



Elements of the Philosophy of Right

GEORG WILHELM FRIEDRICH HEGEL

Plain English Translation

MOUSEIA



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Translated by Michael Berardi

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THIS EDITION

Independent machine-assisted Plain English translation made directly from the German first-edition source, not from the Musean edition or an existing English translation.
Complete preface, introduction and sections 1–360 with the author's remarks and notes.

TRANSLATOR

Michael Berardi

THE WORK

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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 reason for publishing this outline is the need to give my students a guide for the lectures on the *philosophy of right* that I give as part of my official duties. This textbook develops the same basic concepts more fully, and especially more systematically, than the account of this part of philosophy already included in my *Encyclopedia of the Philosophical Sciences* (Heidelberg, 1817), which was also intended for my lectures.

The decision to print this outline, and so bring it before the wider public as well, led me to expand the *remarks* here in some cases. These were originally meant only to mention related or differing views, further consequences, and similar matters briefly, leaving the lectures to explain them properly. I have expanded them partly to clarify the more abstract content of the text, and partly to give more attention to familiar ideas current today that closely concern it. This has produced several remarks longer than the purpose and style of a compendium would normally allow. A compendium in the strict sense deals with a field of knowledge regarded as complete. Apart from a small addition here or there, its distinctive task is mainly to gather and arrange the essential elements of a content that has long been accepted and known, just as that form of presentation has long had its established rules and methods. This kind of treatment is not expected of a philosophical outline, if only because people imagine that what philosophy produces is something that lasts only overnight, like Penelope's web, begun afresh every day.

This outline does differ from an ordinary compendium, first of all in the method that guides it. But I assume here that the philosophical way of moving from one subject to another and of proving things scientifically—this speculative way of knowing as a whole—is essentially different from other ways of knowing. Only insight into the necessity of this difference will be able to pull philosophy out of the shameful decline into which it has sunk in our time. People have recognized that the forms and rules of the old logic—definition,

classification, and inference, which contain the rules for knowledge through the understanding—are inadequate for speculative science. Or rather, they have felt this more than recognized it. They have then simply thrown these rules away as fetters, to speak arbitrarily from the heart, the imagination, or whatever happens to strike them. Yet reflection and relations between thoughts must still enter into this. So, without knowing it, they proceed by the very method they despise: ordinary inference and argument.—I have developed the nature of speculative knowing in detail in my *Science of Logic*. That is why I have added explanations of the procedure and method only here and there in this outline. Given the concrete nature of the subject and its great internal variety, I have not demonstrated and brought out the logical progression in every single detail. In part, familiarity with the scientific method is assumed, so this could be considered unnecessary. In part, it will be evident on its own that both the whole and the development of its parts rest on the logical spirit. This, above all, is the aspect under which I would like this work to be understood and judged. For what it is concerned with is *science*, and in science the content is essentially tied to the *form*.

Admittedly, even people who seem to take the matter most seriously can be heard saying that form is something external and makes no difference to the subject itself: only the subject matters. Again, the writer's task, especially the philosophical writer's, can be described as discovering truths, stating truths, and spreading truths and correct concepts. But look at how this task is usually carried out. On one side, we see the same old cabbage reheated again and again and served up in every direction. Such work may well have its merits in educating and awakening people's minds, though it could also be seen as a great deal of unnecessary bustle—"for they have Moses and the prophets; let them listen to them." Above all, there are many occasions to be astonished by the tone and pretensions displayed: as if these eager spreaders of truths were all the world had still been missing; as if their reheated cabbage offered new and unheard-of truths; and as if, above all, these truths always deserved special attention "at the present time." On the other side, we see truths handed out from one direction displaced and swept away by just the same sort of truths distributed from other

directions. Amid this crush of truths, what is neither old nor new, but lasting? How is that to emerge from these shapeless reflections that wander back and forth? How else can it be distinguished and established except through *science*?

In any case, the truth about *right, ethical life, and the state* is as old as its open statement and recognition in *public laws, public morality, and religion*. What more does this truth need, insofar as the thinking spirit is not satisfied to possess it in this immediate way? It needs to be *comprehended* as well. Its content, which is already rational in itself, needs to acquire a rational *form* too, so that it appears justified to free thought. Free thought does not stop at what is given, whether supported by the external, established authority of the state or human agreement, or by the authority of inner feeling and the heart and the spirit's immediately approving testimony. It starts from itself and, precisely for that reason, demands to know itself united with truth in its innermost being.

An open, unprejudiced mind takes the simple course of holding to publicly known truth with trusting conviction and building its conduct and firm position in life on that secure foundation. Against this simple conduct, a supposed difficulty may already be raised: how can we distinguish and discover what is universally recognized and valid among infinitely differing opinions? It is easy to mistake this perplexity for a real and genuine seriousness about the subject. In fact, people who pride themselves on this perplexity cannot see the forest for the trees. The perplexity and difficulty exist only because they create them. Indeed, their perplexity and difficulty are really evidence that they want something other than what is universally recognized and accepted, other than the substance of right and ethical life. If that were truly what mattered to them, rather than the *vanity and particularity* of their opinions and existence, they would keep to what is substantially right: the commands of ethical life and the state. They would arrange their lives accordingly.—But a further difficulty comes from the fact that human beings *think* and seek their freedom and the foundation of ethical life in thought. However high and divine this right is, it is turned into a wrong if only the following counts as thinking: that thought knows itself to be free only when it departs from what is *universally recognized and valid*, and has managed to invent something *particular* for itself.

In our time, the idea that freedom of thought and spirit in general proves itself only through disagreement with, or even hostility toward, what is publicly recognized has become most firmly rooted *in relation to the state*. Following this idea, a philosophy of the state in particular might seem to have the essential task of inventing and presenting a *theory*, specifically a new and distinctive one. Looking at this idea and the activity that follows it, one might think that no state or political constitution had ever existed in the world or existed now. One might think that we had to begin from scratch now—and this “now” goes on forever—and that the ethical world had only been waiting for this present-day thinking up, investigating, and grounding of it. As for nature, people admit that philosophy must know it *as it is*. They admit that the philosopher’s stone lies somewhere *within nature itself*; that nature is rational within itself; and that knowledge must investigate and grasp in concepts the *actual* reason present in it—not the forms and accidents visible on its surface, but its eternal harmony, as its *immanent* law and essence. By contrast, the *ethical world*, the state—reason as it becomes real in the element of self-consciousness—is not supposed to enjoy the good fortune that reason has in fact gained force and power in this element, maintains itself there, and dwells within it. Instead, the spiritual universe is supposed to be abandoned to chance and arbitrary choice. It is supposed to be *forsaken by God*. According to this atheism of the ethical world, truth lies *outside it*; and yet, since reason is also supposed to be present within it, truth is supposed to be only a problem. This, however, is said to give every thinker the right, indeed the duty, to make an attempt of their own—not to look for the philosopher’s stone, though. The philosophizing of our time has spared us the search, and everyone is certain of having the stone in hand, just as they stand. Now, admittedly, those who live within this actual reality of the state and find their knowing and willing satisfied in it laugh at these attempts and assurances. There are many such people, indeed more than think or know it, since *at bottom* they are everyone. So at least those who are consciously satisfied in the state regard these attempts as an empty game, by turns more playful or more serious, amusing or dangerous. This restless activity of reflection and vanity, along with the reception and treatment it meets, would be a matter of

its own, developing internally in its own way. But this agitation has brought *philosophy* in general into widespread contempt and disrepute. The worst form of this contempt is the conviction, as already noted, that everyone, just as they stand, knows enough about philosophy as a whole to pass judgment on it. No other art or science is shown this final contempt: the belief that one possesses it outright.

Indeed, what we have seen recent philosophy put forward about the state with the greatest pretensions might well have justified anyone who wanted to join in the discussion in thinking that they could do just the same straight from their own resources, and thereby prove to themselves that they possessed philosophy.

In any case, what calls itself philosophy has explicitly declared that *truth itself cannot be known*. Instead, it says, truth is whatever anyone allows to *rise from their heart, feelings, and enthusiasm* about ethical matters, especially the state, government, and constitution. What has not been said along these lines, especially to flatter young people? And young people have certainly been willing to hear it. *He gives to his own in their sleep*—this saying has been applied to science. So everyone asleep has counted themselves among *his own*. Of course, the concepts they received in their sleep were goods of a corresponding quality.—One of the commanders of this shallowness that calls itself philosophizing, Mr. Fries,¹ did not blush to present the following picture of the state and its constitution in a speech at a ceremonial public occasion that has become notorious: “In a people ruled by a genuine public spirit, *life would come from below, from the people*, into every undertaking in public affairs. *Living* associations would devote themselves to each individual work of popular education and service to the people, united indissolubly *by the sacred chain of friendship*,” and so on.—This is the basic meaning of shallowness: to base science on immediate perception and whatever happens to come into one’s imagination, instead of on the development of thought and the concept. In the same way, it means melting the state’s richly articulated ethical organization into the mush of “the heart, friendship, and enthusiasm.” This organized structure is the architecture of the state’s rationality. Through definite distinctions between the spheres of public life and their rights, and through the strict proportions within which

each pillar, arch, and buttress remains, it makes the strength of the whole emerge from the harmony of its parts. According to this picture, the ethical world is certainly not, but ought to be, handed over to the subjective accidents of opinion and arbitrary choice, like the world as a whole according to Epicurus. With the simple home remedy of basing on *feeling* what is the labor of reason and its understanding, a labor extending over thousands of years, all the effort of rational insight and knowledge guided by the thinking concept is certainly saved. *Mephistopheles*, in Goethe—a good authority—says roughly what I have quoted elsewhere too:

“Just despise understanding and science,
Humanity’s highest gifts—
Then you have given yourself to the devil
And must come to ruin.”

It is very natural for such an outlook to take on the appearance of *piety* as well. For what has this agitation not tried to enlist as its authority! With godliness and the Bible, however, it has imagined itself to acquire the highest warrant to despise the ethical order and the objectivity of laws. Piety does indeed wrap the truth, which has unfolded in the world into an organized realm, back into the simpler vision of feeling. But if it is of the right kind, it gives up the form of this sphere as soon as it steps out of inwardness into the daylight where the Idea unfolds and reveals its richness. From its inward worship, it brings reverence for truth and laws that exist in and for themselves, above the subjective form of feeling.

Here we can note the particular form of bad conscience displayed in the style of eloquence into which this shallowness inflates itself. First, where it is most *devoid of spirit*, it speaks most of *spirit*. Where its language is deadest and most wooden, it uses the words *life* and *bring to life*. Where it displays the greatest selfishness of empty conceit, it has the word *people* most often on its lips. But its distinctive identifying mark, worn on its forehead, is hatred of law. Right and ethical life, and the actual world of right and ethical life, grasp themselves through *thought*. Through *thought*, they give themselves the form of rationality, namely universality and definiteness. This—*law*—is what feeling that reserves

the right to do as it pleases, and conscience that locates right in subjective conviction, rightly regard as their bitterest enemy. Such a conscience experiences right in the form of *duty* and *law* as a *dead, cold letter* and a *fetter*. For it does not recognize itself in law and so does not find itself free in it. Law is the reason of the matter, and this reason does not allow feeling to bask in its own particularity. That is why, as I have remarked somewhere in this textbook, *law* is above all the shibboleth by which the false brothers and friends of the so-called people reveal themselves.

Now that the quibbling of arbitrary choice has seized the name of *philosophy* and managed to persuade a broad public that this sort of activity is philosophy, it has almost become dishonorable to speak philosophically about the nature of the state at all. Honest men cannot 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 finally turned their attention to this kind of philosophizing. In our society, philosophy is not practiced as a private art, as it was, for example, among the Greeks. It has a public existence affecting the public, chiefly or exclusively in state service. Governments have trusted the scholars devoted to this field and relied on them entirely for philosophy's development and content. If one prefers, in some cases this may have been not so much trust as indifference toward the science itself, with its teaching positions retained only by tradition. After all, as far as I know, in France they have allowed at least the chairs of metaphysics to disappear. But then this trust has often been badly repaid. Or, if one prefers in the other case to see indifference, the result—the decay of thorough knowledge—would have to be seen as a penalty for that indifference. At first, shallowness may seem the most compatible thing of all, at least with outward order and peace. It never gets as far as touching, or even sensing, the substance of things. So, initially at least, the police would have nothing against it, were it not that the state also contains a need for deeper education and insight and demands that science satisfy that need. But in matters of ethical life, right, and duty in general, shallowness leads of itself to the principles that make up superficiality in this sphere: the principles of the *Sophists*, whom we come to know so clearly through *Plato*. These principles base what is

right on *subjective aims and opinions*, on *subjective feeling*, and on *particular conviction*. From them follows the destruction of inward ethical life, honest conscience, love, and right between private individuals, as well as the destruction of public order and the laws of the state. The significance these developments must acquire for governments cannot be dismissed by an appeal to the very trust granted, or to the authority of an office. Such an appeal would demand that the state allow free rein to what corrupts the substantial source of actions—the universal principles—and even allow its defiance, as though this were proper. *When God gives someone an office, he gives them understanding too*—this is an old joke that surely no one will try to maintain in earnest in our time.

Circumstances have renewed governments' sense of the importance of the manner and method of philosophizing. There is no mistaking the element of protection and support in this, which the study of philosophy seems to have come to need from many other directions. Consider how many writings in the sciences that start from what is given, in religious edification, and in other vaguely defined literature show the contempt for philosophy already mentioned. Their authors prove at the same time that they are completely backward in the cultivation of thought and that philosophy is entirely foreign to them. Yet they treat it as something they have disposed of for themselves. And more than that, these writings expressly attack philosophy. They declare its content—*conceptual knowledge of God* and of physical and spiritual nature, *knowledge of truth*—a foolish, even sinful presumption. They accuse, belittle, and condemn *reason*, then *reason* again, and *reason* in endless repetition. Or they at least reveal how inconvenient they find the unavoidable demands of the concept in much of the activity that claims to be scientific. When, I say, one faces such developments, one might almost entertain the thought that, *from this side*, tradition was no longer respectable enough or sufficient to secure *toleration* and a public existence for the study of philosophy.²—The denunciations and pretensions directed against philosophy, so common in our time, present a strange spectacle. On the one hand, they are justified by the shallowness to which this science has been degraded. On the other, they themselves are rooted

in this very element against which they ungratefully turn. For by declaring knowledge of truth a foolish attempt, this so-called philosophizing has *leveled* all thoughts and all subjects, just as the despotism of the Roman emperors *made equal* nobles and slaves, virtue and vice, honor and dishonor, knowledge and ignorance. The concepts of truth and the laws of ethical life are then nothing more than opinions and subjective convictions. The most criminal principles, *as convictions*, are given equal dignity with those laws. Likewise, even the most barren and particular objects and the most worthless material are given equal dignity with what concerns all thinking people and forms the bonds of the ethical world.

So it must be considered *fortunate* for science—though, as noted, it is in fact *required by the matter itself*—that this philosophizing, which might have gone on spinning itself out as an enclosed academic wisdom, has entered into a closer relationship with actual reality. In that reality, the principles of rights and duties are taken seriously, and life proceeds in the daylight of awareness of them. The result has been a *public* break. It is precisely this *position of philosophy toward actual reality* that the misunderstandings concern. And so I return to what I said earlier: because philosophy is *the investigation of the rational*, it is also *the grasping of what is present and actual*, not the setting up of some *world beyond* that is supposed to exist God knows where—or rather, whose location we know very well: in the error of one-sided, empty argument. In the work that follows, I have noted that even the *Platonic Republic*, proverbial as *an empty ideal*, essentially grasped nothing but the nature of Greek ethical life. A deeper principle was breaking into that ethical life. There it could appear immediately only as a longing still unsatisfied, and thus only as corruption. Conscious of this, *Plato* had to seek help against it from that very longing. But the help, which had to come from above, he could initially seek only in an external, particular form of that ethical life. Through this form, he imagined he could master the corruption. Yet in doing so he wounded its deeper drive—free, infinite personality—at its deepest point. Nevertheless, he proved himself a great spirit

precisely because the principle on which the distinctive character of his Idea turns is the very pivot around which the approaching transformation of the world turned.

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

Every unprejudiced consciousness stands in this conviction, as philosophy does. Philosophy starts from it in considering both the *spiritual* and the *natural* universe. If reflection, feeling, or whatever form subjective consciousness takes regards the *present* as worthless, considers itself beyond it, and claims to know better, it is itself in the realm of vanity. Since it has actual reality only in the present, it is itself nothing but vanity. Conversely, if the Idea is taken to mean merely an idea, a representation held as an opinion, philosophy provides the insight that nothing is actual except the Idea. The task, then, is to recognize the immanent substance and the eternal that is present within the appearance of what is temporal and passing. For the rational, which means the same thing as the Idea, also enters into external existence in its actual reality. It comes forth in an infinite wealth of forms, appearances, and shapes. It surrounds its core with a colorful rind in which consciousness initially makes its home. The concept must first penetrate this rind to find the inner pulse and feel it still beating in the outward shapes as well. But the infinitely varied relationships that take shape in this externality, through essence shining into it—this infinite material and its regulation—are not philosophy's subject. Philosophy would be interfering 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 keep rocking them in their arms. Likewise, *Fichte* could have refrained from "constructing," as it was called, the improvement of passport policing to the point of requiring that passports contain not just descriptions of suspects but painted portraits of them. In elaborations of this sort, no trace of philosophy remains. Philosophy can leave such superior wisdom alone all the more because it should show itself most liberal precisely toward this infinite multitude of subjects. In this way, science will also

show itself furthest removed from the hatred that the vanity of knowing better directs at so many circumstances and institutions. Pettiness takes its greatest pleasure in this hatred because only through it does it gain a sense of itself.

So this work, insofar as it contains political science, is intended to be nothing more than an attempt *to comprehend and present the state as rational within itself*. As a philosophical work, it must be as far as possible from trying to construct *a state as it ought to be*. Whatever instruction it can provide cannot aim to teach the state how it ought to be. Rather, it teaches how the state, the ethical universe, ought to be known.

Here is Rhodes; here too is the jump.

Here is Rhodes; here is the jump.

To comprehend *what is* is philosophy's task, because *what is* is reason. As for the individual, everyone is in any case a *child of their time*. So philosophy too is *its own time grasped in thoughts*. It is just as foolish to imagine that any philosophy goes beyond its present world as that an individual jumps over their time, jumps beyond Rhodes. If their theory really does go beyond it and builds 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 a small change, that saying would read:

Here is the rose; dance here.

What lies between reason as self-conscious spirit and reason as existing actual reality, what separates the former from the latter and prevents it from finding satisfaction there, is the fetter of some abstraction that has not been freed into the concept. To recognize reason as the rose in the cross of the present, and so take pleasure in the present—this rational insight is *reconciliation* with actual reality. Philosophy grants this to those who have once felt the inner demand to comprehend: to preserve subjective freedom in what is substantial, while standing with that freedom not in something particular and accidental, but in what is in and for itself.

This also gives the more concrete meaning of what was described above, more abstractly, as the *unity of form and content*. For *form*, in its most concrete meaning, is reason as conceptual knowing, and *content* is reason as the substan-

tial essence of ethical as well as natural actual reality. The conscious identity of the two is the philosophical Idea.—It is a great stubborn resolve, one that does human beings credit, to refuse to acknowledge anything in one's convictions that has not been justified by thought. This stubborn resolve is characteristic of the modern age, and is in any case the distinctive principle of Protestantism. What *Luther* began as faith in feeling and in the testimony of the spirit is the same thing that the spirit, grown more mature, strives to grasp *in the concept*, and thus to free itself in the present and find itself there. A famous saying has it that half a philosophy leads away from God, but true philosophy leads to God. It is this same half-heartedness that reduces knowing to *an approach toward truth*. The same applies to the state. Reason is not satisfied with an approach, which is neither cold nor hot and is therefore spat out. Nor is it any more satisfied with a cold despair that admits things go badly, or at best only moderately well, in this temporal world, but says that nothing better is available here, and that we must make peace with actual reality only for that reason. Knowledge brings a warmer peace with it.

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 actual reality has completed its formative process and made itself ready. What the concept teaches, history necessarily shows as well: only when actual reality has matured does the ideal appear opposite the real and build 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 make it young again, but can only make it known. The owl of Minerva begins its flight only as dusk falls.

But it is time to close this preface. As a preface, it could in any case only speak externally and subjectively about the standpoint of the work it precedes. If a content is to be discussed philosophically, it allows only scientific, objective treatment. Likewise, any objection other than a scientific treatment of the matter itself must count for the author only as a subjective afterword and an arbitrary assertion, and must leave him indifferent.

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 Thoughts like these occurred to me in connection with a letter by Joh. v. Müller (Werke Theil VIII. S. 56.). Discussing Rome in 1803, when the city was under French rule, it says, among other things: “Asked how things stood with the public educational establishments, a professor answered: They are tolerated like brothels.”—One can even still hear the so-called *doctrine of reason*, namely logic, recommended, perhaps in the conviction that people no longer bother with it anyway, as a dry and unproductive science. Or if they do occasionally study it, they gain only formulas without content, which therefore give nothing and spoil nothing. In either case, the recommendation will do no harm, just as it will do no good.

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Section 1

Natural Right and Political Science

Introduction

- ¹ The *philosophical science of right* deals with the *Idea of right*: the concept of right and its realization.

Philosophy deals with Ideas, not with what people commonly call *mere concepts*. It shows how one-sided and untrue these are. It also shows that only the *concept* has *actual reality*, and has it by giving it to itself. Here “concept” does not mean what one often hears called by that name, which is only an abstract determination of the understanding. Anything that is not this actual reality established by the concept itself is a passing existence, an external accident, an opinion, an appearance without essence, an untruth, a deception, and so forth. Besides knowledge of the *concept* itself, the *shape* that the concept gives itself in realizing itself is the Idea’s other essential element. It differs 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—the rational nature of its subject matter—from the concept. Or, to put the same thing another way, it must follow the subject matter’s own development from within. As a part, it has a definite *starting point*. This is the result and truth of *what comes before*, which constitutes its so-called *proof*. So the concept of right, in terms of its *coming into being*, falls outside the science of right. Its derivation is assumed here, and it must be accepted as *given*.

The formal, nonphilosophical method of the sciences first seeks and demands a *definition*, if only for the sake of an outward scientific form. For the study of enacted law, this cannot be the main concern either. Its main aim is to state *what the law is*, meaning what the particular legal provisions are. This is why the warning was given: every definition in civil law is dangerous. Indeed, the more disconnected and internally contradictory the provisions of a legal system are, the less it is possible to give definitions within it. Definitions are meant to contain universal determinations. But these immediately expose the contradiction—in this case, the wrong—in its nakedness. For example, Roman law could not have a definition of *a human being*, because a slave could not be included under it. Rather, that concept is violated in the slave's condition. Definitions of property and of an owner would be equally dangerous for many relationships.—The definition is then derived, perhaps, from etymology, but chiefly by abstracting from particular cases, with people's feelings and representations taken as the basis. A definition is judged correct if it agrees with existing representations. This method sets aside the only things essential to science: in content, *the necessity of the matter in and for itself*—here, of right—and in form, the nature of the concept. In philosophical knowledge, by contrast, a concept's *necessity* is what matters most. The course by which it has come to be a result is its proof and derivation. Since its *content is necessary in itself*, the second task is to look for what corresponds to it in people's representations and in language. But the concept as it is in its *truth*, in itself, and as it is in *representation* may not only differ: in form and shape, they must differ. Yet if a representation is not also false in content, the concept can be shown to be contained and essentially present within it. In other words, the representation can be raised to the form of the concept. Far from being the standard and criterion of the concept that is necessary and true in itself, representation must take its truth from the concept, correct itself by it, and come to know itself through it.—But although that way of knowing, with its formal procedures of definitions, inferences, proofs, and the like, has more or less disappeared, the method that has replaced it is a poor substitute. It immediately takes up Ideas in general, including the Idea of right and its further determinations, and asserts them as *facts of consciousness*. It

makes natural feeling, or an intensified feeling, *one's own heart*, and *enthusiasm* the source of right. This method may be the most convenient of all, but it is also the least philosophical. I will not mention here the other aspects of an outlook of this kind, which concerns not only knowing but directly acting as well. The first method, though formal, still demands the *form* of the concept in a definition. In a proof, it demands that knowing have the form of *necessity*. The method of immediate consciousness and feeling, however, makes the subjectivity, contingency, and arbitrariness of knowing its principle.—What philosophy's scientific procedure consists in must be assumed here from philosophical logic.

Section 3

- ³ Right is *positive* in general: a) through its *form*, because it has validity in a state. This legal authority is the principle for knowing it: the *positive science of law*. b) In its *content*, this right acquires a positive element: α) through a people's particular *national character*, the stage of its *historical* development, and the interconnection of all the relationships that belong to *natural necessity*; β) through the necessity that a system of legal right contain the *application* of the universal concept to the particular character of objects and cases given *from outside*. This application is no longer speculative thinking and development of the concept, but classification by the understanding. γ) It also acquires a positive element through the *final determinations* needed for *decisions* in actual reality.

