natural whole and undivided within itself, in which worldly government is theocracy, the ruler is also high priest or God, the constitution of the state and legislation are at the same time religion, and the religious and moral commandments, or rather customs, are just as much laws of state and of right. In the splendor of this whole, individual personality perishes without right, external nature is immediately divine or an adornment of the god, and the history of actuality is poetry. The differences that develop toward the various sides of customs, government, and the state become, in the place of laws, amid simple custom, ponderous, long-winded, superstitious ceremonies—contingencies of personal violence and of arbitrary rule—and the articulation into estates becomes a natural fixity of castes. The Oriental state is therefore alive only in its movement, which, since in it itself nothing is steady and what is fixed is petrified, goes outward and becomes an elemental raging and devastation; its inner repose is a private life and a sinking into weakness and exhaustion.

The moment of the still *substantial, natural spirituality* in the formation of the state, which as *form* makes the absolute starting point in the history of every state, has been brought out and demonstrated in particular states, historically, with both profound sense and learning, in the work *On the Downfall of the Natural States*, Berlin 1812 (by Dr. Stühr), and thereby the way has been paved for a rational consideration of the history of constitutions and of history in general. The principle of subjectivity and self-conscious freedom is likewise pointed out there in the Germanic nation, but, since the treatise goes only as far as the downfall of the natural states, it too is carried only to the point where

it appears partly as restless mobility, human arbitrary will, and corruption, partly in its particular shape as *disposition of heart*, and has not developed into the objectivity of *self-conscious* substantiality, into organic *lawfulness*.

Section 356

356 2) The Greek Realm.

This has that substantial unity of the finite and the infinite, but only as a mysterious foundation, pushed back into dull recollection, into caves and into images of tradition, which, born forth out of the self-differentiating spirit into individual spirituality and into the daylight of knowing, is tempered and transfigured into beauty and into free and serene ethical life. In this determination the principle of personal individuality thus opens out, not yet caught up in itself but held within its ideal unity;—in part the whole therefore falls apart into a circle of particular spirits of peoples, in part, on the one hand, the final decision of the will is not yet placed in the subjectivity of self-consciousness existing for itself, but in a power that is higher than it and outside it (compare § 279, Remark), and on the other hand, the particularity belonging to need is not yet taken up into freedom, but shut out into a class of slaves.

Section 357

357 3) The Roman Realm.

In this realm the differentiation is carried through to the infinite tearing apart of ethical life into the extremes of *personal* private self-consciousness and *abstract universality*. The opposition, which proceeded from the substantial intuition of an aristocracy against the principle of free personality in democratic form, develops on the one side into superstition and the assertion of cold, greedy power, on the other into the depravity of a rabble, and the dissolution of

the whole ends in universal misfortune and the death of ethical life, in which the individualities of peoples die away in the unity of a pantheon, and all individuals sink down to private persons and to *equals* with formal right, who are held together only by an abstract arbitrary will driven to the monstrous.

Section 358

358 4) The Germanic Realm.

Out of this loss of itself and of its world, and the infinite pain of it, for which the *Israelite* people was held in readiness, spirit, driven back into itself, in the extreme of its absolute *negativity*, the *turning point* that is in and for itself, grasps the *infinite positivity* of this its inwardness, the principle of the unity of the divine and human nature, reconciliation as the objective truth and freedom that has appeared within self-consciousness and subjectivity, which is entrusted to the northern principle of the *Germanic peoples* to accomplish.

Section 359

359 The inwardness of the principle, as still abstract reconciliation and resolution of all opposition, existing in feeling as faith, love, and hope, unfolds its content, to raise it to actuality and self-conscious rationality, into a *worldly* realm proceeding from disposition of heart, fidelity, and the fellowship of free men, which in this its subjectivity is just as much a realm of crude arbitrary will existing for itself and of barbarism of customs—over against a world beyond, an *intellectual* realm, whose content is indeed that truth of its spirit, but, still *untought*, is wrapped in the barbarism of representation, and, as a spiritual power over the actual disposition of heart, behaves toward it as an unfree, terrible violence.

Section 360

360 In the hard struggle of these realms, which stand in the difference that has here won its absolute opposition and yet are rooted in one unity and Idea, the spiritual degrades the existence of its heaven into an earthly here-and-now and common worldliness, in actuality and in representation, while the worldly, on the contrary, builds its abstract being-for-itself up into thought and into the principle of rational being and knowing, into the rationality of right and law; and so the opposition has in itself vanished into a shape without marrow. The present has shed its barbarism and wrongful arbitrary will, and truth has shed its beyond and its contingent violence, so that true reconciliation has become objective, which unfolds the *state* as the image and actuality of reason, in which self-consciousness finds the actuality of its substantial knowing and willing in organic development, as in *religion* it finds the feeling and representation of this its truth as ideal essentiality, and in *science* the free, conceived cognition of this truth as one and the same in its mutually complementary manifestations, the *state*, *nature*, and the *ideal world*.