If the feeling of the heart, inclination, and arbitrary choice are set against positive right and laws, philosophy, at least, cannot be what recognizes authorities of that kind.—Force and tyranny may be an element of positive right, but this is accidental to it and does not concern its nature. The point at which right must become positive will be shown later, §§ 211–214. The determinations that will emerge there have been mentioned here only to mark the limits of philosophical right. They also remove at once any idea, or even demand, that its systematic development should produce a positive legal code—the kind an

actual state needs.—Natural right, or philosophical right, differs from positive right. But to turn this difference into the claim that they are opposed and in conflict would be a great misunderstanding. Their relationship is instead that of the *Institutes to the Pandects*.—As for the historical element mentioned first in this section, *Montesquieu* gave the true historical view, the genuinely philosophical standpoint. Legislation as a whole and its particular provisions should not be considered in isolation and abstraction. They should be considered as a dependent element of *one totality*, connected with all the other determinations that make up the character of a nation and an age. In this connection, they acquire their true meaning and, with it, their justification.—To consider how legal provisions emerge and develop *as they appear in time* is a purely *historical* undertaking. Like the knowledge of their consistency at the level of the understanding, gained by comparing them with legal relationships already present, it has merit and deserves appreciation in its own sphere. It stands outside the relationship to philosophical consideration, provided that development from historical grounds does not confuse itself with development from the concept, and that historical explanation and justification are not extended into a justification *valid in and for itself*. This distinction is very important and must be firmly maintained. It is also very clear. A legal provision may be shown to be perfectly *well grounded* and *consistent* in terms of the *circumstances and existing* legal institutions, yet be wrong and irrational in and for itself. Many provisions of Roman private law were like this: they followed quite consistently from such institutions as Roman paternal power and Roman marriage. But even if legal provisions are rightful and rational, showing that they are so—which can truly be done only through the concept—is one thing. Presenting the history of their emergence is another: the circumstances, cases, needs, and events that led to their establishment. This sort of demonstration and this pragmatic knowledge from nearer or more remote historical causes are often called *explaining*, or preferably *comprehending*. People imagine that pointing out the history does everything, or rather the essential thing, that is needed to *comprehend* the law or legal institution. In fact, the truly essential thing—the concept of the matter—has not been discussed at all.—People likewise speak of Roman or Germanic

legal *concepts*, or of legal concepts as defined in this or that legal code, though they are dealing not with concepts but only with general *legal determinations*, *propositions of the understanding*, principles, laws, and the like.—By neglecting this distinction, one can shift the standpoint and sidestep the question of true justification. In its place comes justification from circumstances, consistency following from assumptions that may themselves be just as inadequate, and so forth. In general, the relative replaces the absolute, and outward appearance replaces the nature of the matter. When historical justification confuses outward emergence with emergence from the concept, it unconsciously does the opposite of what it intends. Suppose an institution's emergence under its particular circumstances proves entirely appropriate and necessary, and the historical standpoint's demand has thus been met. If this is to count as a universal justification of the matter itself, the opposite follows: since those circumstances no longer exist, the institution has instead lost its meaning and its right to exist. For example, monasteries have been defended on the grounds of their services in cultivating and populating wastelands, and in preserving learning through teaching and copying. If these services are taken as the ground and purpose of their continued existence, what follows is rather that, under completely changed circumstances, they have become, at least to that extent, unnecessary and unsuited to their purpose.—Now historical meaning—the historical demonstration and explanation of emergence—and the philosophical view of the matter's emergence and concept belong in different spheres. To that extent, they can remain indifferent to one another. But they do not always keep this peaceful relationship, even in scholarly work. So I will add something about their contact as it appears in Mr. *Hugo's Textbook of the History of Roman Law*. This can also further illustrate that way of setting them in opposition. Mr. Hugo states there (3rd edition, § 53) “that *Cicero* praises the Twelve Tables, with a *sidelong glance* at the philosophers,” but that “the philosopher *Phavorinus* treats them just as many a great philosopher has since treated positive right.” In the same place Mr. Hugo gives the ready-made, supposedly conclusive answer to this treatment: “because *Phavorinus* no more *understood* the Twelve Tables than these philosophers understood positive right.”—As for the

correction of the philosopher Phavorinus by the jurist Sextus Caecilius in Gellius noct. Attic. XX. 1., it first states the lasting and true principle for justifying what is merely positive in content. “You know,” Caecilius very aptly tells Phavorinus, “that *the benefits and remedies of laws change and bend* according to the *customs of the times*, the *forms of government*, the requirements of *present advantage*, and the *intensity of the faults* that need a remedy. *They do not remain in one condition*, but *vary with the storms of events and fortune*, as the face of the sky and sea does. What seemed more beneficial 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 state’s wealth, etc.”—These laws are positive insofar as their meaning and fitness for their purpose lie in circumstances, and they thus have only historical value in general. That is also why they are temporary by nature. The wisdom of legislators and governments in what they have done for existing circumstances and enacted for the conditions of their time is a matter of its own. It belongs to historical appraisal, which will recognize it all the more deeply the more that appraisal is supported by philosophical standpoints.—But I will give one example from the further defenses of the Twelve Tables against Phavorinus. Caecilius uses the never-dying deception of the understanding’s method and its arguments: *to give a good reason* for a bad thing and imagine that this justifies it. There was an appalling law that allowed a creditor, after the deadlines had passed, to kill a debtor or sell him as a slave. If there were several creditors, it even allowed them *to cut pieces off him* and so *divide him among themselves*. Moreover, *if anyone cut off too much or too little*, he was to suffer no legal disadvantage from it. This clause would have benefited *Shakespeare’s Shylock* in *The Merchant of Venice*, and he would have accepted it with the greatest thanks. Caecilius gives the good reason that good faith was secured all the more by this, and that precisely because the law was so appalling, it was never meant to be applied. His thoughtlessness misses not just the reflection that this provision itself destroys that aim of securing good faith. It also misses the fact that immediately afterward he himself gives an example of the law against false testimony failing in its effect because its punishment was excessive.

—What Mr. Hugo means by saying that Phavorinus did not *understand* the law is impossible to see. Any schoolboy is quite capable of understanding it. And the Shylock already mentioned would have understood best of all the clause so favorable to him. By *understanding*, Mr. Hugo must mean only the kind of training of the understanding that rests content with a *good reason* when faced with a law like this.—A philosopher can also admit, without blushing, to another failure to understand that *Caecilius* attributes to *Phavorinus* in the same passage. According to the law, a sick person had to be provided with a “draft animal,” “and not a covered carriage,” to bring him to court as a witness. The term “draft animal” was supposed to mean not just a horse, but also a carriage or wagon. *Caecilius* could draw from this provision further proof of the old laws’ excellence and precision: for bringing a sick witness to court, they even went so far as to specify not merely the difference between a horse and a wagon, but between one wagon and another—a covered and padded one, as *Caecilius* explains, and one less comfortable.—So we would have a choice between the harshness of the former law and the insignificance of provisions like these. But to say that such matters are insignificant, and still more to say it of their learned explanations, would be one of the greatest offenses against this and other kinds of learning.

Mr. Hugo also discusses *rationality* in relation to Roman law in the textbook mentioned. Here is what has struck me in this discussion. In treating the *period from the origin of the state to the Twelve Tables*, §§ 38 and 39, he says “that people in Rome had many needs and were forced to work, for which they needed *as helpers* draft animals and pack animals *such as we have*, that the terrain alternated between hills and valleys, and the city lay on a hill,” and so forth. Perhaps such observations were intended to fulfill Montesquieu’s meaning, but one will hardly find that they capture his spirit. Then, in § 40, he does state that “the legal condition was still very far from meeting *reason’s highest demands*.” This is quite right: Roman family law, slavery, and the like do not meet even very modest demands of reason. But for the later periods Mr. Hugo forgets to say in which, if in any, Roman law met *reason’s highest demands*. However, speaking of the classical jurists during the period of *Roman law’s fullest development as a*

science, he says in § 289 “that it has long been noticed that the classical jurists were educated through philosophy,” but that “few know”—though the many editions of Mr. Hugo’s textbook mean that several people now know it—“that no kind of writers so deserves to be placed alongside the mathematicians for consistent inference from principles, and alongside the modern creator of metaphysics for a quite striking distinctive feature in the development of concepts, as precisely the Roman jurists. The latter is proved by the *remarkable* circumstance that nowhere are there so many *three-part divisions* as among the classical jurists and in *Kant*.”—The consistency praised by *Leibniz* is certainly an essential quality of jurisprudence, as it is of mathematics and every other science of the understanding. But this consistency of the understanding still has nothing to do with satisfying reason’s demands or with philosophical science. Besides, the *inconsistency* of the Roman jurists and praetors must surely be considered one of their greatest virtues. Through it, they departed from unjust and appalling institutions. Yet they felt forced to invent *clever*, empty verbal distinctions—such as calling what was, after all, also an inheritance a “possession of the estate”—and even a silly evasion, since silliness is also an inconsistency, to save the letter of the Tables. One such device was the fiction, the pretense, that a daughter was a son (Heinecc. Antiq. Rom. lib. I. tit. II. § 24).—But it is ridiculous to see the classical jurists placed alongside *Kant* because of a few *three-part* classifications, especially in view of the examples given there in note 5, and to see this sort of thing called development of concepts.

Section 4

- ⁴ Right has its basis in *the spiritual* in general. Its more precise place and starting point is *the will*, which is *free*. Freedom therefore makes up its substance and essential determination. The system of right is the realm of freedom made real: the world of spirit brought forth by spirit itself as a second nature.

In considering freedom of the will, we can recall the earlier procedure for knowing. People assumed the *representation* of the will and tried to extract and establish a definition of it. Then, in the manner of the old empirical psychology, they drew on the various feelings and appearances of ordinary consciousness, such as remorse, guilt, and the like, which were supposed to be *explainable* only through free will. From these, they offered the so-called *proof* that the will was free. It is more convenient, however, simply to hold that freedom is *given* as a fact of consciousness and must be *believed* in. That the will is free, and what will and freedom are, can be derived only within the interconnection of the whole, as already noted (§ 2). I have presented the outlines of this premise in my *Encyclopedia of the Philosophical Sciences* (Heidelberg, 1817), §§ 363–399. The premise is that *spirit* is initially *intelligence*, and that the determinations through which it develops—from *feeling*, through *representation*, to *thinking*—are its path toward producing itself as will. As practical spirit in general, will is the next truth of intelligence. I hope one day to be able to develop this account further. I feel all the more need to make this contribution, I hope, to a more thorough knowledge of spirit's nature because, as noted there in § 367, Remark, scarcely any philosophical science is in so neglected and poor a condition as the *doctrine of spirit*, commonly called psychology.—As for the elements of the concept of will given in this and the following sections of the Introduction, which are the result of that premise, we can also appeal to everyone's self-consciousness for a representation of them. Everyone will first find within themselves the ability to abstract from anything whatever. They will likewise find that they can determine themselves, putting any content within themselves through their own activity. And for the further determinations too, they will find the example in their own self-consciousness.

Section 5

- ⁵ The will contains *a*) the element of *pure indeterminacy*, or of the I's pure reflection into itself. In this reflection, every limitation is dissolved, along with every content immediately present through nature, needs, desires, and drives, or given and determined in any way at all. This is the unlimited infinity of *absolute abstraction*, or *universality*: pure *thinking* of itself.

Those who treat thinking as a separate, distinctive faculty, divided from willing as another distinctive faculty, and who even regard thinking as harmful to the will, especially to the good will, show from the outset that they know nothing at all about the will's nature. We will have to make this point more often on the same subject.—Suppose the one *aspect* of the will defined here is what the will determines itself to be, or is what representation takes by itself to be freedom: this *absolute possibility* of abstracting from every determination in which I find myself or which I have put within myself, this escape from all content as a limitation. Then this is *negative* freedom, or the freedom of the understanding.—It is the freedom of emptiness. Raised to an actual form and a passion, it becomes, while remaining purely theoretical, the religious fanaticism of pure Indian contemplation. But when it turns to actual reality, in politics as in religion, it becomes the fanaticism of smashing every existing social order, removing individuals suspected of favoring an order, and destroying any organization that tries to emerge again. This negative will feels that it exists only when it destroys something. It may imagine that it wills some positive condition, for example universal equality or a universal religious life. But it does not actually will that condition's positive reality. Such reality immediately introduces some order, some particularization both of institutions and of individuals. Yet this negative freedom gains its self-consciousness precisely from destroying particularization and objective determination. So what it imagines it wills can itself only be an abstract representation, and its realization only the fury of destruction.

Section 6

- ⁶ β) Equally, the I is the transition from indeterminacy without distinctions to *distinguishing, determining, and positing* a determinacy as a content and object. This content may be given by nature or produced from the concept of spirit. By thus positing itself as something determinate, the I enters into existence in general. This is the absolute element of the I's finitude or particularization. This second element, determination, is negativity and cancellation just as much as the first. It cancels the first, abstract negativity. Just as the particular is contained in the universal in general, this second element is already contained in the first. It is only a *positing* of what the first already is in itself. For the first element, taken by itself as the first, is not true infinity, or *concrete* universality, the concept. It is only *something determinate*, something one-sided. Precisely because it is abstraction from all determinacy, it is itself not without determinacy. Being abstract and one-sided makes up its determinacy, deficiency, and finitude.—The distinction and definition of these two elements are found in *Fichte's* philosophy, as in *Kant's*, and so forth. But to stay with Fichte's presentation: the I as unlimited, in the first proposition of Fichte's Science of Knowledge, is taken simply as *something positive*. In this way, it is the universality and identity of the understanding. This abstract I is then supposed to be the truth by itself. *Limitation, the negative* in general, consequently *is added*, in the second proposition, whether as a given external limit or as the I's own activity.—To grasp the *negativity* immanent in the universal or identical, as in the I, was the further step speculative philosophy had to take. People who do not even grasp the *dualism* of infinity and finitude in its immanence and abstraction, as Fichte does, have no inkling of this need.

Section 7

⁷ γ) The will is the unity of these two elements: *particularity* reflected into itself and thereby brought back to *universality—individuality*. It is the I's *self-determination*: at once to posit itself as its own negative, namely as *determinate and limited*, and to remain with itself, that is, in its *identity with itself* and its universality. In determining itself, it joins only with itself.—The I determines itself insofar as it is negativity relating to itself. As this *relation to itself*, it is equally indifferent to this determinacy. It knows the determinacy as its own and as ideal, as a mere possibility that does not bind it. It is in that determinacy only because it puts itself there.—This is *freedom* of the will. It constitutes the will's concept or substantiality, its gravity, just as gravity constitutes the substantiality of a body.

Every self-consciousness knows itself as universal—as the possibility of abstracting from everything determinate—and as particular, with a definite object, content, and aim. Yet these two elements are only abstractions. What is concrete and true—and everything true is concrete—is universality that has the particular as its opposite, but a particular reconciled with the universal through its reflection into itself.—This unity is *individuality*. But it is not individuality in its immediacy as one thing, as individuality is in representation. It is individuality according to its concept (Encyclopedia of the Philosophical Sciences, §§ 112–114). Or rather, this individuality is really nothing other than the concept itself. The first two elements—that the will can abstract from everything and that it is also determined, whether by itself or by something else—are easily admitted and grasped. Taken by themselves, they are untrue elements of the understanding. But the understanding refuses to enter into the third element, the true and speculative. Everything true, insofar as it is comprehended, can be thought only speculatively. The understanding always calls precisely the concept incomprehensible. The demonstration and closer discussion of this inner-

most point of speculation—infinity as negativity relating to itself, this ultimate source of all activity, life, and consciousness—belong to logic as purely speculative philosophy.—We can only add here that when we say “the *will* is universal,” or “the *will* determines itself,” we express the will as an already assumed *subject* or *substrate*. But the will is not something finished and universal before it determines itself, and before the cancellation and ideality of this determining. It is will only as this activity that mediates itself within itself and returns into itself.

Section 8

- ⁸ The more specific character of *particularization* (β , § 6) produces the difference between the will’s forms. a) Insofar as the determinacy is the *formal* opposition between *subjective* and *objective* as external, immediate existence, this is the *formal* will as self-consciousness, which *finds* an external world already there. As individuality returning into itself within determinacy, it is the process of *transferring* the *subjective aim* into *objectivity* through the mediation of activity and a means. In spirit as it is in and for itself, in which the determinacy is entirely its own and true (Encyclopedia, § 363), the relationship of consciousness makes up only *the aspect of the will’s appearance*. Here this is no longer considered by itself.

Section 9

- ⁹ b) Insofar as the will’s determinations are *its own*, its particularization reflected into itself in general, they are *content*. As the will’s content, this is its *aim* according to the form given in a). It is partly an inward or subjective aim in the willing that represents it, and partly a realized, accomplished aim, mediated by the activity that transfers the subjective into objectivity.

Section 10

- ¹⁰ This content, or the differentiated determination of the will, is initially *immediate*. So 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 the fact that what something is in itself, or according to its concept, has a different existence or appearance from what it is for itself. For example, nature's abstract externality is *in itself* space, but *for itself* time. Two points must be noted here. First, because only the Idea is true, if we grasp an object or determination only as it is in itself, or in the concept, we do not yet have it in its truth. Second, something also exists as it is *as concept*, or *in itself*. This existence is a distinct shape of the object, like space in the preceding example. The separation of being-in-itself and being-for-itself found in what is finite also makes up its *mere existence or appearance*. An example will appear immediately in the natural will, then in formal right, and so on. The understanding stops at mere being-in-itself and, on this basis, calls freedom a *capacity*. As such it is indeed only a *possibility*. But the understanding regards this determination as absolute and permanent. It takes freedom's relationship to what it wills, and to its reality in general, only as an *application* to a given material, an application supposedly 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 A will that is free only in itself is the *immediate* or *natural* will. The distinctions that the self-determining concept establishes within the will appear, in the immediate will, as content that is *immediately* present. These are the *drives*,

desires, and inclinations through which the will finds itself determined by nature. This content, together with its developed determinations, does come from the will's rational nature and is therefore rational in itself. But left in this immediate form, it does not yet have the form of rationality. This content is indeed mine in a general sense. Yet that content and this form are still different. The will is therefore a *finite* will within itself.

Empirical psychology lists and describes these drives and inclinations, and the needs based on them, as it finds them in experience or supposes that it does. It tries to classify this given material in the usual way. What is objective in these drives, what it is in its truth without the irrational form it has as a drive, and also what shape it takes in existence, will be discussed below.

Section 12

- ¹² As it is immediately found in the will, the system of this content is only a collection and variety of drives. Each is mine *in a general sense*, alongside the others. Each is also something universal and undetermined, with many kinds of objects and ways of being satisfied. By giving itself the form of *individuality* within this twofold lack of determination (§ 7), the will makes a decision. Only as a will that makes decisions is it an actual will at all.

Instead of *deciding* something, meaning to remove the indeterminacy in which either content is at first only a possibility, our language also has the expression *making up one's mind*. This fits because the will's indeterminacy itself, as something neutral but infinitely fertile, the original seed of all existence, contains its determinations and purposes within itself and brings them forth only from itself.

Section 13

- ¹³ By deciding, the will establishes itself as the will of a particular individual, distinguishing itself outwardly from others. Besides this *finitude* as consciousness (§ 8), however, the immediate will is formal because of the difference between its form and its content (§ 11). Only the *abstract act of deciding*, as such, belongs to it. Its content is not yet the content and work of its freedom. For intelligence as *thinking*, its object and content remain *universal*, and intelligence itself acts universally. In the will, the universal also has the essential meaning of being mine, as *individuality*. In the immediate, that is, formal will, this individuality is abstract, not yet filled with its free universality. Intelligence's *own finitude* therefore begins in the will. Only by rising again to thinking and giving its purposes an inherent universality does the will overcome the difference between form and content and become an objective, infinite will. People who believe that human beings are infinite in willing as such, but limited in thinking, or even that reason is limited, therefore understand little about the nature of thinking and willing. To the extent that thinking and willing are still distinct, the reverse is true: as will, thinking reason is precisely this act of deciding on *finitude*.

Section 14

- ¹⁴ The finite will is an *infinite I* that reflects into itself and is at home with itself, but only in its form (§ 5). As such, it stands above its content, the different drives, and above the further particular ways of realizing and satisfying them. At the same time, since it is infinite only formally, it is *bound* to this content as the determinations of its nature and of its external actual reality. Yet, as undetermined, it is not bound to this or that content (§§ 6, 11). For the I's reflection

into itself, this content is therefore only something that 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 in this respect are external to the I.

Section 15

- ¹⁵ On this account, the will's freedom is *arbitrary choice*. This contains both free reflection that abstracts from everything and dependence on content and material given from within or from outside. This content, though necessary in itself as a purpose, is at the same time only a possibility in relation to that reflection. Arbitrary choice is therefore *contingency* in the form of will.

The most common conception of freedom is *arbitrary choice*. This is reflection's middle position between a will determined only by natural drives and a will that is free in and for itself. We hear people say that freedom in general means *being able to do whatever one wants*. Such a conception can only be taken as showing a complete lack of developed thought, with not even an inkling of what the will free in and for itself, right, ethical life, and so on are. Reflection—the *formal* universality and unity of self-consciousness—is the will's *abstract* certainty of its freedom. But it is not yet the truth of that freedom, because it does not yet have itself as its content and purpose. Its subjective side is therefore still different from its objective side. Consequently, the content of this self-determination also remains simply something finite. Instead of being the will in its truth, arbitrary choice is the will as *contradiction*.—The dispute conducted chiefly in the time of *Wolff's* metaphysics, over whether the will really is free or whether its knowledge of its freedom is only an illusion, had arbitrary choice in view. *Determinism* rightly set against the certainty of that abstract self-determination its *content*. As something *found already there*, this content is not contained in that certainty and therefore comes to it from outside. This outside may be a drive, a representation, or, in general, consciousness filled in whatever

way; the point is that the content is not the self-determining activity's own content as such. Thus, only the formal element of free self-determination belongs inherently to arbitrary choice, while the other element is given to it. Arbitrary choice can therefore indeed be called an illusion if it is supposed to be freedom. Freedom in every philosophy of reflection, as in *Kant's*, and then in *Fries's* completed trivialization of Kant's philosophy, is nothing other than that formal activity of the self.

Section 16

- ¹⁶ What the will has chosen in a decision (§ 14), it can equally give up again (§ 5). But this ability to go beyond every other content it puts in its place, and to continue doing so endlessly, does not take it beyond finitude. Every such content differs from the form and is therefore finite. And the opposite of determinacy, indeterminacy—indecision or abstraction—is only the other, equally one-sided element.

Section 17

- ¹⁷ The contradiction that arbitrary choice is (§ 15) appears as the *dialectic* of drives and inclinations. They interfere with one another: satisfying one demands subordinating or sacrificing the satisfaction of another, and so on. A drive is only the simple movement in the direction set by its particular character; it therefore has no measure within itself. So the determination that subordinates or sacrifices a satisfaction is arbitrary choice's contingent decision. This is true whether it proceeds with a calculating understanding of which drive offers more satisfaction, or on any other chosen consideration.

Section 18

- ¹⁸ When it comes to *judging* the drives, this dialectic appears in the following way. As inherent and therefore positive, the determinations of the immediate will are good: human beings are thus said to be *good by nature*. But insofar as these are *natural determinations*, opposed to freedom and to the concept of spirit in general, and are *the negative*, they must be *rooted out*: human beings are thus said to be *evil by nature*. At this standpoint, what decides for either claim is again subjective arbitrary choice.

Section 19

- ¹⁹ The demand for the *purification of the drives* contains the general idea that they should be freed from their immediate natural form and from the subjective and contingent character of their content, and brought back to their substantial essence. What is true in this undetermined demand is that the drives should be the rational system of the will's determinations. Grasping them in this way from the concept is the content of the science of right.
- The content of this science can be presented in all its particular elements—for example, right, property, morality, family, state, and so on—in the form of saying that human beings have a natural *drive* toward right, also a *drive* toward property and morality, as well as a drive toward sexual love and a drive toward sociability, and so on. If, instead of this form of empirical psychology, someone wants the more distinguished appearance of a philosophical form, this is *cheaply* obtained, given what has passed and still passes for philosophy in recent times, as noted earlier. One need only say that people 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, which appears here as drives, will come into play: the form of *duties*.

Section 20

- ²⁰ Reflection directed at the drives represents and calculates them. It compares them with one another, 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, cleanses it of its rawness and barbarism. Bringing out the universality of thinking in this way is the absolute value of *education*. (See § 187.)

Section 21

- ²¹ But the truth of this formal universality, which is undetermined on its own and finds its determinations in that material, is *universality that determines itself*: the will, freedom. Because it has universality—itself, as infinite form—for its content, object, and purpose, it is the will free not only *in itself* but also *for itself*: the true Idea.

As desire and drive, the will's self-consciousness is *sensory*, just as the sensory in general means externality and thus self-consciousness being outside itself. The *reflecting* will has two elements: that sensory element and thinking universality. The will that *is in and for itself* has the will itself as such, and therefore itself in its pure universality, for its object. This universality is precisely that in which both the *immediacy* of natural existence and *particularity* have been overcome, whether that particularity attaches to natural existence or is produced by reflection. This overcoming and raising into the universal is what is called the activity of *thinking*. Self-consciousness purifies and raises its object, content, and pur-

pose to this universality as *thinking asserting itself* within the will. This is the *point at which it becomes clear* that the will is true, free will only as *thinking* intelligence. A slave does not know his essence, his infinity, freedom; he does not know himself as an essential being. 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 an essential being and thereby frees itself from the contingent and untrue, is the principle of right, morality, and all ethical life. Those who speak philosophically about right, morality, and ethical life, yet want to exclude thinking and appeal to feeling, heart and breast, and enthusiasm, thereby express the deepest contempt into which thought and science have fallen. On this view, even science itself, sunk in despair about itself and in utter exhaustion, makes barbarism and thoughtlessness its principle. As far as it could, it would thus rob human beings of all truth, value, and dignity.

Section 22

²² The will that is in and for itself is *truly infinite*. Its object is itself, so that object is not *something other* or a *limit* for it. Rather, in that object it has only returned to itself. Nor is it merely possibility, a predisposition, a *capacity* (potentiality), but *the actually infinite* (infinity in act). This is because the concept's existence, or its objective externality, is the inner itself.

So if we speak only of free will as such, without specifying that it is free in and for itself, we are speaking only of the predisposition toward freedom, or of the natural and finite will (§ 11). Despite the words and the opinion involved, we are not speaking of free will. The understanding grasps the infinite only as something negative and therefore as *a beyond*. It thinks it honors the infinite all the more, the further it pushes it away into the distance and removes it from itself as something foreign. In the free will, the truly infinite has actual reality and presence. The will itself is this Idea present within itself.

Section 23

- ²³ Only in this freedom is the will completely *at home with itself*. It relates to nothing but itself, so every relation of *dependence* on *something else* falls away. It is true, or rather is *truth* itself. This is because its determining activity consists in being, in its *existence*—that is, as something confronting itself—what its concept is. In other words, the pure concept has the vision of itself as its purpose and reality.

Section 24

- ²⁴ The will is *universal*, because all limitation and particular individuality are overcome in it. These lie only in the difference between the concept and its object or content. Put another way, they lie in the difference between its subjective being-for-itself and its being-in-itself, between its *excluding*, deciding individuality and its universality itself.

The different determinations of *universality* are developed in logic. (See Encyclopedia of the Philosophical Sciences, §§ 118–126.) When we hear this expression, ordinary representation first thinks of abstract, external universality. But the universality that is in and for itself, as it has been determined here, means neither the universality of reflection—*what things have in common*, or *all of them taken together*—nor *abstract* universality, which stands apart from the individual on the other side: the understanding's abstract identity (§ 6, Remark). It is universality that is *concrete* within itself and so is for itself. It is the substance, the inherent genus or inherent Idea of self-consciousness: the concept of the free will as *the universal* that *encompasses* its object *and passes*

through its determination, remaining identical with itself within it. What is universal in and for itself is, in general, what we call *the rational*, which can be grasped only in this speculative way.

Section 25

- ²⁵ For the will in general, *the subjective* means the side of its self-consciousness, its individuality (§ 7), as *distinct* from its concept as it is *in itself*. So its subjectivity means: α) *pure* form, the *absolute unity* of self-consciousness with itself, in which, as $I=I$, it is entirely inward and *abstractly* rests on itself—the pure certainty of itself, distinct from truth; β) the *particularity* of the will as arbitrary choice and the contingent content of any chosen purposes; γ) the one-sided form in general (§ 8), insofar as what is willed, whatever its content may be, is still only a content belonging to self-consciousness and a purpose not yet carried out.

Section 26

- ²⁶ The will is: α) *completely objective* insofar as it has itself as its determination and is thus in keeping with its concept and true; β) *objective*, but *without the infinite form* of self-consciousness, when it is absorbed in its object or condition, whatever that may be in content—the will of a child, a will living ethically, as well as a slavish or superstitious will, and so on; γ) finally, *objectivity* is the one-sided form opposed to the subjective determination of the will, and thus the immediacy of existence as *external* existence. In this sense the will becomes *objective* to itself only by carrying out its purposes.

These logical determinations of subjectivity and objectivity have been specifically listed here because they will often be used below. The point is to make clear that, like other distinctions and opposed determinations of reflection,

their finitude, and therefore their dialectical nature, leads them to pass into their opposites. In other such determinations of opposition, however, their meaning remains fixed for representation and understanding, since their identity is still something *inner*. In the will, by contrast, these opposites are supposed to be abstract and at the same time determinations of the will, which can be known only as *the concrete*. They therefore lead of themselves to this identity and to their meanings interchanging—an interchange that merely happens to the understanding without its awareness. Thus the will, as freedom *existing within itself*, is subjectivity itself. Subjectivity is therefore its concept and so its objectivity. But its subjectivity, in opposition to objectivity, is finitude. Yet precisely in this opposition, the will is not at home with itself but entangled with the object, and its finitude consists just as much in its not being subjective, and so on. What the subjective or objective side of the will is to mean in what follows must therefore always become clear from the context, which contains their position in relation to the whole.

Section 27

- ²⁷ The absolute determination—or, if one prefers, the absolute drive—of free spirit (§ 21) is to have its freedom as its object. This object is to be objective both as the rational system of spirit itself and as immediate actual reality (§ 26), so that spirit may be for itself, as Idea, what the will is in itself. In general, the abstract concept of the Idea of the will is *the free will that wills the free will*.

Section 28

- ²⁸ The will's activity overcomes the contradiction between subjectivity and objectivity. It moves its purposes from the former into the latter while remaining at home with itself in objectivity. Apart from the formal mode of consciousness (§

8), in which objectivity is only immediate actual reality, this activity is the *essential development* of the Idea's substantial content (§ 21). In this development, the concept gives the Idea, which is at first *itself abstract*, the fully determined form of its system as a whole. As the substantial, this whole is *the same* in both forms, independently of the opposition between a merely subjective purpose and its realization.

Section 29

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

Kant's definition (Kant, Doctrine of Right, Introduction), which is also more widely accepted, is one in which "the *restriction* of my freedom or *arbitrary choice*, so that it can coexist with everyone's arbitrary choice under a universal law, is the central element." This contains, first, only a *negative* determination, that of restriction. Second, the positive element—the universal or so-called law of reason, the agreement of one person's arbitrary choice with another's—amounts to the familiar formal identity and the law of contradiction. This definition of right contains the view spread chiefly since *Rousseau* that the will, not as a rational will existing in and for itself, and spirit, not as true spirit, but as a *particular* individual, as the individual's will in its distinctive arbitrary choice, should be the substantial foundation and the starting point. Once this principle is accepted, the rational can of course emerge only as restricting this freedom. Nor can it emerge as inherently rational, but only as an external, formal universal. This view has no speculative thought at all and is rejected by the philosophical concept. Correspondingly, it has produced phenomena in people's minds and in actual reality whose horror is matched only by the shallowness of the thoughts on which they were based.

Section 30

³⁰ Right is something *sacred in general*, solely because it is the existence of the absolute concept, of self-conscious freedom. But the *formalism* of right—and later, of duty—comes from differences in the development of the concept of freedom. Compared with a more formal, that is, more *abstract* and therefore more limited right, a sphere and stage of spirit has a higher right when it has brought the further elements contained in its Idea to determination and actual reality within itself. It has this higher right precisely as the *more concrete* sphere, richer within itself and more truly universal.

Each stage in the development of the Idea of freedom has its own distinctive right, because it is the existence of freedom in one of freedom's own determinations. When morality and ethical life are spoken of as opposed 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 forms is a determination and existence of *freedom*. They can come into *conflict* only insofar as they stand on the same level as rights. If spirit's moral standpoint were not also a right, freedom in one of its forms, it could not come into conflict with the right of personality or any other right. Such a right contains the concept of freedom, spirit's highest determination, against which anything else lacks substance. But conflict also contains this other element: these rights are limited, and therefore one is also subordinate to the other. Only the right of world spirit is absolute without restriction.

Section 31

³¹ Here too, the method is presupposed from logic: in science the concept develops out of itself, in an *immanent* advance that produces its own determinations. The advance does not consist in asserting that various relations exist and then *applying* the universal to material taken from somewhere else.

I call the moving principle of the concept *dialectic*: it not only dissolves the particular forms of the universal but also produces them. This does not mean dialectic in the sense of dissolving or confusing an object, proposition, and so on given to feeling or immediate consciousness, turning it this way and that, and merely deriving its opposite—a negative method that also appears frequently in Plato. Such a method can take as its final result the opposite of a representation, or, more decisively, its contradiction, as ancient skepticism did; or, more feebly, an *approximation* to truth, a modern half-measure. The higher dialectic of the concept does not treat a determination merely as a limit and an opposite. It brings out and grasps the *positive* content and result within it. Only in this way is dialectic *development* and immanent progress. This dialectic is not an *external* act of subjective thinking. It is the content's *own soul*, organically putting out its branches and fruit. Subjective thinking merely watches this development of the Idea through the activity of its own reason, adding nothing of its own. To consider something rationally does not mean bringing reason to the object from outside and working on it in that way. Rather, the object is rational in its own right. Here that object is spirit in its freedom, the highest point of self-conscious reason, which gives itself actual reality and produces itself as an existing world. Science has only to bring this work of the thing's own reason into consciousness.

Section 32

- ³² The *determinations* in the concept's development are themselves concepts. But because the concept exists essentially as Idea, they also have the form of existence. The series of concepts that emerges is therefore also a series of *shapes*. Science must consider them in this way.

In the more speculative sense, a concept's *way of existing* and its *determinate character* are one and the same. But a distinction must be noted. The moments whose result is a more fully determined form precede that form as conceptual determinations in the scientific development of the Idea. They do not precede it as shapes in development over time. Thus the Idea, as determined in the family, presupposes the conceptual determinations from which it will be presented as resulting below. But these inner presuppositions also exist independently as shapes—as property rights, contract, morality, and so on. This is the other side of development: only at a higher, more fully developed stage has it brought its moments to an existence with these distinctive shapes.

Section 33

Division

- ³³ Following the stages in the development of the Idea of the will that is free in and for itself, the will is:
- A) *Immediate*. Its concept is therefore abstract—*personality*—and its *existence* is an immediately external thing. This is the sphere of *abstract or formal right*.
- B) Reflected back into itself from external existence, and determined as *subjective individuality* in contrast to the universal. The universal is partly inward, as *the good*, and partly outward, as an *existing world*. These two sides of the Idea are mediated *only through each other*. This is the Idea in its division, or *particu-*

lar existence: the *right of the subjective will* in relation to the right of the world and the right of the Idea, which, however, exists only in itself. This is the sphere of *morality*.

C) The *unity and truth* of these two abstract moments. The Idea of the good, grasped in thought, is realized both in the will *reflected into itself* and in the *external world*. Freedom as *substance* thus exists as *actual reality and necessity* just as much as it exists as *subjective will*. This is the Idea in its existence as universal in and for itself: *ethical life*.

The ethical substance is likewise:

- a) *Natural* spirit—the *family*;
- b) In its *division and appearance*—*civil society*;
- c) The *state*: freedom that is universal and objective even within the free independence of the particular will. This actual, organic spirit of a people (α) becomes actual and reveals itself (β) through the relation among the particular spirits of peoples and (γ) in world history as the universal world spirit, whose right is the highest.

We presuppose from speculative logic that a thing or content, when posited only according to its *concept*, or as it is *in itself*, has the form of *immediacy* or *being*. A concept that exists *for itself in the form of the concept* is something different: it is no longer immediate. The principle that determines the division is likewise presupposed. The division can also be regarded as a historical preview of the parts, since the different stages must produce themselves from the nature of the content itself as moments in the Idea's development. A philosophical division is not an external classification of given material, made according to one or more criteria taken from elsewhere. It is the concept's own internal differentiation. *Morality* and *ethical life*, which are commonly treated as roughly equivalent, are used here in essentially different senses. Ordinary thinking, too, seems to distinguish them. Kantian usage prefers the expression *morality*, just as the practical principles of that philosophy are entirely restricted to this concept. They even make the standpoint of ethical life impossible, indeed expressly

destroy it and outrage it. But even if morality and ethical life were equivalent in their etymology, that would not prevent us from using these two different words for different concepts.

Section 34

Part One

Abstract Right

- ³⁴ The will that is free in and for itself, taken in its abstract concept, has the character of *immediacy*. In this respect it is an actual reality that is negative toward reality and relates abstractly only to itself: the internally *individual* will of a *subject*. Through the moment of *particularity*, the will has the further content of specific purposes. As *exclusive individuality*, it also confronts this content as an external world immediately found before it.

Section 35

- ³⁵ The *universality* of this will that is free for itself is its formal, self-conscious, and otherwise contentless *simple* relation to itself in its individuality. To this extent, the subject is a *person*. *Personality* means that, as *this particular individual*, I am completely determined and finite in every respect—in my inner choice, drive, and desire, as well as in my immediate external existence. Yet I am also an utterly pure relation to myself, and within my finitude I therefore know myself as *infinite, universal, and free*.

Personality begins only when the subject has more than a general self-consciousness of itself as concrete and determined in some way. It must have self-consciousness of itself as a completely abstract I, in which all concrete limitation and validity are negated and invalid. Personality therefore includes knowing *oneself as an object*, but as an object raised by *thinking* into simple infinity

and thus purely identical with itself. Individuals and peoples do not yet have personality insofar as they have not reached this pure thinking and knowing of themselves. Spirit that is in and for itself differs from spirit as it appears in this respect: in the very determination in which the latter is only *self-consciousness*—consciousness of itself, but only in terms of the natural will and its 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 specifically *free I* for its object and purpose, and is therefore a *person*.

Section 36

- ³⁶ 1) Personality includes the general *capacity to have rights*. It constitutes the concept of abstract and therefore *formal* right, and the foundation of that right, which is itself abstract. The command of right is therefore: *be a person and respect others as persons*.

Section 37

- ³⁷ 2) The will's *particularity* is certainly a moment of the will's whole consciousness (§ 34), but it is not yet contained in abstract personality as such. So it is present, but still distinct from personality, the determination of freedom: as desire, need, drives, incidental preference, and so on. Formal right therefore does not depend on particular interests, on my advantage or welfare, or on the particular motive of my will—my insight and intention.

Section 38

- ³⁸ Compared with the fuller content of concrete action and of moral and ethical relations, abstract right is only a *possibility*. A determination of right is therefore only a *permission* or *authorization*. For the same reason—its abstract character—the necessity of this right is limited to the negative requirement *not to violate* personality and what follows from it. There are therefore only *legal prohibitions*. Even commands expressed in a positive form ultimately rest on a prohibition.

Section 39

- ³⁹ 3) The person's deciding and *immediate* individuality relates to a nature it finds already there. The will's personality thus stands opposed to nature as something *subjective*. But since this personality is inwardly infinite and universal, the restriction of being merely subjective contradicts it and has no validity. Personality is the activity of overcoming this restriction and giving itself reality—or, what is the same, positing that existence as its own.

Section 40

- ⁴⁰ Right is initially the immediate existence that freedom gives itself in an immediate way:
- a) *Possession* that is *property*. Here freedom is the freedom of the abstract will *in general*, or, what amounts to the same thing, of *one individual* person relating only to themselves.

b) The person distinguishes themselves from themselves and relates to *another person*. The two exist for one another only as owners. Their identity, which exists in itself, gains existence through the transfer of one person's property to the other by their common will and with their rights preserved: in *contract*.

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

The division of right into the law of persons, the law of things, and the right to bring legal actions, like many similar divisions, initially aims to put a mass of unorganized material into an external order. Its chief confusion lies in mixing together indiscriminately rights that presuppose substantial relations, such as the family and the state, and rights that relate to merely abstract personality. Kant's division into *rights to things, personal rights, and rights to persons in the manner of things*, which has also become popular elsewhere, belongs to this confusion. It would take us too far to develop the distorted and conceptless character of the division into the law of persons and the law of things that underlies Roman law. (The right to bring legal actions concerns the administration of justice and does not belong in this classification.) This much is already clear here: only *personality* gives a right to *things*, and personal right is therefore essentially *the right to things*. A thing is taken in the general sense of whatever is external to freedom, including my body and my life. This right to things is the right of *personality as such*. In the so-called *law of persons* in Roman law, however, a human being is supposed to be a person only when considered as having a certain *status* (Heineccius, Elements of Civil Law, § LXXV). In Roman law, then, even personality itself, in contrast to slavery, is merely a standing or condition. The content of this so-called Roman law of persons concerns the right to slaves—among whom children are more or less included—the condition of *having no rights* (loss of civil status), and *family relations*. In Kant, family relations are outright the *personal* rights held *in the manner of rights to things*. Roman law of persons is therefore not the right of the person as such, but at least that of the *particular* person. Later it will become clear that the family relation actually has the surrender of personality as its substantial foundation.

It can only seem backward to discuss the right of the *pecially determined* person before the universal right of personality. Kant's *personal rights* are rights arising from a contract under which I give or perform something: the *right to a thing* in Roman law that arises from an obligation. Certainly, only a person can owe performance under a contract, just as only a person can acquire a right to such performance. But that does not make this a personal right. *Every* kind of right belongs only to a person. Objectively, a contractual right is not a right to a person, but only to something external to them, or something they are to transfer—always to a thing.

Section 41

First Division

Property

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

Section 42

- ⁴² What is immediately different from free spirit is, both for it and in itself, the *external* in general: a *thing*, something unfree, impersonal, and without rights. Like “objective,” *thing* has opposite meanings. When we say “that is the thing,” or “the thing, not the person, is what matters,” it means what is *substantial*. But in contrast to the *person*—not merely the particular subject—the thing means the *opposite of the substantial*: what is, by definition, merely external.

What is external for free spirit, which must be clearly distinguished from mere consciousness, is external in and for itself. The conceptual determination of *nature* is therefore to be what is external within itself.

Section 43

⁴³ The person, as the *immediate* concept and therefore also essentially an individual, has a *natural* existence. This is partly within the person themselves and partly an existence to which they relate as an outside world. Here, where the person is still in their first immediacy, we are concerned only with things that are immediately things—not with determinations capable of *becoming* things through the mediation of the will.

Mental skills, sciences, arts, even religious matters—sermons, masses, prayers, blessings in consecrated objects—and inventions, and so on, become objects of contract. They are treated like acknowledged things in being bought, sold, and so on. We can ask whether artists, scholars, and so on legally possess their art, science, or ability to deliver a sermon, celebrate mass, and so on; that is, whether objects of this kind are things. We hesitate to call such skills, knowledge, and abilities things. Since possessions of this kind are negotiated and contracted over as things, yet are also inward and spiritual, the understanding can be at a loss about their legal classification. It sees only the opposition that something is *either* a thing *or* not a thing, just as it sees the opposition *either* infinite *or* finite. Knowledge, sciences, talents, and so on certainly belong to free spirit and are inward to it, not external. But spirit can equally give them an external existence by expressing them, and can *transfer them* (see below), thereby bringing them under the determination of *things*. They are therefore not immediate to begin with. They become so only through the mediation of spirit, which brings its inward content down to immediacy and externality. Under the unjust and unethical provision of Roman law, children were *things* for their father, who thus legally possessed them. Yet he presumably also stood in the ethical

relation of love toward them, although this injustice must have greatly weakened that relation. Here, then, the two determinations of thing and non-thing were united, but quite unjustly. Abstract right concerns only the person as such. It therefore concerns the particular content belonging to the existence and sphere of the person's freedom only insofar as that content is separable and immediately distinct from the person—whether this is its essential character or whether it can acquire that character only through the mediation of the subjective will. Within abstract right, mental skills, sciences, and so on are consequently considered only as legal possessions. Possession of the body and spirit acquired through education, study, practice, and so on, which exists as an *inner property* of spirit, is not to be discussed here. The *transition* of such spiritual property into externality, where it falls under the determination of legally recognized property, must wait until the discussion of *transfer of ownership*.

Section 44

⁴⁴ The person has the right to put their will into any thing, which thereby becomes *mine*. Since the thing has no substantial purpose of its own, it receives my will as its substantial purpose, its determination, and its soul. This is the human being's absolute *right to appropriate* all things.

The so-called philosophy that attributes reality to immediate individual things, to what is impersonal—reality in the sense of independence and genuine being for itself and within itself—is directly refuted by the free will's relation to these things. So is the philosophy that assures us that spirit cannot know truth or know what the *thing in itself* is. So-called *external things* may appear independent to consciousness, intuition, and representation. But the free will, by contrast, is the idealism, the truth, of such reality.

Section 45

⁴⁵ Having something in my own external power constitutes *possession*. Making something mine out of natural need, drive, or choice is the particular side of possession, its particular interest. But in possession I also become an object to myself as a free will and so become an actual will in the first place. This is what is true and rightful in possession: the determination of *property*.

When need is treated as primary, having property appears as a means to meet it. But the true relation is that, from the standpoint of freedom, property, as freedom's *first existence*, is an essential purpose in its own right.

Section 46

⁴⁶ In property, my will becomes objective for me as a personal will, and therefore as the will of an *individual*. Property thus has the character of *private property*. Common property that can by its nature be held separately has the character of an association *inherently open to dissolution*: leaving my share in it is in itself a matter of choice.

By its nature, the use of *natural elements* cannot be divided into private possessions. The *agrarian laws* in Rome involve a struggle between common and private ownership of land. Private ownership, as the more rational moment, had to prevail, though at the expense of other rights. Property *tied up in a family trust* includes a moment opposed by the right of personality and therefore of private property. But the determinations governing private property may have to be subordinated to higher spheres of right, to a community or the state. This is the case, as regards private ownership, with property belonging to a so-called legal person—property held in perpetuity. Such exceptions, however, can be grounded only in the rational organization of the state, not in chance, private

whim, or private advantage. The Idea of the *Platonic* state contains as a universal principle the injustice to the person of being incapable of private ownership. The idea of a pious or friendly, even a forced, brotherhood of people with *common ownership of goods* and the banishment of the principle of private property can easily appeal to a disposition that misunderstands the nature of the freedom of spirit and of right, and fails to grasp it in its specific moments. As for moral or religious considerations, *Epicurus* discouraged his friends when they planned to establish such a community of goods, precisely because it would show mistrust, and people who mistrust one another are not friends (Diog. Laërt. l. X. n. VI.).

Section 47

⁴⁷ As a person, I myself am an *immediate individual*. To determine this further, it means first that I am *alive* in this *organic body*. This body is my undivided external existence, universal in its content, and the real possibility of every more specifically determined existence. But as a person I also have my *life and body*, like other things, only insofar as this is *my will*.

I am alive and have an organic body on the side of my existence where I exist not as the concept that is for itself, but as the immediate concept. This rests on the concept of life and on that of spirit as soul—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 and this life only insofar as I *will* them. An animal cannot mutilate or kill itself, but a human being can.

Section 48

⁴⁸ As immediate existence, the body is not adequate to spirit. To become its willing organ and animated instrument, the body 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 my body as a free being must this living existence not be misused as a beast of burden. Insofar as I live, my soul—the concept and, at a higher level, what is free—and my body are not separate. The body is the existence of freedom, and I feel in it. Only a sophistical understanding devoid of the Idea can therefore claim that the *thing in itself*, the soul, is not touched or attacked when the *body* is mistreated and the person's *existence* subjected to another's power. I can withdraw into myself from my existence and make it external to me. I can keep a particular sensation outside myself and be free in chains. But this is *my* will. *For the other person*, I am in my body. "I am *free for another* only as *free in existence*" is a statement of identity (s. meine Wissenssch. der Logik 1. B. S. 49. f. f.). Violence that others do to *my body* is violence done to *me*.

Because I feel, touching my body or doing violence to it touches me immediately as *actual and present*. This makes the difference between a personal offense and an injury to my external property, in which my will is not immediately present and actual in this way.

Section 49

⁴⁹ In relation to external things, what is *rational* is that I own property. But the *particular* side includes subjective purposes, needs, choice, talents, external circumstances, and so on (§ 45.). Possession merely as such depends on these. In

this sphere of abstract personality, however, this particular side is not yet posited as identical with freedom. *What* and *how much* I possess is therefore legally contingent.

In personality, the *several* persons are equal—if we want to speak of several here, where no such distinction yet exists. But this is an empty tautology. As something abstract, the person is precisely what has not yet been particularized and posited in a definite distinction. *Equality* is the abstract identity of the understanding. It is what reflective thinking, and with it mediocrity of spirit in general, first falls back on when faced with the relation of unity to a difference. Here equality would only be the equality of abstract persons as such. Everything concerning possession—that *ground of inequality*—therefore falls outside it. The demand sometimes made for *equality* in the division of land, or even of other available wealth, is an all the emptier and more superficial product of the understanding because this particular sphere includes not only external natural contingencies but also the entire range of spiritual nature, in its infinite particularity and diversity and in its reason developed into an organized whole. We cannot speak of *injustice in nature* over its unequal distribution of possessions and wealth. Nature is not free and is therefore neither just nor unjust. The demand that everyone should have enough to meet their needs is, on one side, a moral wish. Expressed in this indeterminate way, it is well meant but, like the merely well-meant in general, has no objective reality. On the other side, having enough is different from *possession* and belongs to another sphere, civil society.

Section 50

- ⁵⁰ A thing belongs to the person who happens to be *first in time* to take possession of it. This provision is self-evident and unnecessary, since a second person cannot take possession of what is already someone else's property.

Section 51

- ⁵¹ For property to exist as the *existence* of personality, my *inward* idea and will that something should be mine are not enough. I must also *take possession* of it. The existence this gives to my willing includes its being recognizable to others. —The requirement that a thing I can take possession of must be *ownerless* is a negative condition that goes without saying (as in § 50). Or rather, it refers to the anticipated relationship to others.

Section 52

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

Matter resists me (and this resistance to me is all it is). That is, it shows its abstract being-for-itself only to me as abstract spirit, namely, as *spirit that senses*. (Sense-based thinking gets things backward: it takes spirit's sensory existence to be concrete, and what is rational to be abstract.) But in relation to the will and property, this being-for-itself of matter has no truth. Taking possession is an *external action* that puts into effect the universal right to appropriate natural things. As such, it is subject to the conditions of physical strength, cunning, skill, and the various means by which we physically get hold of something. Because natural things differ in quality, getting control of them and taking possession of them have infinitely many meanings, limitations, and contingencies. Besides, a kind of thing, or an element as such, is not an *object for a person's individuality*. To become one and be grasped, it must first be made into an individual thing—a breath of air, a swallow of water. It is impossible to take possession of an external kind as such or of an element. But the final point here is not an external, physical impossibility. Rather, as will, the person determines

itself as an individual, and as a person it is also immediately an individual. It therefore also relates as an individual to external things as individuals. (§ 13, Remark; § 43.)—So gaining control and possessing externally remain more or less indefinite and incomplete in infinitely many ways. Still, matter is never without an essential form, and only through this form is it something. The more I make this form my own, the more I come into *actual possession* of the thing. Eating food penetrates and changes the qualitative nature that makes it what it is before it is eaten. Training my organic body in skills, like educating my spirit, is also a more or less complete taking possession and penetration. It is my spirit that I can most completely make my own. But this *actual reality of taking possession* differs from property as such, which is made complete by the free will. Against this will, the thing has kept nothing of its own for itself, even though possession, as an external relationship, still leaves something external. Thought must master the empty abstraction of matter without properties that is supposed, within property, to remain outside me and belong to the thing itself.

Section 53

- ⁵³ Property gets its more specific forms from the will's relationship to the thing. This relationship is α) direct *taking possession*, insofar as the will has its existence in the thing as something *positive*; β) *use*, insofar as the thing is something negative in relation to the will, and the will has its existence in it as something to be negated; γ) *alienation*, the will's return from the thing into itself. These are the will's *positive, negative, and infinite judgments* on the thing.

Section 54

A. Taking possession

- 54 Possession is taken partly by directly *grasping something physically*, partly by *giving it form*, and partly by merely *marking* it.

Section 55

- 55 a) *Physically grasping* something is the most complete way of taking possession from the sensory point of view. I am directly present in this possession, and so my will is just as recognizable. But it is only subjective and temporary, and its scope, as well as the qualitative nature of the objects, puts very strict limits on it.—This way of taking possession extends somewhat further through the connection I can establish between something and other things I already own, through a connection something enters into by chance, or through other means.

Mechanical forces, weapons, and tools extend the reach of my power.—Connections include those of the sea or river washing my land; of land suitable for hunting, grazing, or other use that borders my fixed property; of deposits of stone and other minerals under my field; of treasure in or under my landed property, and so forth. Other connections arise only over time and by chance, as with some so-called natural accessions, alluvial deposits and the like, and things washed ashore. Offspring certainly add to my assets, but, as an organic relationship, this is not an external addition to another thing I possess, and so is entirely different from the other accessions. These connections partly make it easier for one possessor rather than another to take possession of or use something, and sometimes make it possible for that possessor alone. In other cases, the addition can be regarded as a dependent *accident of the thing* it has been added to. In general, these are *external* connections, not held together by the concept and by life. They must therefore be left to the understanding to bring forward and weigh the reasons for and against, and to positive legislation to decide, according to the greater or lesser importance or unimportance of the relationships.

Section 56

- ⁵⁶ β) By *giving something form*, I give the fact that it is mine an *external existence of its own*. It is no longer limited to my presence in *this* place and at *this* time, or to the presence of my knowledge and will.

Giving form is, to this extent, the way of taking possession that best fits the Idea, because it unites the subjective and objective within itself. Otherwise, it varies infinitely with the qualitative nature of the objects and the differences between subjective purposes.—This also includes giving form to living things, in which what I do does not remain external, but is assimilated: cultivating the earth, growing plants, taming, feeding, and tending animals. It also includes arrangements that provide further means of using elemental materials or forces, setting up one material to act on another, and so forth.

Section 57

- ⁵⁷ In their *immediate* existence, human beings are natural beings, external to their own concept. Only by *developing* their own body and spirit, and *essentially* by their *self-consciousness grasping itself as free*, do they take possession of themselves and become their own property, both for themselves and in relation to others. Conversely, this taking possession means putting into *actual reality* what they are in their concept—as a *possibility*, capacity, or predisposition. Only through this is it both established as their own and made into an object, distinguished from simple self-consciousness, and so made capable of receiving the *form of a thing* (compare the Remark to § 43).

The supposed justification of *slavery*—in all its more specific arguments based on physical force, capture in war, saving and preserving life, nourishment, education, benefits received, personal consent, and so forth—rests on treating

human beings as natural beings in general, in an existence that does not fit their concept. Arbitrary choice, too, belongs to this existence. The same applies to the supposed justification of *mastery* as mere domination in general, and to every *historical* view of the right of slavery and mastery. The assertion that slavery is absolutely wrong, on the other hand, holds firmly to the concept of the human being as spirit, as free in itself. But it is one-sided in taking human beings to be free *by nature*: in other words, it takes the concept as such in its immediacy, rather than the Idea, to be the truth. Like every antinomy, this *antinomy* rests on formal thinking. Such thinking holds the two moments of one Idea apart, asserting each on its own, and thus in a form that does not fit the Idea and is untrue. Free spirit is precisely this (§ 21): not to exist as the mere concept, or merely in itself, but to overcome 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 truth—but only the starting point. The other side, which stops at existence without its concept, does not contain the standpoint of rationality and right at all. The standpoint of the free will, with which right and the science of right begin, has already gone beyond the untrue standpoint on which human beings are natural beings and a concept existing only in itself, and so are capable of being enslaved. This earlier, untrue appearance concerns spirit that is still only at the standpoint of its consciousness. There, the dialectic of the concept and of the still merely immediate consciousness of freedom produces the *struggle for recognition* and the relationship of *mastery* and *servitude* (s. Phänomenologie des Geistes S. 115. f. f. und Encyklop. der philosoph. Wissensch. § 382. f. f.). But objective spirit, the content of right, must not itself be understood once again only in its subjective concept. Accordingly, the fact that human beings are not in and for themselves destined for slavery must not be understood once again as merely something that *ought* to be. This is achieved only by recognizing that the Idea of freedom truly exists only as *the state*.

Section 58

- ⁵⁸ γ) Taking possession in a way that is not actual on its own, but only *represents* my will, consists in placing a sign on the thing. Its meaning is supposed to be that I have put my will into it. This way of taking possession is very indefinite in both the extent of what it covers and its meaning.

Section 59

B. Using the thing

- ⁵⁹ Taking possession gives the thing the predicate of *being mine*, and the will has a *positive* relationship to it. Within this identity, the thing is equally established as something *negative*, and my will in this respect 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 something negative in itself, exists only *for this need* and *serves* it.—*Use* is this realization of my need through changing, destroying, or consuming the thing. This reveals the thing's selfless nature, and it thereby fulfills its purpose.

Ordinary thinking has in mind that use is the *real* side and actual reality of property when it regards unused property as dead and ownerless, and cites the owner's failure to use it as a reason for wrongfully taking control of it.—But the owner's will, by which a thing is theirs, is the first substantial foundation. The further determination, use, is only its appearance and particular mode, subordinate to that universal foundation.

Section 60

- ⁶⁰ *Using* a thing by directly grasping it is, on its own, an *individual* act of taking possession. But suppose the use rests on a continuing need and repeatedly uses a product that renews itself, perhaps also limiting itself to preserve this renewal. These and other circumstances make that immediate individual act of grasping into a *sign*. It is supposed to mean a general taking possession, and thus taking possession of the elemental or organic *basis*, or of the other conditions, of such products.

Section 61

- ⁶¹ The substance of a thing that is my property consists, on its own account, in its externality—that is, its lack of substance. In relation to me, it is not an end in itself (§ 42). This externality, realized, is the use I make of it. So the *whole use* of the thing is *the thing in its full extent*. If that use belongs to me, I am the owner of the thing. Beyond the full extent of its use, nothing remains of it that could be someone else's property.

Section 62

- ⁶² Only *partial* or *temporary use*, or *partial* or *temporary possession*—itself a partial or temporary *possibility* of using the thing—that belongs to me is therefore distinct from *ownership of the thing itself*. If the full extent of its use were mine, but abstract ownership were supposed to belong to someone else, then the thing, as mine, would be completely permeated by my will (the preceding § and § 52). At the same time, it would contain another person's will, impenetrable to

me and indeed empty. I would be objective in the thing as a positive will, and at the same time not objective: an absolute contradiction.—Property is therefore essentially *free, full* ownership.

The distinction between the right to the *full extent of use* and *abstract ownership* belongs to the empty understanding. For it, the Idea—here, the unity of ownership, or of the personal will in general, with its *reality*—is not the truth. Instead, it treats these two moments, separated from one another, as something true. As an actual relationship, this distinction is therefore one of empty mastery. It could be called a derangement of personality, if derangement were not a term used only of a subject's mere representation and its actual reality, united in direct contradiction. For my possession of *one* object would have to consist, without mediation, in both my individual, exclusive will and another individual, exclusive will.—The Institut. lib. II. tit. IV. says: "Usufruct is the right to use and enjoy things *belonging to others* while preserving their *substance*." It goes on: "But so that ownership should not be entirely *useless*, with usufruct *forever* separated from it, *it was decided* that usufruct should end in certain ways and return to ownership."—"It was decided"—as though giving that empty distinction a meaning through this provision were merely a preference or a decision. Ownership with usufruct *forever* separated from it would be not only *useless*, but no ownership at all.—Other distinctions within ownership itself, such as between things transferred by formal conveyance and things not so transferred, or between Quiritary and Bonitary ownership, and the like, do not belong here. They do not concern any determination of the concept of property, and are merely historical niceties of this law.—But the relationships of direct ownership and beneficial ownership, the emphyteutic contract, and the further relationships of feudal estates with their hereditary and other rents, dues, transfer fees, and so forth, in their many forms, both contain and do not contain the above distinction when such burdens *cannot be redeemed*. They do not contain it insofar as burdens are attached to beneficial ownership, making direct ownership also a beneficial ownership. If such relationships contained nothing but that distinction in its strict abstraction, there would not really be *two masters* (domini) facing one another, but an *owner* and an empty *master*. Because of

the burdens, however, there are *two owners* in the relationship. Yet their relationship is not one of *common* ownership. The transition to such a relationship is the nearest step from the former one. This transition has already begun when the income from direct ownership is calculated and treated as *essential*. The incalculable aspect of mastery over property, which may have been regarded as noble, is then subordinated to utility, which here is what is rational.

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

Section 63

⁶³ A thing in use is an individual thing, defined in quality and quantity and related to a specific need. But its specific usefulness, as something *quantitatively* defined, is also *comparable* with other things of the same usefulness. Likewise, the specific need it serves is also *need in general*. In this respect, its particular character can be compared with other needs, and accordingly the thing can also be compared with things useful for other needs. This *universality* of the thing is its *value*. Its simple determination emerges from the particular character of the thing, while also abstracting from that specific quality. In value, the thing's true substantiality is *determined* and becomes 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 their property: they are supposed to own only the *use* of the thing, not its *value*.

Section 64

⁶⁴ The form given to a possession and the sign placed on it are themselves external circumstances, without the subjective presence of the will. Only that presence gives them their meaning and value. But this presence, which consists in using the thing or otherwise expressing the will, takes place *in time*. In relation to time, *objectivity* consists in this expression *continuing*. Without it, the thing becomes ownerless, abandoned by the actual reality of will and possession. I therefore lose or acquire property through *prescription*.

Prescription was therefore not introduced into law merely for an external consideration opposed to strict right: the wish to cut off disputes and confusion that old claims would introduce into the security of property, and so forth. Rather, prescription rests on the determination of property's *reality*, on the requirement that the will to have something must express itself.—*Public monuments* are national property. More precisely, like works of art in general considered in terms of their *use*, they count as living, independent ends because of the soul of memory and honor that inhabits them. But when this soul abandons them, they become, in this respect, ownerless for a nation, and chance private possessions, like the Greek and Egyptian works of art in Turkey.—The *private property right* of an *author's* family in the author's works expires on similar grounds. The works become ownerless in the sense that, in the opposite way to those monuments, they pass into common ownership, and, according to the particular use made of the thing, into chance private possession.—Bare land dedicated as graves, or even simply on its own, *for all time to nonuse*, contains an empty, no-longer-present arbitrary choice. Violating it violates nothing actual, so respect for it cannot be guaranteed either.

Section 65

C. Giving up property

- ⁶⁵ I can *give up* my property, since it is mine only insofar as I put my will into it. Thus I can simply leave my thing ownerless (derelinquire), abandoning it, or hand it over to someone else's will to possess—but only insofar as the thing is *external by its nature*.

Section 66

- ⁶⁶ Those goods—or rather, substantial determinations—that make up my very own person and the universal essence of my self-consciousness therefore *cannot be given away*. Nor can the right to them be *lost through prescription*. They include my personality in general, my universal freedom of will, ethical life, and religion.

That spirit also is, in existence and for itself, what it is in its concept or *in itself*—and so is a person, is capable of owning property, and has ethical life and religion—this Idea is itself spirit's concept. As the cause of itself—that is, as a free cause—it is that “whose nature cannot be conceived except as existing” (Spinoza Eth S. I. Def. I.). This very concept means being what it is *only through itself*, as an *infinite return into itself* from the natural immediacy of its existence. It contains the possibility of an opposition between what spirit 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. Here, too, lies the possibility of giving away personality and its substantial being, whether unconsciously or explicitly.—Examples of giving away personality are slavery, serfdom, inability to own property, restrictions on the freedom of property, and so forth. Giving away intelligent rationality, morality, ethical life, and religion occurs in superstition, and in

granting others the authority and power to determine and prescribe what actions I should commit (as when someone expressly hires themselves out for robbery, murder, and so forth, or for the possibility of crimes), what my duty of conscience is, what religious truth is, and so forth.—The right to such things that cannot be given away cannot be lost through prescription. For the act by which I take possession of my personality and substantial essence, making myself capable of rights and responsibility, moral and religious, removes these determinations from the externality that alone made it possible for someone else to possess them. Ending this externality also does away with the relevance of time and with every reason that could be drawn from my earlier consent or acceptance. This return of myself into myself, by which I give myself existence as the Idea, as a person with rights and morality, ends the previous relationship. It also ends the wrong that I and the other person have done to my concept and reason: allowing the infinite existence of self-consciousness to be treated, and treating it, as something external.—This return into myself reveals the contradiction in having given others possession of my capacity for rights, ethical life, and religious commitment—something I did not possess myself, and something that, as soon as I possess it, exists essentially only as my own and not as something external.

Section 67

⁶⁷ I can transfer to someone else *individual* products of my *particular bodily and mental skills* and capacities for activity. I can also transfer a use of them that is *limited in time*. This limitation gives them an external relationship to my *totality* and *universality*. By transferring the *whole* of my time as made concrete through work, and the totality of my production, I would make their substantial basis—my *universal* activity and actual reality, my personality—someone else's property.

This is the same relationship as that between the substance of a thing and its use, above in § 61. Just as use differs from substance only insofar as it is limited, the use of my powers differs from the powers themselves, and thus from me, only insofar as it is quantitatively limited. The *totality* of a power's expressions is the power itself; the totality of the accidents is the substance; the totality of the particular forms is the universal.

Section 68

⁶⁸ What is distinctive about intellectual production can, through the way it is expressed, turn directly into the external character of a thing that others can now also produce. Someone who acquires it can make the communicated thoughts or technical invention their own. Sometimes, as with literary works, this possibility is the sole purpose and value of acquiring it. But the new owner also comes into possession of the *general way* of expressing oneself in this way and producing many such things.

In works of art, the form that embodies the thought in an external material, as a thing, is so much the individual producer's own that imitating it is essentially a product of the imitator's own intellectual and technical skill. With a literary work, the form that makes it an external thing is *mechanical*, as it is with the invention of a technical device. In the former, this is because the thought is represented only in a series of separate, abstract signs, not in concrete sculptural form; in the latter, because its content is mechanical in general. The way of producing such things as things belongs to ordinary skills.—Between the extremes of the work of art and craft production, however, there are transitional forms that have more or less of one or the other in them.

Section 69

⁶⁹ Someone who acquires such a product possesses its full use and value in the copy as an *individual thing*, and so is its complete and free owner as an individual thing. Yet the author of the text or inventor of the technical device remains the owner of the *general way* of reproducing such products and things. They have not directly transferred this general way, but can reserve it for themselves as their own expression.

The substantial basis of the author's and inventor's right should not be sought first in their making an arbitrary *condition* when giving up an individual copy: namely, that the possibility of likewise producing such products as things, which thereby comes into the other person's possession, should not become that person's property, but remain the inventor's. The first question is whether the concept allows ownership of the thing to be separated from the possibility it brings of producing the same thing, without canceling full, free ownership (§ 62). Only then is it up to the original intellectual producer to keep this possibility, transfer it as something of value, or attach no value to it and give it up along with the individual thing. The distinctive feature of this possibility is that it is the side of the thing that makes it not just a possession, but an *asset* (s. unten § 170. ff.). It lies in the particular way the thing is used externally, and differs from and can be separated from the use for which the thing is directly intended. It is not what is called a natural accession, such as offspring. Since the distinction falls within external use, which is divisible by its nature, retaining one part while transferring the other part of the use does not reserve a mastery without benefit.—The merely negative, but very first way to promote the sciences and arts is to protect those who work in them against *theft* and give them the protection of their property. Similarly, the very first and most important promotion of trade and industry was to make them safe from robbery on the highways.—An intellectual product, however, is intended to be understood by

other individuals and made their own in their ideas, memory, thought, and so forth. Their expression, by which they likewise make *what they have learned* into a *transferable thing*, readily takes on some distinctive *form*. Learning does not mean only memorizing words: other people's thoughts can be grasped only through thinking, and this thinking them through is also learning. Thus they can regard the asset arising from what they have learned as their property and claim for themselves the right to produce from it. The propagation of the sciences in general, and the specific work of teaching in particular, are, by their purpose and duty, the *repetition* of established thoughts—thoughts already expressed and taken in from outside. This is most definite in the positive sciences, a church's doctrine, jurisprudence, and so forth. The same applies to writings intended for this teaching and for propagating and spreading the sciences. No precise determination can state how far the form arising in repeated expression transforms the existing stock of scientific knowledge into a special intellectual property of the individual reproducing it, and thereby gives that individual the right to make it their external property too. This applies particularly to the thoughts of others who still own their intellectual products externally. Nor can it state how far no such transformation takes place—how far such repetition in a literary work becomes *plagiarism*. These matters therefore cannot be settled in law and legislation. Plagiarism would consequently have to be a matter of *honor*, and honor would have to restrain it.—Laws against unauthorized *reprinting* therefore fulfill their purpose of legally securing the property of authors and publishers within a definite but very limited scope. It is easy deliberately to change something in the form, or to invent some tiny modification of a great science or comprehensive theory that is someone else's work. Indeed, it is impossible, when presenting what one has understood, to keep to the originator's words. Quite apart from the particular purposes that make such repetition necessary, these circumstances produce an infinite variety of changes that stamp someone else's property, more or less superficially, as *one's own*. Hundreds upon hundreds of compendiums, extracts, collections, arithmetic books, geometries, devotional writings, and so forth show this. So does the way every idea in a critical journal, literary almanac, encyclopedia, and so

forth can immediately be repeated, under the same or a different title, yet claimed as something original. In this way, the profit that a work or idea promised its author or inventive entrepreneur can easily be wiped out, mutually reduced, or ruined for everyone.—As for the *effect of honor* against plagiarism, it is striking that the expression *plagiarism*, or even *scholarly theft*, is no longer heard. Either honor has done its work and driven plagiarism out, or plagiarism has stopped being dishonorable and the feeling against it has disappeared, or some little idea and change of external form rate themselves so highly as originality and independent intellectual production that they never even allow the thought of plagiarism to arise.

Section 70

- ⁷⁰ The all-embracing totality of external activity, *life*, is not external to personality, since personality is itself *this one* and *immediate*. Giving up or sacrificing life is, rather, the opposite of the existence of this personality. I therefore have no right at all to give it up in that way. Only an ethical Idea, in which this *immediately* individual personality has in itself been absorbed, and which is its *actual* power, has a right to it. At the same time, just as life as such is *immediate*, death too is its *immediate* negation. Death must therefore come from outside, as a natural event, or, in the service of the Idea, at someone else's hand.

Section 71

Transition from Property to Contract

- ⁷¹ Existence, as determinate being, is essentially being for something else (see the remark above on § 48). Insofar as property exists as an external thing, it exists for other external things and stands within their connections of necessity and chance. But as the existence of the will, it exists for something else only when

that something is *the will* of another person. This relationship of will to will is the distinctive and true ground in which freedom exists. Property is now mediated not just by a thing and my subjective will, but also by another will, and so is held within a shared will. This mediation makes up the sphere of *contract*.

Reason makes it just as necessary for people to enter contractual relationships—to give, exchange, trade, and so on—as to own property (§ 45, remark). Their consciousness may see need in general, goodwill, advantage, and so on as what leads them to make contracts. But in itself the basis is reason: the Idea of free personality having real existence, that is, existence present only in the will. A contract presupposes that those entering it *recognize* one another as persons and property owners. Since it is a relationship of objective spirit, the element of recognition is already contained and presupposed in it (compare §§ 35 and 57, remarks).

Section 72

Second Division

Contract

- ⁷² Property whose *side* of existence or *externality* is no longer just a thing, but contains the element of a will—and therefore of another will—comes about through *contract*. Contract is the process that presents and mediates this contradiction: I am and *remain* an owner existing for myself and excluding the other person's will only insofar as, within a will identical with the other's, I *cease* to be an owner.

Section 73

- ⁷³ I can give up property not only as an external thing (§ 65). The concept also requires me to give it up as property, so that my will has an *existence* that stands before me as an object. But in this respect my will, as given up, is at the same time *another* will. What makes this necessity of the concept real is therefore the *unity* of different wills, in which their difference and distinctiveness are given up. Yet this identity of their wills also includes, at this stage, the fact that each is and remains a distinctive will of its own, *not identical* with the other.

Section 74

- ⁷⁴ This relationship thus mediates a single, identical will within the absolute separation of owners who each exist for themselves. It involves each person, through both their own will and the other's, *ceasing* to be an owner, *remaining* an owner, and *becoming* an owner. It mediates the will to give up a single piece of property and the will to accept such property, which therefore belongs to someone else. The two are linked in one identity: 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 each other as *immediately* independent persons, α) the contract begins with their *arbitrary choice*; β) the identical will that comes into existence through the contract is a will *established only by*

them. It is therefore only a *shared* will, not a will universal in and for itself; γ) the object of the contract is a *single external thing*, since only such a thing is subject to their mere choice to give it up (§§ 65 and following).

Marriage therefore cannot be placed under the concept of contract. *Kant* presents this classification in its—one must say—disgracefulness (*Metaphys. Anfangr. der Rechtslehre*, p. 106 and following). Nor does the nature of the *state* lie in a contractual relationship, whether the state is taken as a contract of everyone with everyone else or as a contract of all these people with the prince and the government. Mixing this relationship, and the relationships of private property in general, into the relationship of the state has caused the greatest confusion in constitutional law and in actual reality. In earlier periods, rights and duties relating to the state were regarded and asserted as the direct private property of particular individuals against the rights of the prince and the state. In a more recent period, the rights of the prince and the state have been treated as an object of contract and as founded on it: as something merely *shared* by the wills, arising from the arbitrary choice of those united in a state. Different as these two standpoints are, they have this in common: they transfer 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* when the two acts of consent that produce the shared will—the negative element of giving up a thing and the positive element of accepting it—are divided between the two parties: a *contract of gift*. But it can be called *real* when *each of the two* contracting wills contains the whole of these mediating elements, and so both becomes and remains an owner within it: a *contract of exchange*.

Section 77

⁷⁷ In a real contract, each person keeps the *same* property with which they entered it and which they also give up. What stays *identical*, as the property that exists *in itself* within the contract, is therefore distinct from the external things that change owners in the exchange. It is their *value*. In value, the objects of the contract are *equal* despite all their outward qualitative differences. It is what is *universal* in them (§ 63).

The rule that *laesio enormis* (enormous injury) cancels an obligation entered into by contract therefore comes from the concept of contract. More specifically, it comes from the fact that, by giving up property, a contracting party remains an *owner* and, more precisely, *remains* the owner of the same quantity. But the injury is not merely enormous—this is taken to mean that it exceeds *half* the value—but *infinite* if a contract, or any stipulation for transfer, concerns an *inalienable* good (§ 66). A *stipulation*, incidentally, is initially distinguished from a contract by its content: it means some particular part or element of the whole contract. It also means the formal establishment of the contract, which will be discussed later. In the first sense it contains only the formal determination of a contract: one person's consent to provide something and the other's consent to accept it. It has therefore been counted among the so-called *unilateral* contracts. The division of contracts into unilateral and bilateral, like other classifications in Roman law, partly consists of superficial groupings based on a single, often external consideration, such as the manner of their formalities. These classifications also partly mix determinations concerning the nature of the contract itself with those concerning only the administration of justice (actiones, legal actions) and legal effects under positive law. The latter often arise from entirely external circumstances and violate the concept of right.

Section 78

⁷⁸ The difference between property and possession, between the substantial and the external side (§ 45), becomes, in contract, the difference between the shared will as *agreement* and its realization through *performance*. Considered on its own, apart from performance, the agreement that has been reached is something represented in thought. This agreement must therefore, following the distinctive way *representations exist in signs* (*Encyklop. der philosoph. Wissenschaften*, § 379 and following), be given a particular existence in the expression of a *stipulation*: through formal *gestures* and other symbolic actions, and especially through a definite declaration in *language*, the element most worthy of spiritual representation.

In this sense, stipulation is indeed the form in which the content *settled* in the contract exists as something still only *represented* in thought. But representation is only the form. It does not mean that the content is still something subjective, something to be wished for and willed in one way or another. Rather, the content is the settlement of this matter already accomplished by the will.

Section 79

⁷⁹ Stipulation contains the side of the will, and therefore the *substantial* legal element in the contract. By comparison, the possession that still continues while the contract remains unfulfilled is, on its own, only the external side, determined solely by that element of will. Through stipulation I have given up property and my particular choice over it. It has *already* become the *other person's property*. Stipulation therefore immediately binds me legally to *perform*.

The difference between a mere promise and a contract is this: in a promise, what I intend to give, do, or provide is stated as something *future*. It 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, in the sense that I have thereby transferred my thing, that it has now ceased to be my property, and that I already recognize it as the other's property. The Roman distinction between *pactum* (agreement) and *contractus* (contract) is a poor one. *Fichte* once claimed that my *obligation* to keep a contract begins only when the other party *starts* to perform. Before performance, I supposedly do not know whether the other person *seriously meant* their declaration; the obligation before performance would therefore be only *moral*, not legal. But the declaration in a stipulation is not just any declaration. It contains the *shared will* that has been established, in which arbitrary choice about one's *disposition* and changes in it has been overcome. The issue is therefore not whether the other person may *inwardly* have had, or come to have, a different intention, but whether they have the right to do so. Even when the other person starts to perform, I still have the arbitrary choice to act wrongly. This view immediately shows its emptiness: it would base the legal character of the contract on bad infinity, a process going on forever—on the infinite divisibility of time, matter, action, and so on. The *existence* the will has in a formal gesture or in language definite in itself is already its complete existence as an *intellectual will*. Performance is only the consequence, with no independent standing of its own. It makes no difference that positive law also has so-called *real contracts*, as distinct from so-called *consensual contracts*. In this usage, the former are regarded as fully valid only when actual performance (*res*, *traditio rei*: the thing, the handing over of the thing) is added to consent. Some of these are special cases in which the handover first enables me to perform my part. My obligation to perform relates only to the thing insofar as I have received it, as with a loan for consumption, a loan for use, or a deposit. This can also happen in other contracts. That circumstance concerns not the nature of the relationship between stipulation and performance but the manner of performance. In other

cases, it is in general left to choice to stipulate in a contract that one party's obligation to perform is not to lie in the contract itself as such, but is to depend on the other party's performance.

Section 80

⁸⁰ The *classification* of contracts and a reasoned treatment of their kinds based on it must be drawn not from external circumstances, but from differences within the nature of contract itself. These are the differences between formal and real contract; between property and possession and use; and between value and a specific thing. The *following kinds* therefore result. The classification given here agrees on the whole with Kant's classification in *Metaph. Anfangsgründe der Rechtslehre*, p. 120 and following. It should long ago have been expected that the usual routine division into real and consensual contracts, named and unnamed contracts, and so on would have been abandoned in favor of a rational classification.

A) *Contract of gift*, specifically:

1) Of a thing: a *gift* in the strict sense.

2) The *lending* of a thing: giving away a *part*, or a *limited enjoyment and use*, of it. The lender remains the *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 specific, is treated as a universal thing; or, like money, it counts as universal in itself.

3) The gift of a *service* in general, for example simply keeping someone's property safe—a deposit. Giving a thing under the special condition that the other person becomes its owner only at the *time of the giver's death*, that is, when the giver is no longer its owner anyway—a *testamentary* disposition—does not fall within the concept of contract. It presupposes civil society and positive legislation.

B) *Contract of exchange*:

1) *Exchange* as such:

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

β) *Purchase and sale*: buying and selling, the exchange of a *specific* thing for one determined as *universal*—one that counts only as *value*, without the further specific determination of being useful. This means exchange for *money*.

2) *Rental*: letting and hiring, the transfer of the *temporary use* of property for rent, specifically:

α) Of a *specific* thing: rental in the strict sense; or

β) Of a *universal* thing, so that the lender remains owner only of this, or, what is the same, of its value: a *loan*—a loan for consumption, the former kind also being a loan for use with rent. The further empirical nature of the thing—whether it is a stick, equipment, a house, and so on, a *replaceable* or *nonreplaceable thing*—introduces other particular but unimportant determinations, just as in lending as a gift, No. 2.

3) *Wage contract*: hiring labor, the transfer of my *production* or *service*, insofar as it can be transferred, for a limited time or under some other limitation (see § 67).

Related to this are the *mandate* and other contracts where performance rests on character and trust or on higher talents. Here what is provided is *incommensurable* with an external *value*, which in this case is called not *wages* but an *honorarium*.

C) *Completion of a contract* by a *pledge* as security.

In contracts where I transfer the use of a thing, I am no longer in possession of it but remain its owner, as in rental. In exchange, purchase, and gift contracts, I can also have become an owner without yet possessing the thing. In general this separation occurs in any performance not made simultaneously with the other party's performance. A pledge ensures that I either remain in actual possession of the *value* that is still my property, or am put into possession of the value that has already become mine, without possessing the *specific thing* I hand over or am to receive. The pledge is a specific thing that is my property only to the value of the property I have let another possess or that is owed to me. In its specific character and any excess value it remains the pledgor's property. Giving a

pledge is therefore not itself a contract, but only a stipulation (§ 77), the element that completes a contract in respect of possession of the property. *Mortgage* and *surety* are particular forms of this.

Section 81

- ⁸¹ In the relationship of immediate persons to one another in general, their will is *particular* as well as *identical* in itself and established by them as a *shared* will in contract. Since they are *immediate* persons, it is a matter of chance whether their *particular* will agrees with the will *existing in itself*, which has existence only through that particular will. As a particular will on its own, *different* from the universal will, it sets itself against what is right in itself through arbitrary choice and the contingency of its judgment and willing. This is *wrong*.

The transition to wrong comes from the higher logical necessity that the elements of the concept be established as *different in their own right*. Here these elements are right *in itself*, or the will as *universal*, and right in its *existence*, which is precisely the *particularity* of the will. This belongs to the abstract *reality* of the concept. But this particularity of the will on its own is arbitrary choice and contingency. In contract I have given these up only as arbitrary choice over a *single 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 *established*, and its inner universality is something *shared* by arbitrary choice and particular will. In this *appearance* of right, right itself and its essential existence—the particular will—agree immedi-

ately, that is, by chance. In *wrong*, this develops into *semblance*: right *in itself* is opposed to the particular will, in which it becomes a *particular right*. But the truth of this semblance is that it is null. Right restores itself by negating this negation of itself. Through this process of mediation, returning to itself from its negation, right determines itself as *actual and valid*, whereas at first it existed only in itself and was something *immediate*.

Section 83

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

Section 84

A. Unintentional Wrong

- ⁸⁴ Taking possession (§ 54) and contract, both on their own and in their particular kinds, are initially different expressions and consequences of my will in general. But since the will is universal within itself, they are *grounds of right* in relation to recognition by others. Because these grounds are external to one another and manifold, different persons can hold them in relation to one and the same thing. Each person regards the thing as their property on the basis of their particular ground of right. This gives rise to *conflicts of rights*.

Section 85

- ⁸⁵ This conflict, in which a thing is claimed on *one* ground of right, makes up the sphere of *civil litigation*. It contains the *recognition* of right as universal and decisive: the thing is to belong to whoever has the right to it. The dispute concerns only the *subsumption* of the thing under one person's property or the other's. It is a *simply negative* judgment, in which only the particular is negated in the predicate "mine."

Section 86

- ⁸⁶ In the parties to a dispute, recognition of right is joined to opposing particular interests and equally opposing views. Against this semblance, and *within it itself*, right *in itself* also emerges as something represented and demanded (preceding section). But at first it is only an *ought*. There is not yet a will that, freed from the immediacy of its interest, would take the universal will as its purpose while remaining a particular will. Nor is the will here yet determined as an acknowledged actual reality before which the parties would have to give up their particular views and interests.

Section 87

B. Fraud

- ⁸⁷ Right *in itself*, as distinct from right as particular and existing, is determined as essential, but as something *demanded*. In this respect it is at the same time *only* demanded: something merely subjective, and thus inessential and merely seem-

ing. When the particular will reduces the universal to something merely seeming—initially, in contract, to a merely external sharing of will—this is *fraud*.

Section 88

- ⁸⁸ In contract I acquire property because of the particular character of the thing. I also acquire it according to its inner universality: partly in terms of its *value*, partly as coming from the other's *property*. The other's arbitrary choice can present a false appearance to me in these respects. The contract, as both parties' free consent to exchange *this* thing in its *immediate* individuality, is then valid, but the element of the universal existing in itself is missing. This is the infinite judgment in its positive expression or identical meaning (see *Encyklop. der philosoph. Wissensch.*, § 121).

Section 89

- ⁸⁹ 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 recognizable as *value* and valid as right. Subjective arbitrary choice opposed to right should also be overcome. Here, too, all this is at first only a demand.

Section 90

C. Coercion and Crime

- ⁹⁰ In property my will places itself in an *external thing*. This means that, just as it is reflected in the thing, it can also be seized through the thing and subjected to necessity. It can suffer *force* in general there. Force can also make a sacrifice or an

action a condition of some possession or positive existence: the will can be subjected to *coercion*.

Section 91

- ⁹¹ As a living being, a person can certainly be *overpowered*: their physical and other outward aspects can be brought under someone else's force. But the free will cannot in and for itself be *coerced* (§ 5), except insofar as it does not *withdraw from the external aspect* by which it is held, or from its representation of that aspect (§ 7). Only someone who *is willing to let themselves be coerced* can be coerced into doing anything.

Section 92

- ⁹² The will is the Idea, or actually free, only insofar as it has an existence. The existence into which it has placed itself is the being of freedom. For this reason, force or coercion immediately destroys itself in its own concept: it expresses a will by canceling the expression or existence of a will. Taken abstractly, force or coercion is therefore *wrongful*.

Section 93

- ⁹³ Coercion destroys itself in its own concept. This is actually shown in the fact that *coercion is canceled by coercion*. Coercion is therefore not merely rightful under certain conditions, but necessary—namely as a *second* coercion that cancels a first.

A contract can be broken by failing to deliver what was agreed, and legal duties toward the family or the state can be violated by doing something or by leaving something undone. Such a violation is a first coercion, or at least an act of force, insofar as I withhold or take away someone else's property or a service I owe them. Coercion used in education, or against savagery and uncultivated behavior, does admittedly appear to be a first coercion, not a response to an earlier one. But the merely natural will is in itself force directed against the Idea of freedom as it is in itself. That Idea must be protected against such an uneducated will and made effective within it. Either an ethical existence in the family or the state is already established, in which case this natural condition is an act of violence against it; or there is only a state of nature—a condition of force in general. In the latter case, the Idea establishes a *right of mastery* over that condition.

Section 94

- ⁹⁴ Abstract right is a *right of coercion*. A wrong against it is an act of force against the *existence* of my freedom in an *external* thing. Preserving this existence against force is therefore itself an external act, a force that cancels the first force. To define abstract or strict right from the outset as a right that may be enforced through coercion is to grasp it through a consequence that arises only by way of wrong.

Section 95

- ⁹⁵ A first coercion, exercised as force by a free being, violates the existence of freedom in its *concrete* sense: right as right. It is *crime*—a *negative-infinite judgment* in its full sense (see my Logic IIter B. S. 99). What is negated is not just the particular—the placing of a thing under my will (§ 85)—but also the universal and

infinite element in the predicate “mine”: my *capacity to have rights*. And this happens without my opinion acting as an intermediary, as it does in fraud (§ 88); it happens even against that opinion. This is the sphere of *criminal law*.

So far, the right that crime violates has taken only the forms we have seen. Crime, accordingly, has for now only the more specific meaning connected with these determinations. But what is substantial in these forms is the universal. This remains the same through its further development and formation, as does, therefore, its violation—crime—in its concept. The determination to be considered in the next section also applies, then, to the particular, more fully determined content found in perjury, crimes against the state, counterfeiting coins or bills of exchange, and so on.

Section 96

- ⁹⁶ Only the will that *has an existence* can be violated. But in existing, the will has entered a sphere of quantitative extent and qualitative determinations, and it varies accordingly. This makes a difference to the objective side of crimes. Its existence and determinate character may be violated in their whole extent, and so in the infinity that matches their concept—as in murder, slavery, religious coercion, and so on—or only in part. It also matters which qualitative determination is violated.

The Stoic view that there is only one virtue and one vice, the Draconian legislation that punishes every crime with death, and the crude approach of formal honor that puts infinite personality into every injury have something in common. They stop at the abstract thought of free will and personality. They do not take personality in the concrete and determinate existence it must have as Idea. The difference between *robbery* and *theft* concerns quality: in robbery, I am also violated as a present consciousness, and thus as *this subjective* infinity, and personal force is used against me. Some qualitative determinations, such as *danger to public safety*, are grounded in more fully developed relationships. But

they are also often grasped only by way of their consequences, instead of from the concept of the matter itself. Indeed, the more dangerous crime is, in itself and in its immediate character, a more serious violation in extent or quality. The subjective *moral* quality concerns the higher distinction of whether an event or deed is an action at all. It concerns the subjective nature of the action itself. More on this later.

Section 97

- ⁹⁷ A violation of right as right has occurred. It is a *positive*, external existence, but one that is null *in itself*. This nullity is *made evident* by the destruction of that violation, which likewise comes into existence. This is the actual reality of right: its necessity, which establishes its relation to itself by canceling its violation.

Section 98

- ⁹⁸ Considered only as affecting external existence or possession, a violation is an *evil*, a loss to some form of property or wealth. Canceling the violation as damage takes the form of civil redress through *compensation*, insofar as compensation is possible at all. Even in this aspect of redress, the specific qualitative character of the loss must be replaced by its *universal* character as *value*, insofar as the damage amounts to destruction and cannot be restored at all.

Section 99

⁹⁹ But the violation suffered by the *will as it is in itself*—and therefore by this will in the offender as well as in the injured person and everyone else—has no *positive existence* in that will as such, any more than it does in the mere product. For itself, this will as it is in itself—right, or law, in itself—is instead what does not exist externally and, to that extent, cannot be violated. For the particular will of the injured person and of the others, too, the violation is only something negative. The violation has a *positive existence* only as *the criminal's particular will*. To violate this will as an existing will therefore cancels the crime, *which would otherwise remain valid*, and restores right.

The theory of punishment is one of the subjects that has fared worst in recent positive legal scholarship. Understanding is not enough for this theory; what essentially matters is the concept. If crime and its cancellation—which is subsequently determined as punishment—are considered only as an *evil* in general, it can certainly seem irrational to want one evil merely *because another evil already exists*. (Klein Grunds. des peinlichen Rechts § 9 f.) The various theories of punishment—prevention, deterrence, threats, reform, and so on—start by assuming this superficial characterization of an *evil*. What is to come out of it, in contrast, is just as superficially characterized as a *good*. But the issue is neither merely an evil nor this or that good. It is specifically *wrong* and *justice*. Those superficial approaches set aside the objective consideration of *justice*, which is the first and substantial standpoint in dealing with crime. As a result, the moral standpoint, the subjective side of crime, becomes the essential thing. It is mixed with trivial psychological ideas about the attractions and strength of sensory motives against reason, and about psychological coercion and influence on representations—as if freedom could not just as well reduce such a representation to something merely contingent. The various considerations concerning punishment as an appearance and its relation to the particular consciousness, and

concerning its effects on representations—detering, reforming, and so on—certainly deserve essential consideration in their proper place. This is primarily only in relation to the *modality* of punishment. But they presuppose that punishing has been established as *just* in and for itself. The sole issue in this discussion is that crime must be canceled, not as the production of an *evil*, but as the violation of right as right. Then we must ask what *existence* crime has that must be canceled. This is the true evil to be removed, and where it lies is the essential point. Until the concepts involved are clearly understood, views of punishment must remain confused.

Section 100

- 100 The violation inflicted on the criminal is not only just *in itself*. As just, it is also the criminal's will as it is in itself, an existence of their freedom, their right. It is also a *right* in the *criminal* themselves, that is, *established* in their own *existing* will, in their action. Their action as a *rational being* implies that it is something universal: through it a law has been set up, which they have recognized for themselves in that action. They may therefore be brought under it as under *their own* right.

Beccaria, as is well known, denied the state the right to impose the death penalty. His reason was that the social contract cannot be presumed to contain individuals' consent to being killed; on the contrary, the opposite must be assumed. But the state is not a contract at all (see § 75). Nor is its substantial essence unconditionally the protection and *security* of individuals' lives and property as individuals. Rather, it is something higher, which also lays claim to this life and property themselves and demands their sacrifice. Further, what the state has to uphold, with or without the consent of individuals, is not only the *concept* of crime, its rational character *in and for itself*, but also the formal rationality: *the individual's willing lies in the criminal's action*. To regard punishment as containing the criminal's own *right* in this action is to *honor* the criminal as a ratio-

nal being. They are denied this honor if the concept and measure of their punishment are not taken from their own deed. They are equally denied it if they are treated only as a harmful animal to be made harmless, or viewed only in terms of deterrence and reform. Further, as regards the way justice *exists*, the form it takes in the state—namely *as punishment*—is not its only form. Nor is the state a necessary precondition of justice in itself.

Section 101

¹⁰¹ Canceling crime is *retribution* insofar as, in its concept, it is the violation of a violation. In its existence, the crime has a definite qualitative and quantitative extent. Its negation, as an existence, therefore also has such an extent. But this identity, grounded in the concept, is not *equality* in the specific character of the violation. It is equality in its character *as it is in itself*—in its *value*.

In ordinary scholarship, the definition of a determination—here, punishment—is supposed to come from the *general representation* drawn from the psychological experience of consciousness. That experience would surely show that the general feeling of peoples and individuals about crime is, and has been, that it *deserves punishment and that what the criminal has done should be done to them*. It is hard to see how these sciences, which derive their determinations from general representation, can at other times accept propositions contradicting what is also called a *general fact* of consciousness of this kind. But the determination of *equality* has introduced a major difficulty into the idea of retribution. Whether punishments are just in their qualitative and quantitative character is, in any case, a later issue than the substance of the matter itself. Even if we had to look for different principles to settle these further details than those applying to punishment in general, that general principle would remain what it is. But the concept itself must, in fact, also contain the basic principle for the particular. This determination of the concept is precisely the necessary connection whereby crime, as the will that is null in itself, contains its own

destruction, which appears as punishment. It is the inner *identity* that is reflected for understanding as *equality* in external existence. The qualitative and quantitative character of crime and its cancellation belongs to the sphere of externality. No absolute determination is possible in that sphere anyway (cf. § 49). In the field of *finitude*, this remains only a demand that understanding must define more and more closely, a task of the highest importance. But it goes on indefinitely and permits only a continuing *approximation*. If we not only overlook this nature of finitude but even stop at *abstract, specific equality*, an insuperable difficulty arises in determining punishments. This is all the more so if psychology also introduces the *magnitude* of sensory motives and connects it—as one prefers—either with a correspondingly *greater strength* of the evil will, or with a correspondingly *lesser strength* and freedom of will in general. It then becomes very easy to portray retribution in punishment as an absurdity: theft for theft, robbery for robbery, an eye for an eye, a tooth for a tooth—especially if we imagine the offender as one-eyed or toothless. But this absurdity has nothing to do with the concept. It results solely from the *specific equality* that has been brought in. Value, as the *inner equality* of things that differ completely in their specific existence, is a determination already encountered in contracts (see above), and also in civil actions concerning crimes (§ 95). It lifts representation from the *immediate* character of the thing to the universal. In crime, the *infinite* aspect of the deed is the basic determination. Its merely external, specific character therefore disappears all the more. *Equality* remains the basic rule only for the *essential* issue of what the criminal has deserved, not for the specific external form of this reward. Only in this latter respect are theft and robbery utterly unlike fines, imprisonment, and so on. But in their *value*—their universal quality of being violations—they are *comparable*. As noted, it is then the business of understanding to seek an approximation to equality in their value. If we fail to grasp the connection, as it is in itself, between crime and its destruction, and then the thought of *value* and the comparability of both in terms of value, we may end up seeing punishment proper as merely an *arbitrary* linking of an evil to an unlawful action (Klein Grunds. des peinl. Rechts § 9.).

Section 102

¹⁰² In this sphere of right in its immediacy, canceling crime initially takes the form of *revenge*. Its *content* is just insofar as it is retribution. But its *form* is the action of a *subjective* will, which can put *its own infinity* into every injury it suffers. Its justice is therefore contingent in general, and *for the other person*, too, this will is only a *particular* will. Because revenge is a positive act of a *particular* will, it becomes a *new violation*. As this contradiction, it falls into an infinite progression and is passed down without limit from generation to generation.

Where crimes are prosecuted and punished not as public crimes but as private ones—as among the Jews; among the Romans, in cases of theft and robbery; and among the English still in some matters, and so on—punishment retains at least some element of revenge. Private revenge differs from the vengeance carried out by heroes, knights on adventures, and so on, which belongs to the emergence of states.

Section 103

¹⁰³ This contradiction lies in the way wrong is canceled here. The demand that it be resolved—like the contradiction in the other kinds of wrong (§§ 86, 89)—is the demand for a justice freed from subjective interest and form, and from the contingency of power: a justice that *punishes rather than takes revenge*. This *initially* includes the demand for a will that, as a particular *subjective* will, wills the universal as such. But this concept of *morality* is not just something demanded. It has emerged from this movement itself.

Section 104

104 Transition from Right to Morality.

For crime and avenging justice show the *form* of the will's development as it moves out into the distinction between the *universal will as it is in itself* and the *individual will existing for itself* in opposition to it. They also show that the *will as it is in itself* has returned into itself by canceling this opposition, and has thereby itself become *for itself* and *actual*. Right thus is and holds good as *actual* through its necessity, having proved itself against the individual will *existing merely for itself*. At the same time, this formation is also the further development of the will's inner conceptual determination. According to its concept, the will's realization within itself consists in canceling its being-in-itself and the form of immediacy in which it first exists, and which it has as its form in abstract right (§ 21). It therefore first sets itself in the opposition between the *universal will as it is in itself* and the *individual will existing for itself*. Then, by canceling this opposition—the negation of the negation—it determines itself as a will in its existence that is not only free will in itself but is also *for itself*: a negativity that relates to itself. The will now has its *personality* as its *object*, whereas in abstract right it is only this personality. The subjectivity of freedom, which is in this way infinite for itself, is the principle of the *moral standpoint*.

Looking back more closely at the stages by which the concept of freedom develops from the initially abstract determination of the will to one that relates to itself, and thus to the self-determination of *subjectivity*, we find the following. In property, this determination is *what is abstractly mine*, and therefore lies in an external thing. In contract, it is what is mine *mediated by will* and only *common*. In wrong, the will of the sphere of right—its abstract being-in-itself or immediacy—is posited as *contingency* by the individual will, itself *contingent*.

At the *moral* standpoint, this contingency is overcome in such a way that, reflected into itself and *identical with itself*, it is the will's infinite contingency within itself: its *subjectivity*.

Section 105

105 Part Two.

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 for itself as against being-in-itself, immediacy, and the determinations developing within immediacy, make the *person a subject*.

Section 106

106 Subjectivity now constitutes the determination of the concept and is distinct from the concept as such, the will as it is in itself. It is also the will of the subject as an individual existing for itself, so it still has immediacy within it. It therefore constitutes the *existence* of the concept. This establishes a higher *ground* for freedom. In the Idea, the side of *existence*, or its real aspect, is now the *subjectivity* of the will. Only in the will as subjective can freedom, or the will as it is in itself, be actual.

The second sphere, morality, therefore presents the real side of the concept of freedom as a whole. The process within this sphere begins with the will existing only for itself. This will is immediately identical only *in itself* with the will as it is in itself, or the universal will. The process cancels the will in respect of this difference, through which it goes deeper into itself, and posits it for itself as *identical* with the will as it is in itself. This movement thus works on freedom's present ground, subjectivity, which is initially *abstract*—that is, distinct from

the concept—to make it equal to the concept and so obtain the Idea’s true realization. The subjective will determines itself as equally objective and thus as truly concrete.

Section 107

¹⁰⁷ The will’s *self-determination* is also an aspect of its concept. Subjectivity is not only the side of its existence but its own determination (§ 104). The will, determined as subjective and free for itself, is initially concept. To be as *Idea*, it itself has *existence*. In its form, the moral standpoint is therefore the *right* of the *subjective will*. Under this right, the will *recognizes* and *is* something only insofar as it is *its own*, so that in it the will is itself as subjective.

Viewed from this side, the same process of the moral standpoint (see the Remark to the preceding section) takes the form of the development of the subjective will’s *right*, or of the way it exists. The will further determines what it recognizes as its own in its object, so that this is its true concept: the objective in the sense of its universality.

Section 108

¹⁰⁸ The subjective will, as immediately existing for itself and distinct from the will as it is in itself (§ 106, Remark), is therefore abstract, limited, and formal. But subjectivity is not merely formal. As the will’s infinite self-determining, it constitutes the will’s *formal* aspect. In its first appearance in the individual will, this aspect is not yet posited as identical with the concept of the will. The moral standpoint is therefore the standpoint of *relation* and of *what ought to be*, or of *a demand*. And since the difference of subjectivity also includes its determina-

tion in opposition to objectivity as external existence, the standpoint of *consciousness* also enters here (§ 8). It is, in general, the standpoint of the will's difference, *finitude*, and *appearance*.

At first, the moral is not already determined as the opposite of the immoral, just as right is not immediately the opposite of wrong. Rather, it is the general standpoint of both the moral and the immoral, based on the subjectivity of the will.

Section 109

- ¹⁰⁹ In its general determination, this formal aspect first contains the opposition of subjectivity and objectivity and the activity relating to it (§ 8). More specifically, its aspects are these: *existence and determination* are identical in the concept (cf. § 104). The will as subjective is itself this concept: to distinguish the two, specifically *for itself*, and to posit them as identical. In the will that determines itself, α) determination is first posited by the will itself *in* itself. This is the will making itself particular within itself, a *content* it gives itself. This is the *first* negation, whose formal limit is to be only something *posited*, something subjective. As *infinite reflection* into itself, this limit exists for the will itself, and β) the will is the willing to cancel this restriction: the *activity* of transferring this content from subjectivity into objectivity in general, into an *immediate existence*. γ) The will's simple *identity* with itself in this opposition is the *content* that remains the same in both and is indifferent to these differences of form: the *end*.

Section 110

¹¹⁰ At the moral standpoint, however, this identity of content receives a further, distinctive determination. At this standpoint, freedom—this identity of the will with itself—is present for the will (§ 105).

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

Section 111

¹¹¹ b) The content may include something particular, whatever its origin. But it is the content of a will that has reflected into itself in its determinacy, and so is identical with itself and universal. As such, α) it is determined to fit the will that is in itself, that is, to have the *objectivity of the concept*. And β) since the subjective will, as a will that exists for itself, is at the same time still only formal (§ 108), this is merely a *demand*, and the content equally holds the *possibility* of not fitting the concept.

Section 112

¹¹² c) When I *keep* my subjectivity in carrying out my aims (§ 110), I at the same time cancel it, in the act of making it objective, as *immediate* subjectivity, and so as this individual subjectivity of mine. But the external subjectivity that is in this way identical with me is the *will* of others (§ 73). — The ground on which the will exists is *subjectivity* (§ 106), and the will of others is the existence, at

once other than me, that I give to my aim. — Carrying out my aim therefore holds within it this identity of my will and the will of others. It has a *positive* relation to the will of others.

The *objectivity* of the aim once carried out therefore includes three meanings, or rather holds three moments in one: α) external, immediate existence (§ 109); β) fitting the *concept* (§ 112); γ) being *universal* subjectivity. The subjectivity that *keeps* itself in this objectivity is α) that the objective aim is *mine*, so that I keep myself in it as *this* person (§ 110); and β) and γ) of subjectivity have already coincided with moments β) and γ) of objectivity. — That these determinations, distinguishing themselves in this way on the moral standpoint, are united only in a *contradiction* is what more closely makes up the appearance, or *finitude*, of this sphere (§ 108). The development of this standpoint is the development of these contradictions and of their resolutions, which within the standpoint can only be *relative*.

Section 113

- 113 The expression of the will as *subjective* or *moral* is *action*. Action contains the determinations already shown: α) that I know it, in its externality, as mine; β) that it essentially refers to the concept as an ought; and γ) that it refers to the will of others.

Only the expression of the moral will is *action*. The existence the will gives itself in formal right lies in *an immediate thing*. It is itself immediate, and to begin with it has no *explicit* relation to the concept, which, since it does not yet stand against the subjective will, is not distinguished from it, nor any *positive* relation to the will of others. The command of right is, in its basic character, only a *prohibition* (§ 38). Contract and wrong do begin to have a relation to the will of others. But the *agreement* reached in contract rests on arbitrary choice, and the essential relation to the other's will that lies in it, as a matter of right, is the negative one: to keep my property (in value) and to leave the other what is his. The

side of crime, by contrast, comes into consideration only here, as coming from the *subjective will* and in the way it has its existence in that will. — Legal *action* (*actio*) cannot be imputed to me for its content, which is fixed by rules. It contains only some moments of properly moral action, and only *in an external way*. Being properly moral action is therefore a side that differs from it as legal action.

Section 114

114 The right of the moral will contains three sides.

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

b) The *particular* side of action is its *inner* content. α) It is how its universal character is determined *for me*, which makes up the *worth* of the action and the way it counts for me — the intention. β) Its content, as *my particular* aim, belonging to my particular subjective existence, is *welfare*.

c) This content, as something *inner*, is at the same time raised into its universality, into the objectivity that exists in and for itself. It is the absolute aim of the will, the good. In the sphere of reflection it stands opposed by subjective universality, which is partly evil and partly conscience.

Section 115

115 First Section.

Purpose and Guilt.

The *finitude* of the subjective will in the immediacy of acting lies directly in this: that for its action it has an external object that is *presupposed* and has many circumstances. The *deed* produces a change in this existing situation, and the

will has *guilt* for it in general, insofar as the abstract predicate *mine* lies in the changed situation.

An event, or a state of affairs that has come about, is a *concrete* external actuality, and for that reason it has countless circumstances that cannot be fixed in number. Any single moment that shows itself as a condition, *ground* or *cause* of such a circumstance, and so has contributed its *share*, can be regarded as guilty of it, or at least as having guilt in it. So when an event is rich, such as the French Revolution, the formal understanding can choose among an innumerable mass of circumstances which one it wants to declare guilty.

Section 116

- ¹¹⁶ It is not my own *deed* when things of which I am the owner, and which as external things stand and act in many connections (as can also be the case with myself as a mechanical body or as a living being), cause harm to others. But the harm falls on me to a *greater* or *lesser* degree. Those things are, after all, mine, yet by their own nature they are subject to my control, attention and so on only to a greater or lesser degree.

Section 117

- ¹¹⁷ The will that acts itself has, in its aim directed at the existing situation, an *idea of the circumstances* of that situation. But because the will is *finite* on account of this presupposition, the objective appearance is *contingent* for it and can contain something different from what is in its idea. The right of the will, however, is to recognize as its *action* only what it knows of the presuppositions in its aim, and to have *guilt* only for what of them lay in its *purpose*. — A deed can only be *imputed* to the will *as its guilt*. This is *the right of knowing*.

Section 118

118 Once an action is placed in external existence, that existence develops on every side according to its own connections, in external necessity. The action therefore has many consequences. The consequences, as the shape that has the aim of the action as its *soul*, belong to the action. But at the same time, as an aim placed into *externality*, the action is left exposed to external powers. These attach to it something quite different from what it is in itself, and roll it on into remote and alien consequences. It is equally the right of the will to *impute* to itself only the former, because only they lie in its *purpose*.

What counts as *contingent* and what as *necessary* consequences is left indefinite. The reason is that, in finite things, inner necessity appears in existence as *external* necessity, as a relation of single things to one another. These are independent, indifferent to one another, and come together from outside. One principle says that in actions we should disregard the consequences. Another says that we should judge actions by their consequences and make these the measure of what is right and good. Both are equally abstract understanding. The consequences, as the action's own *immanent* shape, only show its nature and are nothing other than the action itself. The action therefore cannot disown them or disregard them. But conversely, they also include what intrudes from outside and is added by chance, which has nothing to do with the nature of the action itself. — The development of the contradiction contained in the *necessity of the finite* is, in existence, precisely the turning of necessity into contingency and the reverse. To act, on this side, therefore means *to expose oneself to this law*. — It follows that a criminal benefits if his action has less harmful consequences, just as a good action must put up with having had no consequences or fewer. And a crime whose consequences have developed more fully must bear them as a burden. — *Heroic* self-consciousness (as in the tragedies of the ancients, such as Oedipus and the like) has not yet advanced, out of its solid unity, to reflecting

on the difference between *deed* and *action*, between the external event and the purpose and knowledge of the circumstances, nor to splitting up the consequences. It takes on the guilt for the whole extent of the deed.

Section 119

119 Second Section.

Intention and Welfare.

The external existence of an action is a manifold connection. It can be considered as divided infinitely into *single details*, and the action can be taken as having *at first touched only one such detail*. But the truth of the *single thing* is the *universal*. The character of the action is not, in itself, something isolated in one external detail. It is a *universal content* that holds the manifold connection within itself. The purpose, since it *proceeds from a thinking being*, contains not only the single detail but essentially that *universal side* — the *intention*.

Intention (Absicht) contains, by its derivation, *abstraction*: partly the form of *universality*, partly the taking out of a *particular* side of the concrete matter. The effort to justify oneself by intention is the isolating of one single side, which is then claimed to be the subjective essence of the action. — A judgment on an action as an external deed, still without determining its side of right or wrong, gives it a *universal* predicate: that it is arson, killing, and so on. — The *isolated* character of external actuality shows what its *nature* is, as an external *connection*. Actuality is at first touched only at a single point (as arson directly affects only a small point of the wood, which yields only a proposition, not a judgment). But the universal nature of this point includes its extension. In a living being the single thing is not directly a part but an organ, in which the universal as such is present and exists. So in murder it is not a piece of flesh, as something single, that is injured, but life itself in it. On the one hand it is subjective reflection that does not know the logical nature of the single and the universal, and that gets lost in splitting things into details and consequences.

On the other hand it is the nature of the finite deed itself to contain such separations of contingencies. — The invention of the *dolus indirectus* has its ground in what has been considered here.

Section 120

- ¹²⁰ The *right of intention* is that the *universal* quality of the action must not only be so in itself but must be *known* by the person acting, and so must already have lain in his subjective will. Conversely, the right of the action's *objectivity*, as it may be called, is that the action asserts itself as known and willed by the subject *as a thinking being*.

This right to such insight carries with it the complete or partial *inability to be held responsible* of children, the feeble-minded, the insane and so on, for their actions. — But just as actions in their external existence involve contingent consequences, so subjective existence also involves an indefiniteness, which relates to the power and strength of self-consciousness and of presence of mind. This indefiniteness can come into account only in the case of feeble-mindedness, insanity and the like, and in the case of childhood. Only such definite states remove the character of thinking and freedom of will, and make it possible not to treat the person acting 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 so *particular* in relation to objective particularity, has in its aim its own particular content, which is the determining soul of the action.

That this moment of the acting person's *particularity* is contained and carried out in the action makes up *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 side the action has subjective *worth* and *interest* for me. Measured against this aim, the *intention* in respect of content, the immediate side of the action, in its further content, is reduced to a means. Insofar as such an aim is finite, it can in turn be reduced to a means for a further intention, and so on without end.

Section 123

- ¹²³ As the content of these aims, only α) the formal *activity* itself is present here: that the subject is active in what it is to regard and promote as its aim. People want to be active for whatever they take an interest in as their own, or ought to take an interest in. β) The still abstract and formal freedom of subjectivity has further determinate content only in its *natural* subjective existence: needs, inclinations, passions, opinions, fancies and so on. The satisfaction of this content is *welfare* or *happiness*, in its particular forms and in general. These are the aims of finitude as such.

This is the standpoint of the *relation* (§ 108), where the subject is determined as distinct and so counts as *particular*. It is the place where the content of the natural will (§ 11) enters. Here, however, that content is not as it is immediately. As belonging to the will reflected into itself, it is raised to a *universal* aim, that of welfare or happiness (Encycl. § 395 ff.). This is the standpoint of a

thinking that does not yet grasp the will in its freedom, but *reflects* on its content as something natural and given. It is the standpoint, for example, of the time of *Croesus* and *Solon*.

Section 124

¹²⁴ The *subjective* satisfaction of the individual himself (including the recognition of himself in honor and fame) is also contained in carrying out aims that hold *in and for themselves*. So the demand that only an aim of that kind should appear as willed and achieved is an empty claim of abstract understanding, and so is the view that objective and subjective aims exclude each other in willing. The claim turns into something bad when it goes on to assert that, because subjective satisfaction is present (as it *always* is in a finished work), it was the *essential intention* of the acting person, and that the objective aim was only a *means* to it. — What the subject is, is the *series of his actions*. If these are a series of worthless products, then the subjectivity of his willing is worthless as well. If instead the series of his deeds is of a substantial nature, then so is the individual's inner will.

The right of the subject's *particularity* to find itself satisfied, or, what is the same, the right of *subjective freedom*, makes up the turning point and center in the difference between *antiquity* and *modern* times. This right in its infinity is expressed in Christianity and made the universal, actual principle of a new form of the world. Its closer forms include love, the romantic, the aim of the individual's eternal blessedness, and so on. After these come morality and conscience, and then the other forms. Some of these will come forward in what follows as the principle of civil society and as moments of the political constitution. Others appear in history generally, especially in the history of art, the sciences and philosophy. — This principle of particularity is certainly a moment of opposition, and at first at least it is *just as much* identical with the universal as it is distinct from it. But abstract reflection fixes this moment in its difference

from and opposition to the universal. It thereby produces a view of morality in which morality lasts only as a hostile struggle against one's own satisfaction — the demand “to do with disgust what duty commands.” This same understanding produces the psychological view of history. That view knows how to make all great deeds and individuals small and to belittle them. It turns inclinations and passions, which likewise found their satisfaction in substantial activity, along with fame, honor and other consequences — in general, the particular side, which it had first decreed to be bad in itself — into the main intention and driving force 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 brought the *acting individual* the consequences of power, honor and fame, not that greatness but only this particular and external side that fell to the individual belongs to him. Because this particular side was a consequence, it claims, it was *therefore* also the aim, and even the only aim. — Such reflection holds on to the subjective side of great individuals, because it stands in that side itself, and in this self-made vanity it *overlooks* what is substantial in them. It is the view of “the psychological valets, for whom there are no heroes, not because the latter are not heroes, but because the former are only valets.” (Phenomenology of Spirit, p. 616.)

Section 125

- ¹²⁵ The subjective side, with the *particular* content of *welfare*, is reflected into itself and infinite, and so it is at the same time related to the universal, the will that exists in itself. When this moment is first posed in this particularity itself, it is the welfare of *others* too — in a complete but wholly empty form, the welfare of all. The welfare of *many other* particular persons in general is then also an essential aim and a right of subjectivity. But the *universal that exists in and for itself*,

distinct from such particular content, has not yet been determined here any further than as right. So those aims of the particular can differ from it and agree with it, but they can also not agree with it.

Section 126

126 My particularity and that of others is a right only insofar as I am *a free being*. It cannot therefore assert itself in contradiction to this, its substantial foundation. An intention to promote my welfare, or the welfare of others — in which case it is especially called a *moral intention* — cannot justify a *wrongful action*. It is one of the corrupt maxims of our time, partly descended from the pre-Kantian period of the good heart, and forming for example the quintessence of well-known touching dramas, to take an interest in the so-called *moral intention* behind *wrongful* actions, and to present bad characters with a supposedly good heart, that is, a heart that wants its own welfare and perhaps also the welfare of others. Partly, though, this doctrine has been warmed up again in an exaggerated form. Inner enthusiasm and feeling, that is, the *form of particularity* as such, have been made the test of what is right, rational and excellent. The result is that crimes, and the thoughts that guide them, even if they are the flattest, emptiest fancies and the most foolish opinions, would be right, rational and excellent because they come from *feeling* and *enthusiasm*. For more on this see § 140, Remark, below. — Note, moreover, the standpoint from which right and welfare are considered here: namely, as formal right and as the particular welfare of the individual. What is called the *common good*, the welfare of the state, that is, the right of actual, concrete spirit, is an entirely different sphere. In it formal right is just as much a subordinate moment as the particular welfare and happiness of the individual. That it is one of the frequent mistakes of abstraction to assert private right and private welfare as valid *in and for themselves* against the universal of the state has already been noted above.

Section 127

¹²⁷ The *particularity* of the interests of the natural will, gathered together in its simple *totality*, is personal existence as *life*. When life is *in extreme danger* and in collision with another person's lawful property, it can claim a *right of necessity* (not as fairness, but as right). On the one side stands the infinite injury to existence and, in it, a total lack of rights. On the other side stands only the injury to a single, limited existence of freedom, and in this the right as such, and the capacity for rights of the person injured only in *this* property, is at the same time recognized.

From the right of necessity flows the benefit of competence. A debtor is left his tools, farm equipment and clothes, and in general as much of his means, that is, of the creditors' property, as is judged necessary to make it possible for him to support himself, even in a manner suited to his station.

Section 128

¹²⁸ Necessity reveals the finitude, and with it the contingency, of both right and welfare. Right is the abstract existence of freedom, without being the existence of the particular person. Welfare is the sphere of the particular will, without the universality of right. Their one-sidedness and ideality is thereby *posed*, as it is already determined in themselves in the concept. Right has already (§ 106) determined its *existence* as the particular will. And subjectivity, in its all-embracing particularity, is itself the existence of freedom (§ 127), just as in itself, as the infinite relation of the will to itself, it is the universal of freedom. The two moments, in this way brought together into their truth and identity, but at first

still in a *relative* relation to each other, are the good and *conscience*. The good is the *fulfilled* universal, determined in and for itself. Conscience is infinite subjectivity that knows within itself and determines its content within itself.

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 it abstract right, welfare, the subjectivity of knowing and the contingency of external existence are canceled as *independent for themselves*, yet are *contained* and kept in it *as to their essence*. It is *realized freedom*, the *absolute final aim* of the world.

Section 130

130 In this idea welfare has no validity for itself as the existence of the single, particular will. It has validity only as *universal* welfare, and essentially as *universal* in itself, that is, according to freedom. Welfare is not a good without right. Likewise right is not the good without welfare (let justice be done must not mean that the world perishes). The good, then, as the necessity of being actual through the particular will, and at the same time as that will's substance, has *absolute* right against the abstract right of property and the particular aims of welfare. Each of these moments, insofar as it is distinguished from the good, has validity only insofar as it fits the good and is subordinate to it.

Section 131

- ¹³¹ For the *subjective* will too, the good is absolutely what is essential, and the will has worth and dignity only insofar as its insight and intention fit the good. Insofar as the good here is still only this *abstract idea* of the good, the subjective will is not yet taken up into it and set as fitting it. The will therefore stands in a relation to it. In this relation the good is to be the substantial thing for the will, and the will ought to make it its aim and carry it out. The good, for its part, has its mediation, through which it comes into actuality, only in the subjective will.

Section 132

- ¹³² The *right* of the *subjective will* is that what it is to recognize as valid is *seen* by it to be good. It is also that an action, as the aim stepping into external objectivity, is imputed to it, according to its *knowledge* of the worth the action has in that objectivity, as lawful or unlawful, good or evil, legal or illegal. The *good* is in general the essence of the will in its *substantiality* and *universality*. It is the will in its truth. For that reason it exists absolutely only *in thinking* and through *thinking*. So the claim that human beings cannot know the truth but only deal with appearances, and the claim that thinking harms the good will, along with similar ideas, take away from spirit all ethical worth and dignity, just as they take away its intellectual worth. — The right to recognize nothing that I do not see as rational is the highest right of the subject. But because of its subjective character it is at the same time *formal*, and over against it the *right of what is rational*, as the objective, over the subject stays firm. — Because of its formal character, insight is as capable of being *true* as of being mere opinion and *error*. That the individual comes to this right of his insight belongs, on the standpoint of the still moral sphere, to his particular subjective education. I

can demand of myself, and regard it as a subjective right in me, that I see an obligation on *good* grounds and have *conviction* of it, and still more that I know it from its concept and nature. But what I demand for the satisfaction of my conviction about the good, the permitted or the forbidden character of an action, and with it about its being imputable in this respect, does no harm to the *right of objectivity*. — This right of insight into the *good* is different from the right of insight (§ 117) with regard to the *action* as such. According to the latter, the right of objectivity takes this form: an action is a change that is to exist in an actual world and so wants to be recognized in it. It must therefore fit what *holds* there in general. Whoever wants to act in this actuality has *by that very fact* submitted to its laws and recognized the right of objectivity. — In the same way, in the state, as the *objectivity* of the concept of reason, *judicial imputation* must not stop at what someone holds to be in accord with his reason or not. It must not stop at his subjective insight into right or wrong, good or evil, or at the demands he makes for the satisfaction of his conviction. In this objective field the right of insight counts as insight into what is *legal* or *illegal*, into the right that is *in force*. It is limited to its nearest meaning, namely *knowledge*, as *acquaintance* with what is lawful and to that extent binding. Through the public nature of the laws and through the general customs, the state removes from the right of insight the formal side and the contingency for the subject that this right still has on the present standpoint. The subject's right to know the action in the character of *good* or *evil*, legal or illegal, has the consequence, in the case of children, the feeble-minded and the insane, of reducing or removing responsibility on this side as well. No definite boundary can be fixed, however, for these states and for responsibility in them. But to make the blindness of the moment, the excitement of passion, drunkenness, or in general what is called the strength of sensuous drives (insofar as what grounds a right of necessity (§ 120) is excluded), into grounds for imputation and for determining the *crime* itself and its *punishability*, and to regard such circumstances as if they took away the criminal's *guilt*, is likewise (compare §§ 100, 119 Remark) not to treat him according to the right and honor of a human being. The nature of a human being is precisely to be essentially a universal, not an abstractly momen-

tary and isolated piece of knowing. — The arsonist has not set fire to this inch-wide patch of wood that he touched with the flame, as something isolated. In it he has set fire to the universal, the house. In the same way, as a subject he is not the single thing of *this* moment, or this isolated feeling of the heat of revenge. If he were, he would be an animal that, because of its harmfulness and the danger of being subject to fits of rage, would have to be knocked on the head. — It is demanded that the criminal must, at the moment of his action, have had a *clear idea* of the wrong and the punishability of it, in order to be held responsible for it as a crime. This demand seems to preserve for him the right of his moral subjectivity. In fact it denies him the intelligent nature that dwells in him. In its active presence that nature is not bound to the Wolffian-psychological form of *clear ideas*, and is so deranged as to be cut off from the knowing and doing of single things only in the case of madness. — The sphere where such circumstances come into account as grounds for lessening the punishment is a different one from that of right. It is the sphere of *mercy*.

Section 133

- ¹³³ The relation of the good to the particular subject is that the good is the *essential thing* of its will, which therefore has its *obligation* absolutely in the good. Since *particularity* is distinguished from the good and falls within the subjective will, the good at first has only the character of *universal, abstract essentiality*, which is *duty*. Because of this character, *duty should be done for duty's sake*.

Section 134

- ¹³⁴ Acting needs a particular content and a definite purpose, but the abstraction of duty contains none. So the question arises: *what is duty?* For answering it, nothing is yet available except this: to do *right*, and to look after *well-being*,

one's own well-being and, in its general sense, the well-being of others. (See § 119.)

Section 135

¹³⁵ But these requirements are not contained in the idea of duty itself. Both are conditioned and limited, and for that very reason they lead over into the higher sphere of the *unconditioned*, which is duty. Duty itself, so far as it is the essential or universal side of moral self-consciousness, relating only to itself within that self-consciousness, is left with nothing but abstract universality. Its defining mark is *empty identity*, or the abstract *positive*, which is to say, the lack of any definition.

It is essential to bring out the pure, unconditioned self-determination of the will as the root of duty. Indeed, our knowledge of the will first gained its firm ground and starting point through the *Kantian* philosophy, with its thought of the will's infinite autonomy. But if we hold onto the merely moral standpoint and do not go on to the concept of ethical life, this gain is reduced to an *empty formalism*, and moral science is reduced to mere oratory about *duty for duty's sake*. From this standpoint no teaching of duties can be developed from within. One can certainly take in some material *from outside* and so arrive at *particular* duties. But from that definition of duty, as the *absence of contradiction*, as *formal agreement with itself*, which is nothing other than fixing *abstract indeterminacy*, we cannot move on to determine particular duties. And when such a particular content does come up for consideration as a basis for action, that principle offers no test for whether it is a duty or not. On the contrary, every unjust and immoral way of acting can be justified in this manner. — The further *Kantian* form, the ability of an action to be conceived as a *universal* maxim, does bring in the *more concrete* idea of a condition of things. But in itself it contains no further principle than that absence of contradiction and that formal identity. — That there is *no property* involves in itself no more of a contra-

diction than that this or that single people, family and so on does 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 be respected, then it is a contradiction to commit theft or murder. A contradiction can arise only with something, that is, with a content that lies beforehand as a firm principle at the base. Only in relation to such a content is an action either in agreement with it or in contradiction. But duty, which is supposed to be willed only as such and not for the sake of any content, is the *formal identity*, and that identity consists precisely in shutting out all content and definition.

I have worked out the further antinomies and shapes of the perpetual ought, in which the merely moral standpoint of *relation* only goes round and round, unable to resolve them or to get beyond the ought, in the *Phenomenology of Spirit*, page 550 and following. Compare also the *Encyclopedia of the Philosophical Sciences*, § 420 and following.

Section 136

- ¹³⁶ Because the good is abstract in nature, the other moment of the Idea, *particularity* in general, falls into subjectivity. Subjectivity, in its universality reflected into itself, holds within itself the absolute certainty of itself. It is what posits particularity, what determines and decides. It is *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 in their own right. Distinguished from this content of its own, which is the truth, conscience 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 that system, exists only at the standpoint of ethical life. Here, at the formal standpoint of morality, conscience is without this objective content. It is, taken by itself, the infinite formal certainty of itself, and for that very reason it 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 what is duty, and to recognize nothing except what it knows in this way as good. At the same time it asserts that what it knows and wills in this way is *in truth* right and duty. As this unity of subjective knowing with what is in and for itself, conscience is a sanctuary, and to violate it would be sacrilege. But whether the conscience of a *particular individual* matches this idea of conscience, whether what that conscience holds or claims to be good is actually good, can be known only from the *content* of what is supposed to be good. What is right and what is duty is what is rational in and for itself among the determinations of the will. Essentially it is neither the *particular* property of an individual, nor in the *form* of feeling or of some other individual, that is, sensory, kind of knowing. It is essentially made up of *universal* determinations that are thought, that is, it is in the form of laws and principles. Conscience is therefore subject to the judgment whether it is *true* or not. Its appeal *to its own self alone* directly contradicts what it wants to be, namely 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. In the same way, in science a subjective *opinion*, an assurance or an appeal to a subjective opinion, has no validity. What is not distinguished in true conscience can still be distinguished. It is the determining subjectivity of knowing and willing that can separate itself from the true content, set itself up on its own, and reduce that content to a mere *form* and *appearance*. The ambiguity about conscience therefore lies in this. It is presupposed in the sense of that identity of subjective knowing and willing with the truly good, and so it is asserted and recognized as something holy. And yet, as the merely subjective reflection of self-consciousness into itself, it claims the entitlement that belongs to that identity only by virtue of its rational content,

valid in and for itself. Only formal conscience belongs to the moral standpoint, as it is distinguished in this treatise from the ethical standpoint. True conscience has been mentioned only to show the difference and to remove a possible misunderstanding, as if, where only formal conscience is being considered, true conscience were being discussed. True conscience is contained in the ethical disposition, which comes up only later. Religious conscience, however, does not belong in this sphere at all.

Section 138

¹³⁸ This subjectivity is abstract self-determination and pure certainty of itself alone. It *dissolves* all *definiteness* of right, of duty and of existence within itself. It is the *judging* power, which decides purely out of itself, for a given content, what is good. And it is at the same time the power to which the good, at first only imagined and something that *ought* to be, owes its *actuality*.

Self-consciousness that has come to this absolute reflection into itself knows itself in it as something that no existing or given determination can or should affect. The turn *inward*, to look within oneself and to know and decide out of oneself what is right and good, appears as a more general phenomenon in history (with Socrates, the Stoics and so on). It appears in times when what counts as right and good in actual practice and custom cannot satisfy the better will. When the existing world of freedom has become unfaithful to that will, it no longer finds itself in the duties that are in force. It must then try to win, only in ideal inwardness, the harmony that has been lost in actuality. Once self-consciousness has grasped and won its formal right in this way, everything depends on the nature of the content that it gives itself.

Section 139

139 Self-consciousness sees the emptiness of all the determinations that otherwise count, and it stands in the pure inwardness of the will. In this state it is just as much the possibility of making into its principle what is *universal in and for itself* as of making its *own particularity* its principle, placing it above the universal by *arbitrary choice*, and carrying it out in action. That is, it is the possibility of being *evil*.

Conscience, as formal subjectivity, is precisely this: it is on the verge of turning into evil. Both morality and evil have their common root in the self-certainty that exists for itself, knows for itself and makes decisions for itself.

The origin of evil in general lies in the mystery, that is, in the speculative side of freedom. Freedom has a necessity to go out from the *naturalness* of the will and to be *inward* against it. It is this naturalness of the will which comes into existence in that opposition, as the will's contradiction of itself and as incompatible with itself. And so it is this *particularity* of the will itself which determines itself further as evil. Particularity exists only as *doubled*. Here it is the opposition of naturalness against the inwardness of the will. In this opposition inwardness is only a *relative and formal* being-for-itself, which can draw its content only from the determinations of the natural will, that is, from appetite, drive, inclination and so on. Now of these appetites, drives and so on, it is said that they *can* be good *or* evil. But the will makes them, in this character of *contingency* which they have as natural, and with them the form it has here, particularity itself, the determination of its content. In doing so it is set against *universality*, the inner objective, the good. The good enters along with the reflection of the will into itself and with knowing 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 both in himself or *by nature* and through his *reflection into himself*. Nature as such, that is, if it were not the

naturalness of the will remaining in its particular content, is not evil in itself. Neither is *reflection going into itself*, knowing in general, if it did not hold itself in that opposition. — Joined just as absolutely with this *side of the necessity of evil* is the fact that this evil is determined as what necessarily *ought not to be*, that is, that it ought to be sublated. This does *not* mean that the first standpoint of division in general should not appear at all; it in fact makes up the separation between the unreasoning animal and the human being. It means that one should not stay standing at it, that particularity should not be held to as the essential thing against the universal, and that this standpoint should be overcome as null. Further, given this necessity of evil, it is *subjectivity*, as the infinity of this reflection, which has this opposition before it and is in it. If subjectivity stays standing at this opposition, that is, if it is evil, then it is *for itself*, holds itself as an individual, and is itself this arbitrary choice. The single *subject* as such therefore has absolutely *the guilt of its evil*.

Section 140

¹⁴⁰ Self-consciousness can bring out a *positive side* in its purpose (§ 135). It necessarily has such a side, because the purpose belongs to the resolve of *concrete, actual* action. Because of such a side, taken as *a duty and an excellent intention*, self-consciousness is able to *claim that an action is good, for others and for itself*. The action's negative, essential content is at the same time *in it*, as it is reflected into itself and so aware of the universal of the will, and it stands compared with that universal. If self-consciousness claims this for *others*, it is hypocrisy. If it claims it for *itself*, it is the still higher peak of *subjectivity that asserts itself as the absolute*.

This last and most obscure form of evil is the one by which evil is turned into good, and good into evil. Consciousness knows itself as this power, and therefore knows itself as absolute. It is the highest peak of subjectivity at the moral standpoint. In our time evil has reached this form, and indeed through philoso-

phy, that is, through a shallowness of thought. This shallowness has twisted a deep concept into this shape, and it claims the name of philosophy, just as it claims for evil the name of good. In this note I will briefly state the main shapes of this subjectivity that have become current. As for

a) hypocrisy, it contains these moments: α) the knowing of the truly universal, whether only in the form of a feeling for *right and duty*, or in the form of further acquaintance with it and knowledge of it; β) the willing of the *particular* that resists this universal; and γ) the *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. — At one time it became a very important question whether *an action is evil only so far as it is done with a bad conscience*, that is, with the *developed consciousness of the moments just stated*. — Pascal (Les Provinciales, fourth letter) draws very well the conclusion that follows from answering this question yes: “They will all be damned, these half-sinners, who have some love for virtue. But as for those outright sinners, hardened sinners, sinners without mixture, full and complete, hell does not hold them. They have tricked the devil by giving themselves up to it so completely.” — The subjective right of self-consciousness to *know* the action under the determination of whether it is good or evil in and for itself must not be thought of as colliding with the absolute right of the *objectivity* of this determination in such a way that the two are pictured as *separable, indifferent and accidental* to each other. This relation was also taken as the basis in particular in the earlier questions about *efficacious grace*. On the formal side, evil is the most personal thing of the individual, since it is precisely his subjectivity setting itself absolutely as his own for itself, and so it is absolutely his guilt (see § 139 and the note to the preceding section). On the objective side, the human being, *by his concept*, is spirit, is rational in general, and has the determination of self-knowing universality absolutely within himself. So it means 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 charged to him as evil. How definitely, or to what degree of clarity or obscurity, the consciousness of those

moments in their distinctness is *developed into knowledge*, and how far an evil action is done more or less with a *formal* bad conscience, is the more indifferent side, concerned rather with the empirical.

Pascal also cites there Christ's plea on the cross for his enemies: "*Father, forgive them, for they do not know what they are doing.*" This would be an unnecessary plea if the fact that they did not know what they were doing had given their action the quality of not being evil, and so of not needing forgiveness. He likewise cites the view of Aristotle (the passage is in the Nicomachean Ethics III, 2). Aristotle distinguishes whether the agent is οὐκ εἰδώς (not knowing) or ἀγνοῶν (acting in ignorance). In the former case of ignorance he acts *involuntarily* (this ignorance concerns the *external circumstances*; see § 117 above), and the action cannot be charged to him. But about the other case Aristotle says: "Every bad person fails to know what to do and what to refrain from, and this very failing (ἀμαρτία) is what makes people unjust and, in general, evil. Not knowing how to choose between good and evil does not make an action involuntary (so that it could not be charged to him), *but only makes it bad.*" Aristotle certainly had a deeper insight into the connection between knowing and willing than has become current in a shallow philosophy. That philosophy teaches that *not knowing*, the *heart* and *enthusiasm* are the true principles of ethical action.

b) But acting evilly and with a bad conscience is *not yet hypocrisy*. In hypocrisy the formal determination of untruth is added: first, to *claim evil as good for others*, and in general to present oneself outwardly as good, conscientious, pious and the like. In this way it is only a trick of deceit *for others*. But the evil person can also find, *for himself*, a justification for evil in his other good deeds or piety, in general in *good reasons*. In this way 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 coming from it. To this perversion belongs first

c) the form known as *probabilism*. It makes it a principle that an action is permitted, and that conscience can be secure about it, if consciousness can find *any good* reason for it. The reason may be only the *authority* of one theologian, even when consciousness knows that other theologians differ greatly from his

judgment. Even in this idea there is still the correct awareness that such a reason and authority give only *probability*, though this is enough for the security of conscience. It is admitted in it that a good reason is only of the kind where other reasons, at least equally good, can exist beside it. This trace of objectivity can also still be recognized in it: that it is supposed to be a *reason* that decides. But the decision between good and evil is placed on the many *good reasons*, which include those authorities. These reasons are so many and so opposed to each other that this itself implies that it is *not* the objectivity of the matter but *subjectivity* that has to decide. This is the side through which liking and arbitrary choice are made the deciding factor over good and evil, and ethical life, like religious devotion, is undermined. But that the decision falls to one's own subjectivity is not yet stated as the principle. Instead, as noted, a reason is given out as what decides. So far, probabilism is still a form of hypocrisy.

d) The next higher stage is that the good will is supposed to consist in *willing the good*. This willing of the *abstract good* is supposed to be enough, indeed the only requirement, for the action to be good. An action, as a *determinate* willing, has a content, but the *abstract good* determines nothing. So it is left to particular subjectivity to give the good its determination and its filling. In probabilism, someone who is not himself a learned Reverend Father can base the placing of a determinate content under the universal determination of the *good* on the authority of such a theologian. Here, in the same way, every subject is immediately given the dignity of putting content into the abstract good, or, what is the same thing, of placing a content under a universal. As a concrete thing, the action has this content as one side among several. Those other sides might even give it the label of criminal and bad. But my subjective determination of the good is the *good that I know* in the action, *the good intention* (§ 114). So an opposition of determinations arises. By one the action is good, by others it is criminal. With this, the question also seems to arise, for the actual action, whether the *intention is really good*. But it is possible, and at the standpoint where the subject has the abstract good as its ground of determination it must always be possible, that the good is the *actual* intention. What the good intention harms by an action that other sides mark as criminal and evil is certainly

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 makes up the objective. In any case *essential and good* mean the same thing. The one is an abstraction just like the other. What is essential for the will is good, and what is essential in this respect is supposed to be just that an action is determined as good for me. Placing any content one likes under the good follows directly from this. The abstract good has no content at all, and so it comes down entirely to meaning something *positive* in general. That is something that counts in some respect, and by its immediate determination it 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 is the contentless, which gets its determination from my subjectivity. On this side a moral purpose also follows: to hate and root out the undetermined bad. — Theft, cowardice, murder and so on are actions, that is, in general, things carried out by a subjective will. As such they immediately have the determination of being the *satisfaction* of such a will, and so of being *positive*. 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 determining that the action is good, because I know it as the good in my intention. Theft to do good to the poor. Theft, running away from battle, out of the duty to care for one's life and for one's family (who may be poor besides). Murder out of hatred and revenge, that is, to satisfy the self-feeling of one's own right, and of right in general. It satisfies the feeling of the other's wickedness and his wrong against me or against others, against the world or the people in general, by wiping out this wicked person, who has the bad itself in him, so that at least a contribution is made toward the aim of rooting out the bad. In this way all of these, because of the positive side of their content, are turned into a good intention and so into a good action. It takes only a *very slight* training of the understanding, like that of those learned theologians, to find for any action a positive side, and with it a good reason and intention. — So it has been said that there is really no evil person, for he does not will evil for the sake of evil, that is, not the *purely negative* as such. He

always wills something *positive*, and so from this standpoint something good. In this abstract good the difference between good and *evil*, and all actual duties, have vanished. So merely willing the good, and having a good intention in an action, is rather evil. This is because the good is willed only in this abstraction, and so its *determination* is left to the arbitrary choice of the subject.

The notorious saying belongs here too: *the end justifies the means*. — Taken by itself, this expression is at first trivial and says nothing. One could just as vaguely reply that a holy end does make the means holy, but an unholy end does not. “If the end is right, so are the means” is a tautological expression, in that the means is exactly what is nothing in itself but exists for the sake of something else, and has its determination and value in that other, the end — *if it is in truth a means*. — But that saying does not mean the merely formal sense. Something more definite is understood by it: that for a good end it is permitted, even a duty, to use as a means something that is absolutely no means in itself, to violate something that is holy in itself, and so to make a crime the means of a good end. On one side, the saying carries an unclear awareness of the dialectic of the *positive* noted earlier, in individual determinations of right or ethics, or in equally undetermined general sayings such as: *you shall not kill*, or: *you shall care for your well-being and the well-being of your family*. Courts and soldiers have not only the right but the duty to kill human beings. But it is *exactly determined* on account of what quality in those human beings, and under what circumstances, this is permitted and a duty. So too my well-being and my family’s well-being must give way to higher purposes, and so be lowered to means. But what is marked as a crime is not a universality left undetermined and still subject to a dialectic. It already has its determinate objective limit. What is now set against such a determination, in the end that was supposed to take away the crime’s 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. All the determinateness of good and bad, of right and wrong, that exists and counts in and for itself is sublated, and this determination is assigned to the individual’s feeling, imagining and liking. —

Finally, *subjective opinion* is expressly declared to be the rule of right and duty. For e) it is *conviction, which holds something to be right*, that is supposed to determine the ethical nature of an action. The good that one wills has no content yet. The principle of conviction now adds this further point: that placing an action under the determination of the good belongs to the *subject*. With this the appearance of ethical objectivity has also completely vanished. Such a doctrine is directly connected with the so-called philosophy mentioned often before. That philosophy denies that the *true* can be known. The true of the willing spirit, its rationality so far as it makes itself actual, is the ethical commandments. Such philosophizing declares that knowledge of the true is an empty vanity that flies beyond the circle of knowing, which is supposed to be only what appears. So it must at once make what appears the principle in the matter of action as well, and place the ethical in the individual's *peculiar* view of the world and his *particular conviction*. The degradation into which philosophy has sunk in this way does at first look to the world like a quite indifferent event, one that has befallen only idle school chatter. But this view necessarily works its way into the view of the ethical, as an essential part of philosophy, and only then does it show in actuality, and for actuality, what these views amount to. — Because the view has spread that subjective conviction alone determines the ethical nature of an action, there was once much talk of hypocrisy, but today there is little. For calling evil hypocrisy rests on this: certain actions are offenses, vices and crimes *in and for themselves*. The person who commits them necessarily knows them as such, in so far as he knows and recognizes the principles and outward acts of piety and honesty in just the appearance for which he abuses them. Or, with regard to evil in general, the presupposition held that it is a duty to know the good and to know how to tell it from evil. In any case, the absolute demand held that a human being must not commit vicious and criminal actions, and that, so far as he is a human being and not a beast, they must be charged to him as such. But if the good heart, the good intention and the subjective conviction are declared to be what gives actions their worth, then there is no more hypocrisy and no evil in general. For whatever someone does, he knows how to turn it into something good by reflecting on good intentions

and motives, and through the moment of his *conviction* it is good. So there are no longer crimes and vices in and for themselves. In place of the frank, free, hardened, undisturbed sinning cited above, there has come the consciousness of complete justification through intention and conviction. My intention of the good in my action, and my conviction that it is good, *make it good*. When there is talk of judging and passing sentence on the action, then by this principle it should be judged only by the intention and conviction of the agent, by his *faith*. This is not faith in the sense in which *Christ* demands a faith in *objective* truth, so that for someone who has a bad faith, that is, a conviction evil in its *content*, the judgment too turns out bad, that is, in line with this evil content. It is faith in the sense of *fidelity to conviction*: whether the person in his acting has *stayed true to his conviction*. That formal, subjective fidelity alone is supposed to contain what is in line with duty. — With this principle of conviction, since conviction is at the same time determined as something *subjective*, the thought of the possibility of *an error* must force itself in. In that thought lies the presupposition of a law that exists in and for itself. But *the law does not act*. Only the actual human being acts. And in judging 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 not the actions that are to be judged by that law, that is, measured by it at all, then it is hard to see what that law is still supposed to be or to serve for. Such a law is reduced to a merely *external letter*, in fact an empty word. For only through my conviction is it made into *a law, one that obligates and binds me*. — That such a law has the authority of God and of the state behind it, and also the authority of thousands of years, in which it was the bond holding human beings and all their doing and fate together and giving them standing — authorities that enclose countless *convictions* of *individuals* — and that *I* set against them the *authority* of my *single* conviction — as my subjective conviction, its validity is only authority — this self-conceit, which at first seems monstrous, is removed by the principle itself, which makes subjective conviction the rule. — Now by a higher inconsistency, which reason and conscience bring in, since shallow science and bad sophistry cannot drive them out, the *possibility of an error* is admitted. By saying that crime and evil in gen-

eral is an error, the fault is reduced to its smallest. For *to err is human*. Who has not been wrong about this or that, say whether I ate cabbage or greens at noon yesterday, and about countless things, less important and more important? But the difference between the important and the unimportant drops away when all that matters is the subjectivity of the conviction and sticking to it. That higher inconsistency about the possibility of an error, which comes from the nature of the matter, turns in fact, in the move that a bad conviction is only an error, into the other inconsistency of dishonesty. One time it is conviction on which the ethical and the highest worth of the human being is based, and so conviction is declared the highest and holiest thing. Another time all that is at stake is an error, and my being convinced is trifling and accidental, really something external which can *happen to me one way or the other*. In fact my being convinced is something highly trifling if I cannot know anything true. Then it does not matter *how* I think, and for thinking I am left with that empty good, the abstraction of the understanding. — To note this besides: from this principle of justification by the ground of conviction, a consequence follows for how others act toward my acting. Since they hold my actions to be *crimes* according to *their* faith and conviction, they do *quite right*. This is a consequence by which I not only keep nothing in advance, but on the contrary am lowered from the standpoint of freedom and honor into the relation of unfreedom and dishonor. For in justice, which in itself is also mine, I experience only a foreign subjective conviction, and in its execution I think I am treated only by an external force.

“That he feels *fully convinced*, I do not doubt in the least. But how many people begin the worst outrages out of such a felt conviction? So if this ground can excuse everything, then there is no longer any *rational judgment* about *good and evil, honorable and contemptible decisions*. Delusion then has the same rights as reason, or reason then has no rights at all, no valid standing any more. Its voice is an absurdity. Whoever merely does not doubt is in the truth!

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

Fr. H. Jacobi to Count Holmer, Eutin, 5 August 1800, on Count Stollberg's change of religion. (Brennus, Berlin, August 1802.)

f) Finally, the highest form in which this subjectivity fully grasps and expresses itself is the shape that has been called *irony*, a name borrowed from *Plato*. Only the name is taken from *Plato*, who used it for a manner of *Socrates*. Socrates used it in personal conversation against the conceit of the uneducated and the sophistic consciousness, for the sake of the Idea of truth and justice. But he treated only that consciousness ironically, not the Idea itself. Irony concerns only a way of conducting a conversation toward *persons*. Without the personal direction, the essential movement of thought is dialectic. *Plato* was so far from taking the dialectical by itself, or irony as the final thing and the Idea itself, that he did the opposite. He sank and ended the back-and-forth movement of thought, and every subjective opinion with it, in the substantiality of the Idea. — The peak of subjectivity that grasps itself as the final thing, which we still have to consider here, can only be this: to *know* itself as that resolving and deciding about truth, right and duty, which is already present in itself in the preceding forms. It consists, then, in knowing the ethically objective well, but not in forgetting itself, giving itself up, and sinking into the seriousness of that objective and acting out of it. Instead, in relation to it, it holds it at the same time away from itself, and knows itself as the one that *wills and decides in this way*, and could just as well will and decide otherwise. — You take a law, honestly and in fact, as existing in and for itself. I am also there with it and in it, but I go further than you. I am also beyond it and can do it *this way or that way*. It is not the matter that is excellent. I am the excellent one, and I am the master over the law and the matter, who *merely plays* with them as with his liking. In this ironic consciousness, in which I let the highest perish, I *enjoy only myself*. — This shape is not only the *vanity* of all the ethical *content* of rights, duties and laws. It is evil, and indeed evil entirely universal in itself. It also adds the form, the *subjective* vanity, of knowing itself as this vanity of all content, and in this knowing, of knowing itself as the absolute. — How far this absolute self-satisfaction does not remain a solitary worship of oneself, but may also form a *community*, whose bond and substance may be the mutual assurance of

conscientiousness and good intentions, the delight in this mutual purity, and above all the feasting on the splendor of this self-knowing and self-declaring and of this cherishing and tending. And how far what has been called the *beautiful soul*, the nobler subjectivity that flickers out in the vanity of all objectivity and so in its own unreality, and further other shapes, are turns related to the stage considered here. I have dealt with these in the *Phenomenology of Spirit*, page 605 and following. There the whole section c) on conscience can be compared, especially also with regard to the transition into a higher stage in general, determined differently there.

My late colleague, Professor *Solger*, did take up the expression *irony*. Herr Friedrich von *Schlegel* had brought it up in an earlier period of his writing career and had pushed it to the point of that subjectivity which knows itself as the highest. But Solger's better sense, far from such a determination, and his philosophical insight, seized and held onto 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 in his last, substantial work, a detailed *critique* of Herr *August Wilhelm* von Schlegel's *lectures on dramatic art and literature* (Wiener Jahrbücher, vol. 7, p. 90 and following). "True *irony*," says Solger there, p. 92, "starts from the point of view that the human being, as long as he lives in this present world, can fulfill his destiny, even in the highest sense of the word, only in this world. Everything with which we think we *go beyond finite purposes* is vain and empty imagination. — Even the highest exists for our action only in *limited, finite shape*." Rightly understood, this is Platonic, and very true against the empty striving toward the (*abstract*) infinite mentioned there earlier. But that the highest is in a limited *finite* shape, as the ethical is, 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, the ethical, of its substantiality and of the infinity that it has in itself. He goes on: "And for this very reason it (the highest) is in us as *null* as the least thing, and *necessarily perishes with us and our null mind*. For in truth it exists only in God, and in this perishing it is transfigured as something divine. We would have no share in it if

there were not an immediate presence of this divine, which reveals itself precisely in the vanishing of our actuality. The mood in which this becomes immediately clear in human events themselves is tragic irony.” The arbitrary name irony does not matter. But something is unclear in saying that it is *the highest* which *perishes* with our nullity, and that only in the vanishing of our actuality does the divine reveal itself. The same is said on p. 91 of the same work: “We see the heroes become unsure about the noblest and most beautiful in their dispositions and feelings, not merely with regard to the outcome, but also *with regard to its source and its worth*. Indeed we are lifted up by *the perishing of the best* itself.” The tragic *downfall* of supremely ethical figures can interest us, lift us up, and reconcile us with ourselves only in this way. (The just downfall of puffed-up, pure villains and criminals, such as the hero of a modern tragedy of guilt, does have a criminal-law interest, but none for the true art that is in question here.) Such figures stand against each other, with equally justified, different ethical powers, which have come into *collision* through misfortune. Through their opposition to something ethical they now have *guilt*. From this the right and the wrong of both emerges, and with them the true ethical Idea, purified and triumphant over this one-sidedness, and so reconciled within us. So it is not *the highest* in us that perishes, and we are lifted up not by *the perishing of the best*, but on the contrary by the triumph of the *true*. That this is the truly, purely 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 and following; compare 683 and following). But the ethical Idea *without that misfortune of collision* and the perishing of the individuals caught in that misfortune is *actual and present* in the ethical world. That this highest does *not* show itself *in its actuality* as a *null* thing is what real ethical existence, the state, aims at and brings about. It is what ethical self-consciousness possesses, sees and knows *in the state*, and what thinking knowledge grasps.

Section 141

141 Transition from Morality to Ethical Life.

The good is the substantial universal of freedom, but it is still *abstract*. It therefore *requires* determinations in general, and requires their principle, as something *identical* with itself. In the same way, conscience is only the abstract principle of determining, and it requires universality and objectivity for its determinations. Each of the two, raised by itself to a totality, becomes something without determination that is supposed to be determined. — But the joining of these two relative totalities into absolute identity has already been accomplished *in itself*. For this very subjectivity, hovering in its own emptiness, the subjectivity of the *pure certainty* of itself, is *identical* with the *abstract universality* of the good. The identity of the good and the subjective will, an identity that is therefore *concrete*, and the truth of both of them, is *ethical life*.

The logic makes the details of such a transition of the concept understandable. Here it is enough to say this. The nature of what is limited and finite is that, *in themselves*, they have their opposite. Here the limited and finite are the abstract good that merely *ought to be*, and the equally abstract subjectivity that merely *ought to be good*. The good has its *actuality* in itself, and subjectivity (the moment of the *actuality* of the ethical) has the good in itself. But as one-sided things, they are not yet *posited* as what they are *in themselves*. They reach this positing through their *negativity*. Each of them, in a *one-sided* way, is not supposed to have in itself what it has *in itself*: the good without subjectivity and determination, and the determining subjectivity without what is in itself. Each sets itself up as a totality on its own, sublates itself, and so is reduced to a moment. They become moments of the *concept*, which shows itself as their unity. Through this positing of its moments, the concept has gained *reality*, and so it now exists as the *Idea*. The concept has developed its determinations into reality and at the same time, in their identity, is their essence that *exists in*

itself. — The existence of freedom, which was immediate as *right*, is determined as the *good* in the reflection of self-consciousness. The third, here in its transition as the truth of this good and of subjectivity, is therefore just as much the *truth* of subjectivity and of right. — The *ethical* is subjective disposition, but the disposition of right that exists in itself. That this Idea is the truth of the concept of freedom cannot be something presupposed, taken from feeling or from anywhere else. In philosophy it can only be something *proved*. The deduction of it is contained solely in this: that right and moral self-consciousness show, in themselves, that they return into it as into their *result*. — Those who think they can be spared proving and deducing in philosophy show that they are still far from the first thought of what philosophy is. They may talk about other things. But in philosophy those who want to speak without concept have no right to speak.

Section 142

¹⁴² Part Three.

Ethical Life.

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

Section 143

¹⁴³ This unity of the concept of the will and its existence, which is the particular will, is knowing. So there is consciousness of the difference between these moments of the Idea. But now each of them is by itself the totality of the Idea,

and has the Idea as its foundation and content.

Section 144

- ¹⁴⁴ α) The objective ethical, which takes the place of the abstract good, is substance made concrete by subjectivity as *infinite form*. It therefore posits *differences* within itself, and these are determined by the concept. Through them the ethical has a firm *content*. That content is necessary in itself and is an enduring order raised above subjective opinion and liking. It is the laws and institutions that exist *in and for themselves*.

Section 145

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

Section 146

- ¹⁴⁶ β) In this its *actual* self-consciousness, substance knows itself, and so it is an object of knowing. On one side, ethical substance, its laws and its powers stand before the subject as an object in this relation: *they are*, in the highest sense of independence. They are an absolute authority and power, infinitely firmer than the being of nature.

The sun, the moon, mountains, rivers, and in general the natural objects around us *are*. For consciousness they have the authority not only of being at all, but also of having a particular nature. Consciousness lets this nature count and follows it in how it behaves toward these objects, in how it deals with them and in how it uses them. The authority of the ethical laws is infinitely higher. Natural things show rationality only in a quite *external* and *scattered* way, and they hide it under the shape of contingency.

Section 147

¹⁴⁷ On the other side, these laws are not something *alien* to the subject. The subject gives the *testimony of spirit* about them as about *its own* essence. In that essence it has its *self-feeling*, and it lives in it as in its own element, undifferentiated from itself. This relation is even more immediately identical than *faith* and *trust*.

Faith and trust belong to reflection when it is just beginning, and they presuppose an idea and a difference. For example, believing in the pagan religion would be different from being a pagan. That relation, or rather that identity without any relation, in which the ethical is the actual livingness of self-consciousness, can certainly pass over into a relation of faith and conviction. It can also pass into one mediated by *further reflection*, into an insight through reasons. These reasons may also begin from particular purposes, interests and considerations, from fear or hope, or from historical presuppositions. But the *adequate knowledge* of them belongs to the thinking concept.

Section 148

¹⁴⁸ The individual distinguishes himself from these substantial determinations as the subjective, undetermined in himself, or as particularly determined. *In this way* he stands *in a relation* to them, as to his substantial being. As such substantial determinations they are *duties* that bind his will.

The ethical *teaching of duties*, as it is objective, is not to be comprised in the empty principle of moral subjectivity, which in fact determines nothing (§ 134). It is therefore the systematic development of the circle of ethical necessity, which follows in this *third part*. The only difference between this presentation and the form of a *teaching of duties* lies in this. In what follows, the ethical determinations come out as the necessary relations. We stop there, and we do not add to each of them the further sentence, *so this determination is a duty for the human being*. — A teaching of duties, so far as it is not philosophical science, takes its material from the relations as they exist. It shows how this material connects with one's own ideas, with generally found principles and thoughts, with purposes, drives, feelings and so on. It can add, as reasons, the further consequences of each duty in relation to the other ethical relations, and in relation to well-being and opinion. But a teaching of duties that is immanent and consistent can be nothing other than the development of *the relations* which are necessary through the Idea of freedom, and which therefore are *actual* in their whole extent in the state.

Section 149

¹⁴⁹ The binding duty can appear as a *limitation* only against undetermined subjectivity or abstract freedom, and against the drives of the natural will, or of the moral will that determines its undetermined good out of its arbitrary choice.

But in duty the individual has rather his *liberation*. In part it frees him from the dependence in which he stands under mere natural drive. It frees him from the oppression in which, as subjective particularity, he is held in the moral reflections of ought and may. And in part it frees him from undetermined subjectivity, which does not reach existence and the objective determinacy of action, and stays *in itself* and remains an unreality. In duty the individual liberates himself into substantial freedom.

Section 150

150 The ethical, so far as it is reflected in the individual character as determined by nature, is *virtue*. When virtue shows nothing more than the individual's simple fit with the duties of the relations to which he belongs, it is *uprightness*.

In an ethical community it is easy to say what a person must do, and what duties he has to fulfill in order to be virtuous. He has nothing to do except what is laid out for him, stated and known in his relations. Uprightness is the universal thing that can be demanded of him, partly as a matter of right and partly as a matter of ethics. But from the moral standpoint it easily looks like something of lower rank, about which one must demand still more of oneself and of others. For the craving to be something *special* is not satisfied with what is in and for itself and universal. It finds the awareness of its own peculiarity only in an *exception*. — The *different sides* of uprightness can equally well be called *virtues*. They are just as much the property of the *individual*, although compared with others they are nothing special. But talk about virtue easily borders on empty declamation. It speaks only of something abstract and undetermined. Such talk, with its reasons and presentations, also appeals to the individual as to an arbitrary choice and subjective liking. Where an ethical condition exists and its relations are fully developed and made actual, *virtue proper* has its place and actuality only in extraordinary circumstances and in collisions of those relations. These must be true *collisions*, for moral reflection can create

collisions everywhere, and can give itself the awareness of something special and of *sacrifices* made. In an uncultivated state of society and community, therefore, the form of virtue as such occurs more. For here the ethical and its realization is more a matter of individual liking and of the individual's own peculiar, inspired nature. The ancients, in particular, ascribed virtue to *Hercules* in this way. In the ancient states too, ethical life had not matured into this free system of independent development and objectivity. So the peculiar genius of individuals had to make up for this lack. — The teaching of virtues, so far as it is not merely a teaching of duties, and so takes in what is particular in character and based on natural determination, will therefore be a *natural history of spirit*.

Virtues are the ethical as applied to the particular, and on that subjective side they are undetermined. So the quantitative terms of more and less come in to determine them. Considering them therefore brings in the opposite defects or vices. This is the case with *Aristotle*, who defined the particular virtue, in its right sense, as the mean between *too much* and *too little*. — The same content that takes the form of *duties* and then of *virtues* also takes the form of *drives* (§ 19, note). They too have the same content as their foundation. But in them it still belongs to the immediate will and natural feeling, and it has not been raised up to the determination of ethical life. So they share with the content of duties and virtues only the abstract object. That object, being without determination in itself, does not contain for them the boundary of good or evil. Or, according to the abstraction of the positive, they are *good*, and conversely, according to the abstraction of the negative, they are *evil* (§ 18).

Section 151

- ¹⁵¹ But in its simple identity with the actuality of individuals, the ethical appears as their universal way of acting, as *custom*. Its *habit* appears as a second nature, which is put in the place of the first, merely natural will. This second nature is

the pervading soul, meaning and actuality of the individuals' existence. It is spirit alive and present as a world, and only in this way is its substance *spirit*.

Section 152

- ¹⁵² In this way *ethical substantiality* has come to its *right*, and this right has come to its *validity*. In ethical substantiality the self-will and the own conscience of the single person, which would exist for itself and set itself against it, have disappeared. The ethical character knows the universal as his moving purpose. This universal is unmoved, yet opened up in its determinations to actual rationality. He knows that his dignity and the whole standing of particular purposes are grounded in it, and he actually has them in it. Subjectivity is itself the absolute form and the existing actuality of substance. The difference between the subject and substance, as the subject's object, purpose and power, is only a difference of form, which has at the same time just as immediately vanished. Subjectivity makes up the ground of existence for the concept of freedom (§ 106). At the moral standpoint it is still different from this its concept. In the ethical it is the existence that fits the concept.

Section 153

- ¹⁵³ The right of individuals to their *subjective determination to freedom* is fulfilled in their belonging to ethical actuality. For the *certainty* of their freedom has its *truth* in such objectivity, and in the ethical they *actually* possess *their own essence*, their *inner* universality. (§ 147.)
- A father asked how best to educate his son ethically. A Pythagorean gave this answer (others are also said to have given it): "By making him *a 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 way in which the ethical exists.

Section 155

- ¹⁵⁵ In this identity of the universal and the particular will, *duty* and *right* therefore fall together into one. Through the ethical, a person has rights so far as he has duties, and duties so far as he has rights. In abstract right, I have the right, and another has the duty toward it. In the moral, only the right of my own knowing and willing, and of my own well-being, *ought* to be united with the duties and to be objective.

Section 156

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

Section 157

- ¹⁵⁷ The concept of this idea exists only as spirit, as something that knows itself and is actual, because the concept is the making of itself into an object, the movement through the form of its moments. It is therefore:
A) the immediate or *natural* ethical spirit — the *family*.

This unified substance loses its unity. It splits apart and moves to the standpoint of the relative, and so becomes

B) *civil society*. This is a connection of its members as *independent individuals* in a universality that is therefore only *formal*. The connection comes through their *needs*, through the *system of law* as a means of securing persons and property, and through an *external order* for their particular and common interests. This *external state* then draws itself back and together

C) into the purpose and actual reality 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 is the *immediate* substance of spirit. Its destiny is spirit's unity as it *feels* itself, which is *love*. The attitude it calls for is to have the self-awareness of one's individuality *within this unity*, as an essential reality that exists in and for itself, so that in it one exists not as a person on one's own, but as a *member*.

Section 159

159 The *right* that belongs to the *individual* on the basis of the family's unity, and that is at first simply his life within this unity, comes forward in the *form of legal right*, as the abstract moment of *determinate individuality*, only when the family moves into dissolution. Those who were meant to be members then become independent persons, in their attitude and in their actual lives. What they made up as a definite moment within the family, they now receive separately, and so only in its external aspects (property, support, the cost 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 family's *property* and *goods*, and the care of them;
- c) in the *education* of the children and the dissolution of the family.

Section 161

¹⁶¹ A. Marriage.

Marriage is the *immediate* ethical relation. *First*, it contains the moment of *natural* life. As a substantial relation, this is life in its totality, that is, the actual reality of the *species* and its process (see Encyclopedia of the Philosophical Sciences, §§ 167 ff. and 288 ff.). *Second*, in self-consciousness the *unity* of the natural sexes is merely *inward*, or exists only *in itself*, and for that very reason is only external in its existence. This unity is turned into a *spiritual* one, into self-conscious love.

Section 162

¹⁶² Subjectively, marriage may seem to start more from the *particular inclination* of the two people who enter the relationship, or from the *planning* and arrangements of their parents, and so on. Objectively, however, it starts from the free consent of the persons, and specifically their consent *to make up one person*, to give up their natural and individual personality within that unity. From this point of view that is a self-limitation. But since they gain their substantial self-awareness in it, it is also their liberation.

The objective determination, and so the ethical duty, is to enter the married state. How the external starting point comes about is by its nature accidental, and depends especially on how far reflection has developed. The two extremes are these. In one, well-meaning parents make the arrangements first, and the inclination arises in the persons who are meant to be united in love, because they become acquainted with each other as destined for this. In the other, the inclination appears first in the persons, as in *these* infinitely particularized individuals. The first extreme, or in general the path where the decision to marry comes first and the inclination follows, so that both are united at the actual wedding, can itself be seen as the more ethical path. In the other extreme, it is *infinitely particular* individuality that asserts its claims, and this is connected with the subjective principle of the modern world (see § 124 above, Remark). In modern dramas and other works of art, where love between the sexes is the basic interest, there is an element of penetrating coldness. It is brought into the heat of the passion portrayed by the complete *accidentality* tied up with it. That is, the whole interest is presented as resting only on *this* person, and while it may be of infinite importance for *this* person, it is not so *in itself*.

Section 163

- ¹⁶³ The *ethical* side of marriage consists in the awareness of this unity as a substantial purpose, and so in love, trust and the sharing of the whole individual existence. In this attitude and this actuality, the natural drive is reduced to the status of a natural moment, one that is meant to die away in its very satisfaction. The spiritual bond asserts *its own right* as the substantial thing, and so as the thing that is raised above the accidents of passion and of the passing, particular whims of the moment, and that is *in itself* indissoluble.

It was noted above (§ 75) that marriage is not a contract as far as its essential basis goes. Marriage is precisely the case of starting from the standpoint of contract, that is, from personalities that are independent in their individuality, *in*

order to cancel that standpoint. The identification of the personalities, by which the family is *one person* and its members are accidents (a substance, however, is essentially the relation of itself to accidents; see Encyclopedia of the Philosophical Sciences, § 98), is ethical spirit. Stripped of the manifold externality it has in its existence, in *these* individuals and in the interests of appearance that are fixed in time and in many ways, ethical spirit was lifted out as a figure for the imagination and worshiped as the *Penates* and so on. It is also what makes up the *religious* character of marriage and the family, their *piety*. It is a further abstraction when the divine, the substantial, is separated from its existence, and with it the feeling and awareness of the spiritual unity is fixed as what is wrongly called *platonic* love. This separation goes with the monastic view, which defines the moment of natural life as simply *negative*, and by that very separation gives it an infinite importance of its own.

Section 164

- ¹⁶⁴ A contract's stipulation already contains in itself the real transfer of property (§ 79). In the same way, the solemn declaration of consent to the ethical bond of marriage, and the matching recognition and confirmation of it by the family and the community, make up the formal *conclusion* and the *actuality* of the marriage. (That the *church* steps in here is a further point that cannot be worked out here.) So this union is constituted as ethical only when this ceremony *comes first*. The ceremony is the carrying out of the *substantial* thing through the *sign*, language, which is the most spiritual existence of what is spiritual (§ 78). With this, the sensual moment, which belongs to natural life, is placed within the ethical relation as a consequence and an accident. It belongs to the external existence of the ethical union, which can also be exhausted in mutual love and support alone.

When people ask what must be regarded as the *main purpose* of marriage, so that legal provisions can be drawn from it or judged by it. By this main purpose they mean which of the single sides of marriage's actual reality must be taken as more essential than the others. But no one side by itself makes up the whole range of its content, which exists in and for itself, the ethical. And one side or another of its existence can be missing without harm to the essence of marriage. Suppose the *conclusion of the marriage* as such is taken to be an *external* formality and a so-called merely *civil requirement*. This conclusion is the ceremony in which the essence of this union is declared and *established* as something ethical, raised above the *accidents* of feeling and *particular inclination*. Then nothing is left for this act but perhaps to serve edification and to certify the civil relationship. Or it becomes merely the positive arbitrary choice of a civil or church requirement, which is not only indifferent to the nature of marriage but also does harm. For if the heart values this formal conclusion because it is required, and treats it as a condition that must come before complete mutual surrender, it divides the attitude of love, and as something foreign it runs against the inwardness of that union. Such an opinion claims to give the highest idea of the freedom, inwardness and fulfillment of love. In fact it denies the ethical side of love, the higher restraint and holding back of the mere natural drive, which is already contained in a natural way in *shame* and is raised by more definite spiritual awareness to *chastity* and *discipline*. More precisely, that view throws out the ethical determination, which consists in this: consciousness gathers itself out of its naturalness and subjectivity to the thought of the substantial. Instead of still keeping the accidental and the arbitrary choice of sensual inclination for itself, consciousness takes the union away from that arbitrary choice and hands it over to the substantial, pledging itself to the Penates. And that view lowers the sensual moment to something only *conditional*, relative to what is true and ethical in the relationship and to the recognition of the union as ethical. It is impudence, supported by the understanding that cannot grasp the speculative nature of the substantial relationship, that holds this view. The unspoiled ethical heart, by contrast, is in accord with the legislation of Christian peoples.

Section 165

- ¹⁶⁵ The *natural* difference between the two sexes gets an *intellectual* and *ethical* meaning because it is rational. This meaning is set by the difference into which ethical substance splits itself as concept, so that it can win its vitality out of that difference as a concrete unity.

Section 166

- ¹⁶⁶ So the *one* sex is spirit as dividing itself into personal independence that exists *for itself* and into the knowing and willing of *free universality*. This is the self-awareness of thought that comprehends and the willing of the objective final purpose. The *other* sex is spirit as keeping itself in unity, as the knowing and willing of the substantial in the form of concrete *individuality* and of *feeling*. In relation to the outside, the first is the powerful and active side, the second the passive and subjective side. So the man has his actual substantial life in the state, in science and the like, and otherwise in struggle and labor with the outside world and with himself. He wins independent unity with himself only by fighting his way out of that division. He has a calm view of this unity, and ethical life as feeling and subjectivity, in the family. In the family the *woman* has her substantial destiny, and in this *piety* her ethical attitude. For this reason piety is stated, in one of its most sublime portrayals, *Sophocles' Antigone*, mainly as the law of woman. It is presented as the law of feeling, subjective substantiality, the law of inwardness that has not yet reached its full realization. It is the law of the old gods, of the underworld, an eternal law of which no one knows from where it appeared, and it is set against the manifest law, the

law of the state. This opposition is the highest ethical one and therefore the highest tragic one, and it is individualized there in womanhood and manhood. Compare *Phenomenology of Spirit*, pp. 383 ff., 417 ff.

Section 167

- ¹⁶⁷ Marriage is essentially *monogamy*. The reason is that personality, immediate exclusive *individuality*, is what puts itself into this relationship and gives itself up to it. Its truth and *inwardness* (the subjective form of *substantiality*) therefore come only from the mutual, *undivided* surrender of this personality. This personality gains its right to be conscious of itself *in the other* only so far as the other is in this identity as a person, that is, as an indivisible individual. Marriage, and essentially monogamy, is one of the absolute principles on which the ethical life of a community rests. The founding of marriage is therefore recounted as one of the moments in the divine or heroic founding of states.

Section 168

- ¹⁶⁸ The personalities of the two sexes are infinitely their own, and marriage comes from their *free* surrender. So marriage must not be concluded within a circle that is already *naturally identical*, whose members know each other and are familiar in every detail, and where individuals do not have a personality of their own over against each other. Instead, the two must find each other from separate families and from originally different personalities. Marriage between *blood relatives* is therefore contrary to the concept, by which marriage is an ethical act of freedom and not a union of immediate naturalness and its drives. It is therefore also contrary to true natural feeling.

Some people regard marriage as based not in *natural right* but merely in the natural sex drive, and as an arbitrary contract. Likewise, some have given external grounds for monogamy, even from the physical ratio of the number of men to women, and only vague feelings as grounds for banning marriage between blood relatives. Behind all of this lay the usual notion of a state of nature and of a naturalness of right, and the lack of any concept of rationality and freedom.

Section 169

- ¹⁶⁹ As a person, the family has its external reality in a *property*. It has the existence of its substantial personality only in the form of a *fortune*.

Section 170

- ¹⁷⁰ B. The Family's Fortune.

The family does not merely have property. For it, as a *universal* and *lasting* person, there arises the need and the destiny of a *permanent* and secure possession, a fortune. In abstract property, the arbitrary element is the particular need of the *merely single person*, and the selfishness of desire. Here this changes into care and earning for something *shared*, into something *ethical*.

In the stories of the founding of states, or at least of a sociable, civilized life, the introduction of fixed property appears connected with the introduction of marriage. — What that fortune consists of, and what the true way of making it secure is, comes out in the sphere of civil society.

Section 171

- ¹⁷¹ The family is a legal person toward others, and the man, as its head, has to represent it. The earning of income from outside, the care for needs, and the management and administration of the family's fortune also fall mainly to him. The fortune is common property, so that no member of the family has special property, but each has his right to the common property. This right and the power of disposal held by the head of the family can come into conflict, because what is still immediate in the family's ethical attitude (§ 158) is open to particularity and accident.

Section 172

- ¹⁷² A marriage constitutes a *new family*. It is *independent* in relation to the clans or houses it came from. The tie with those rests on natural blood relationship, but the new family rests on ethical love. The property of an individual therefore also stands in an essential connection with his marriage, and only a more distant one with his clan or house.

Marriage contracts, where they place a limit on the community of goods between the spouses, or provide for a standing legal adviser for the wife, and so on, have to that extent the sense of being directed against the case where the marriage is ended by natural death, divorce and the like, and of being attempts at security. In such a case they preserve for the separate members their share in the common property.

Section 173

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

In the children, the *unity* of the marriage becomes an existence for itself, and an object, as *unity itself*. In substance this unity is only *inwardness* and attitude, but in existence it is divided between the two partners. The parents love the child as their love and as their substantial existence. On the natural side, the presupposition of *immediately* present persons, the parents, becomes here a *result*. This is a progression that runs out into the endless progress of generations producing one another and presupposing one another. It is the way in which, in finite naturalness, the simple spirit of the Penates presents its existence as species.

Section 174

174 Children have the right to be *fed* and *educated* out of the family's common fortune. The parents' right to the children's services, as services, rests on the shared character of family care in general, and is limited by it. In the same way, the parents' right over the children's *arbitrary choice* is set by the purpose of keeping them disciplined and bringing them up. The purpose of punishment is not justice as such. It is subjective and moral in nature. It is to deter a freedom that is still caught up in nature, and to raise the universal into the children's awareness and will.

Section 175

175 Children are free *in themselves*, and life is the immediate existence of this freedom alone. So they belong neither to others nor to their parents as things. Their education has, in regard to the family relationship, a *positive* purpose: ethical life is to be brought into them as an immediate *feeling* that has no opposition in it yet, and the heart is to have lived its first life in this, as the *ground* of ethical life, in love, trust and obedience. In regard to the same relationship it also has a *negative* purpose: to raise the children out of the natural immediacy in which they originally find themselves, to independence and free personality, and so to the ability to leave the natural unity of the family.

The slave relationship of Roman children is one of the institutions that most stains Roman legislation. This injury to ethical life in its innermost and most tender part is one of the most important points for understanding the Romans' character in world history and their bent toward legal formalism. — The need to be educated lies in the children themselves, as their own feeling of being unsatisfied with themselves as they are. It is the drive to belong to the world of grown-ups, which they sense to be higher, the wish to grow up. A playful pedagogy takes childishness itself as something valid in itself. It gives it to children as such, and lowers what is serious, and itself, into a childish form that the children themselves think little of. It tries to present children as finished in their unfinished state, which they feel, and to make them content with that. In doing so it disturbs and spoils their own true and better need. It produces partly indifference and dullness toward the substantial relationships of the spiritual world, and partly contempt for people, because those people have presented themselves to them, as children, in a childish and contemptible way. It then also produces vanity and conceit, which feed on their own excellence.

Section 176

- ¹⁷⁶ Marriage is at first only the immediate ethical idea, and so has its objective actual reality in the inwardness of subjective attitude and feeling. This is the first accident in its existence. No one can be forced to enter a marriage, and in the same way there is no merely legal, positive bond that could hold the partners together once hostile and opposed attitudes and actions have arisen. But a third ethical authority is required. It must uphold the right of marriage, of ethical substance, against the mere opinion that such an attitude exists, and against the accident of a merely temporary mood and so on. It must tell this apart from total estrangement, and establish that estrangement, so that only in this case can *the marriage be dissolved*.

Section 177

- ¹⁷⁷ The ethical dissolution of the family lies in this: the children are educated to free personality, and at *majority* they are recognized as legal persons. They are then able partly to hold free property of their own and partly to found families of their own, the sons as heads and the daughters as wives. In that family they now have their substantial destiny. Compared with it, their first family recedes and is only a first ground and starting point, and still more, the abstraction of the clan has no rights.

Section 178

- ¹⁷⁸ The natural dissolution of the family comes through the death of the parents, especially of the man. As far as the fortune goes, the consequence is *inheritance*. In essence this is a taking over into individual possession of a fortune that was *in itself* common. The taking over becomes more indefinite the more distant the degree of kinship, and in the scattered condition of civil society, which makes persons and families independent. The reason is that the attitude of unity is lost more and more, and every marriage means giving up the earlier family relationships and founding a new, independent family. There is the notion that inheritance rests on the fact that, through death, the fortune becomes *ownerless goods*, and as such falls to whoever first takes possession of it. On this notion, relatives would *mostly* take possession, since they are *usually* the nearest to hand. Positive laws would then turn this usual accident into a rule for the sake of order. This notion ignores the nature of the family relationship.

Section 179

- ¹⁷⁹ This falling apart opens a freedom for the arbitrary choice of individuals. In part, they can generally use their fortune more as they please, according to the opinions and purposes of the single person. In part, they can in a way regard a circle of friends, acquaintances and so on as a family, and make this declaration, with the legal consequences of inheritance, in a *will*. In forming such a circle, in which the ethical entitlement of the will to dispose of the fortune in this way would lie, there is so much accident, arbitrary choice, and calculation for selfish purposes and so on, especially where the circle already carries a view to making a will, that the ethical element is very vague.

Recognizing the power of arbitrary choice to make wills much more easily becomes an occasion for violating ethical relationships, for base schemes, and for equally base dependencies. It also gives foolish arbitrary choice and malice an opportunity and a right to attach to so-called favors and gifts, which take effect on death (when my property in any case stops being mine), conditions of vanity and of domineering torment.

Section 180

¹⁸⁰ The principle that the members of the family become independent legal persons (§ 177) lets some of this arbitrary choice and some distinction among the natural heirs enter within the circle of the family. But this can happen only within very narrow limits, so as not to violate the basic relationship.

The mere direct arbitrary choice of the deceased cannot be made the principle for the *right to make a will*. This holds especially where that choice stands opposed to the substantial right of the family. It could really only be the family's love and respect for its former member that would pay attention to his arbitrary choice after his death. Such an arbitrary choice contains in itself nothing that should be respected as higher than the family right itself. On the contrary. Otherwise the validity of a last-will disposition would lie only in the arbitrary recognition of others. Such validity can be granted to it mainly only to the extent that the family relationship, in which it is absorbed, becomes more distant and less effective. But ineffectiveness of that relationship, where it actually exists, belongs to the unethical. Extending the validity of that arbitrary choice against such a relationship carries within it a weakening of its ethical character. — To make this arbitrary choice the main principle of succession within the family belonged to the harshness and unethical character of the Roman laws noted above. Under those laws the son could also be sold by his father. If he was set free by others, he returned to his father's power, and he became really free only at the third release from slavery. Under those laws the

son in general did not become of age *de jure* and a legal person. He could hold as property only his spoils of war (*peculium castrense*). If he left the father's power through that threefold sale and release, he did not inherit together with those who remained in family bondage, unless he was named in a will. Likewise the wife (when she did not enter marriage as a slave relationship, in *manum conveniret*, in *mancipio esset*, that is, came into the husband's hand or was held in bondage, but as a *matron*) remained a member not so much of the family that she had helped found by her marriage and that was now truly *her own*. She remained rather a member of the one she came from. So she was excluded from being heir to the fortune of the family that was *truly hers*, just as she, as wife and mother, was not inherited from by them. — The unethical character of such and other rights was evaded, as the sense of rationality woke up further, by way of the administration of justice. For example, it was evaded with the help of the term *bonorum possessio* (possession of goods) instead of *hereditas* (inheritance). (That *possessio bonorum* is again different from this belongs to the kind of knowledge that makes the learned jurist.) It was also evaded through the fiction of renaming a *filia* (daughter) a *filius* (son). This was already noted above (§ 3, Remark) as the sad necessity for the judge of smuggling the rational in *cunningly* against bad laws, at least in some of its consequences. The terrible instability of the most important institutions, and a tumultuous legislating against the outbreaks of the evils arising from it, go along with this. — What unethical consequences this right of arbitrary choice in making wills had among the Romans is well enough known from history and from the descriptions of Lucian and others. — It lies in the nature of marriage itself, as immediate ethical life, that the substantial relationship, natural accident and inner arbitrary choice are mixed together. Now, among the Romans arbitrary choice was given preference over the right of the substantial. This came about through the bondage of the children and the other provisions noted, and others connected with them, and finally also through the ease of divorce. The result was that even *Cicero* (and how much that is fine he wrote about the honorable (*honestum*) and the fitting (*decorum*) in his *Offices* and everywhere else!) speculated on

sending his wife away in order to pay his debts with the dowry of a new one. So a legal path was opened for the corruption of morals, or rather the laws were its necessity.

The institution of a law of inheritance, aimed at the *preservation* and *splendor* of the *family* through *substitutions* and *family entails*, either excludes the daughters from the inheritance in favor of the sons, or excludes the other children in favor of the eldest son, or lets inequality in at all. This partly violates the principle of the freedom of property (§ 62). Partly it rests on an arbitrary choice that in and for itself has no right to be recognized. More closely, it rests on the thought of wanting to maintain *this* clan or house, rather than *this* family. But it is not *this* house or clan, it is the *family* as such, that is the idea having such a right. By freedom of fortune and equality in the law of inheritance, ethical attitude is kept up, and the *families* are better kept up than by the opposite. — In such institutions, as in the Roman ones, the right of marriage (§ 172) is in general misunderstood. Marriage is the complete founding of a distinct, actual family, and against it what is called family in general, stirps (stock), gens (clan), becomes only an abstraction. Over the generations that abstraction moves ever further away and becomes unreal (§ 177). Love, the ethical moment of marriage, is, as love, 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. — But that the higher political sphere brings in a right of primogeniture and an iron-bound family estate, not as an arbitrary choice but as necessary from the idea of the state, on this see below § 306.

Section 181

181 Transition from the Family to Civil Society

The family naturally breaks up into many families. The principle of personality is essential to this process. These families relate to one another as independent, concrete persons, and therefore as external to one another. In other words, the elements held together in the unity of the family—the ethical Idea that still exists only in its concept—must be released by that concept into independent reality. This is the stage of *difference*. To put this in abstract terms first, the result is *particularity*. It does relate to *universality*, but universality is now only its *inner* foundation. It therefore has only a formal presence, *appearing* within the particular. At first, then, this relationship of reflection represents the loss of ethical life. But ethical life, as essence, necessarily appears (Encykl. der phil. Wiss. § 64 ff. § 81 ff.). So this relationship makes up the *world in which ethical life appears: civil society*.

The family's expansion, as a transition into another principle, takes two forms in existence. One is its peaceful expansion into a people—a *nation* that therefore has a common natural origin. The other is the gathering of scattered family communities, either by the force of a ruler or by a voluntary union brought about by the needs that connect them and by their interaction in satisfying those needs.

Section 182

Second Division

Civil Society

- 182 The concrete person, who is a *particular* end to himself, is one principle of civil society. He is a whole made up of needs and a mixture of natural necessity and arbitrary choice. But this particular person essentially *relates* to other particular persons of the same kind. Each can assert himself and find satisfaction only through the others and, at the same time, only through the form of *universality*, the second principle.

Section 183

- ¹⁸³ As the selfish end is realized, it is conditioned in this way by universality. It establishes a system of dependence on all sides. The individual's livelihood, well-being, and existence under law are interwoven with everyone's livelihood, well-being, and rights. They rest on this foundation and are real and secure only within this connection. This system can at first be regarded as the *external state*, the *state of need and of the understanding*.

Section 184

- ¹⁸⁴ In this division of itself, the Idea gives its elements an *existence of their own*. It gives particularity the right to develop and express itself in every direction. It gives universality the right to show itself as particularity's foundation and necessary form, as the power over it, and as its final end. This is the system of ethical life lost in its extremes. It makes up the abstract element of the Idea's *reality*. Here the Idea exists only as the *relative totality* and *inner necessity* of this external appearance.

Section 185

- ¹⁸⁵ Particularity on its own destroys itself and its substantial concept in its enjoyments. On this side it gives free rein in every direction to the satisfaction of its needs, to contingent choice, and to subjective liking. On the other side it is endlessly stimulated, wholly dependent on external contingency and arbitrary choice, and restricted by the power of universality. So the satisfaction of neces-

sary needs, as well as of contingent ones, is itself contingent. In these opposing sides and their realization, civil society presents a spectacle of excess and misery, together with the physical and ethical corruption common to both.

The independent development of particularity (compare § 124. Anm.) is the element that appears in the ancient states as an outbreak of ethical corruption and the ultimate cause of their downfall. These states were built partly on the patriarchal and religious principle, partly on the principle of an ethical life that was more spiritual but still simple—in general, on *original* natural intuition. They could not endure the division of that ethical life and the infinite reflection of self-consciousness within themselves. They succumbed to this reflection, first in their way of thinking and then in their actual reality, as it began to emerge. Their still simple principle lacked the truly infinite strength found only in a unity that lets reason's *opposition develop to its full force*, has overcome it, and so maintains itself within it and holds it together within itself. *Plato*, in his *Republic*, presents substantial ethical life in its ideal *beauty* and *truth*. But he could cope with the principle of independent particularity, which had broken into Greek ethical life in his time, only by opposing it with his merely substantial state. He excluded it entirely, even in its beginnings in *private property* (§ 46. Anm.) and the *family*, and therefore also in its further development as a person's own arbitrary choice and choice of an estate, and so on. This omission obscures even the great substantial truth of his state. It commonly makes that state seem a fantasy of abstract thought, something people often even call an ideal. The principle of the individual's *independent personality, infinite within itself*—the principle of subjective freedom—emerged inwardly in the Christian religion and outwardly, linked therefore to abstract universality, in the Roman world. It does not receive its due in that merely substantial form of actual spirit. Historically, this principle comes later than the Greek world. Likewise, philosophical reflection that descends to this depth comes later than the substantial Idea of Greek philosophy.

Section 186

¹⁸⁶ But precisely by developing on its own into a totality, the principle of particularity passes over into *universality*. Only in universality does it have its truth and the right to its positive actual reality. At this standpoint of division (§ 184.), both principles are independent. Their unity is therefore not ethical identity. For that very reason, this unity does not yet exist as *freedom*. It exists as *necessity*: the particular must rise to the *form of universality*, and must seek and find its continued existence in that form.

Section 187

¹⁸⁷ As citizens of this state, individuals are *private persons* whose end is their own interest. This end is mediated by the universal, which therefore appears to them as a *means*. They can reach it only by giving their knowledge, will, and action a universal form, and by making themselves links in the chain of this connection. The Idea's interest in this process is not present as such in the consciousness of these members of civil society. It is the process of raising their *individuality* and natural condition, through both the natural necessity and the arbitrary character of needs, to *formal freedom* and a *formal universality of knowledge and will*: the process of *educating* subjectivity in its particularity.

People sometimes regard *education and cultivation* as merely *external*, as something corrupting. This is connected with ideas about the *innocence* of the state of nature and the *simplicity of the customs* of uncultivated peoples. Others regard it as no more than a *means* to satisfy needs and provide the enjoyments and comforts of particular life and so on, which they treat as *absolute* ends. Both views show an unfamiliarity with the nature of spirit and the end of reason. Spirit has its actual reality only by dividing itself within itself. It gives itself

this limitation and finitude in natural needs and in the connection of this external necessity. Precisely by *forming itself within* these conditions, it overcomes them and gains its *objective* existence within them. Reason's end is therefore neither that natural simplicity of customs nor, in the development of particularity, the enjoyments as such that cultivation provides. Instead, *natural simplicity* must be worked away: partly a passive lack of selfhood and partly the crudeness of knowledge and will—that is, the *immediacy* and *individuality* in which spirit is immersed. First, this *external condition* of spirit must acquire the rational character it is capable of: the *form of universality*, the quality of the understanding. Only in this way is spirit at home and with itself in this externality as such. Its freedom thus has an existence in it. In this element, which is in itself alien to spirit's determination as freedom, spirit becomes *for itself*, dealing only with what bears its stamp and has been *produced* by it. In this very process, the *form of universality* also comes to exist on its own in thought. This form alone is the element worthy of the Idea's existence. In its absolute determination, *education and cultivation* is therefore *liberation* and the *work* of a higher liberation. It is the absolute point of passage to the infinitely subjective substantiality of ethical life. That substantiality is no longer immediate and natural, but spiritual and likewise raised to the form of universality. For the subject, this liberation is *hard work* against the mere subjectivity of behavior, against the immediacy of desire, and against the subjective vanity of feeling and the arbitrary choices of liking. This hard work is part of what makes it unpopular. But through this work of education and cultivation, the subjective will itself gains within itself the *objectivity* in which alone it is worthy and capable of being the *actual reality* of the Idea. At the same time, this form of universality, which particularity has worked its way toward and developed into—the quality of the understanding—makes particularity into the true *being-for-itself of individuality*. Particularity gives universality its fulfilling content and its infinite self-determination. In ethical life itself, it is therefore infinitely self-sustaining, free subjectivity. This is the standpoint that demonstrates education and cultivation to be an inherent element of the absolute, and demonstrates its infinite value.

Section 188

188 Civil society contains three elements:

A) The mediation of *need* and the *individual's* satisfaction through his work and through the work and satisfaction of needs of *everyone else*: the *system of needs*.

B) The actual reality of the universal element of *freedom* contained in this system: the protection of property through the *administration of justice*.

C) Provision against the contingency that remains in these systems, and care for the particular interest as a *common* interest, through *public regulation* and *professional associations*.

Section 189

A. The System of Needs

189 Particularity, initially defined in contrast to the universal element of the will in general (§ 60.), is *subjective need*. It gains its objectivity—that is, its *satisfaction*—through α) external things, which are now also the *property* and product of other people's needs and *wills*, and β) activity and work, which mediate between the two sides. Its end is the satisfaction of subjective *particularity*. But *universality* asserts itself in the relationship to the needs and free choices of others. So in this sphere of finitude, this appearance of rationality is the *understanding*. It is the aspect that matters for our examination, and it provides reconciliation within this sphere itself.

Political economy is the science that starts from these points of view. It must then explain the relationships and movements of masses in their qualitative and quantitative features and interconnection. This is one of the sciences that has grown out of modern times. Its development is interesting in the way *thought*

(see Smith, Say, Ricardo) discovers, from the endless multitude of details initially before it, the simple principles of the subject: the understanding that works within it and governs it. On one side, there is something reconciling in recognizing, in the sphere of needs, this appearance of rationality inherent and active in the subject itself. But conversely, this is the field in which the understanding guided by subjective ends and moral opinions lets loose its dissatisfaction and moral irritation.

Section 190

a) The Character of Needs and Their Satisfaction

¹⁹⁰ An *animal* has a limited range of means and ways to satisfy its equally limited needs. Even in this dependence, a *human being* shows that he goes beyond it and has universality. He does this first by *multiplying* his needs and means, and then by *breaking up* and *distinguishing* a concrete need into separate parts and aspects. These become different, *particularized* and therefore more abstract needs.

In the sphere of right, the object is the *person*; at the moral standpoint, the *subject*; in the family, the *family member*; and in civil society generally, the *citizen* as bourgeois. Here, at the standpoint of needs (compare § 123. Anm.), the object is the concrete object of ordinary conception that we call a *human being*. So it is only here—and properly only here—that we speak of a human being in this sense.

Section 191

¹⁹¹ The *means* for particularized needs, and ways of satisfying them generally, are likewise *divided* and *multiplied*. In turn, these become relative ends and abstract needs. This multiplication continues without limit. To the same

degree, it involves *distinguishing* these different features and *judging* how well the means suit their ends: *refinement*.

Section 192

- ¹⁹² As things with a real existence, needs and means become a *being for others*. Those others' needs and work mutually condition satisfaction. The abstraction that becomes a quality of needs and means (see the preceding section.) also comes to define how individuals relate to one another. This universality, as *being recognized*, is what makes them, in their isolation and abstraction, into *concrete, social* needs, means, and ways of satisfying them.

Section 193

- ¹⁹³ This element thus becomes a particular purpose governing the means themselves and their possession, as well as the way needs are satisfied. It also directly contains the demand for *equality* with others in these respects. On one side there is the need for this equality, and making oneself equal to others—*imitation*. On the other is the equally present need of *particularity* to assert itself through some distinction. Both become actual sources of the multiplication and spread of needs.

Section 194

- ¹⁹⁴ Social need combines immediate or natural need with the spiritual need of *representation*, and the latter becomes the universal, predominant element. This social element therefore contains an aspect of *liberation*. The strict natural necessity of need is hidden. A person relates to *his own* opinion, which is uni-

versal opinion, and to a necessity imposed only by himself. Instead of relating only to external contingency, he relates to inner contingency, to *arbitrary choice*.

People imagine that in a so-called state of nature a human being would live in *freedom* as far as needs were concerned. They suppose he would have only so-called simple natural needs and would satisfy them only with whatever means a contingent nature directly supplied. Even apart from the element of liberation involved in work, which will be discussed later, this is an untrue opinion. Natural need as such, and its immediate satisfaction, would be merely a condition in which spirit was immersed in nature, and therefore a condition of crudeness and unfreedom. Freedom lies only in spirit's reflection into itself, its distinction from what is natural, and its reflection upon it.

Section 195

- ¹⁹⁵ This liberation is *formal*, since the particularity of the ends remains its underlying content. Social life tends toward the indefinite multiplication and specialization of needs, means, and enjoyments. This tendency, like the difference between natural and uncultivated need, has no limits. *Luxury* is an equally endless increase in dependence and want. These have to contend with material that offers infinite resistance: external means of the special kind that are the property of a free will, and are therefore absolutely unyielding.

Section 196

b) The Character of Work

- ¹⁹⁶ The mediation that prepares and acquires suitably *particularized means* for *particularized* needs is *work*. Through a wide variety of processes, it adapts the material directly supplied by nature to these many purposes. This shaping now

gives the means its value and usefulness. So what a person chiefly deals with in consumption is *human* products, and what he uses up is human effort.

Section 197

- ¹⁹⁷ The variety of objects and features that attract interest develops *theoretical education*. This includes not just a variety of representations and items of knowledge, but also an agility and speed in forming representations and moving from one to another, grasping complex and general relationships, and so on. It develops the understanding generally and, with it, language. *Practical education* through work consists in the need for occupation, and the *habit* of it, that work generates. It then consists in *limiting* one's action, partly according to the nature of the material, but chiefly according to other people's choices. This discipline produces the habit of *objective activity* and of *generally applicable skills*.

Section 198

- ¹⁹⁸ The universal and objective element in work lies in *abstraction*. This brings about the specialization of means and needs. It likewise specializes production and creates the *division of labor*. Division makes the individual's work *simpler*. It therefore increases both skill in this abstract work and the quantity produced. At the same time, this abstraction of skill and means makes people's *dependence* and *interaction* in satisfying their other needs into a complete necessity. The abstraction of production also makes work increasingly *mechanical*. In the end, a person can step away from it and let a *machine* take his place.

Section 199

c) Resources

- ¹⁹⁹ In this dependence and mutuality of work and the satisfaction of needs, *subjective selfishness* turns into a *contribution toward satisfying everyone else's needs*. It becomes the mediation of the particular through the universal, a dialectical movement. In earning, producing, and enjoying for himself, each person thereby produces and earns for the enjoyment of others. This necessity, which lies in the complete interweaving of everyone's dependence, is now for each person the *universal, lasting resources* (see § 170.). These hold out the possibility of sharing in them through his education and skill, so that his livelihood is secured. In turn, what he earns through his work preserves and increases these universal resources.

Section 200

- ²⁰⁰ But the *possibility of sharing* in the universal resources—one's *particular resources*—is *conditioned*. It depends partly on an immediate foundation of one's own, capital, and partly on skill. Skill itself depends in turn partly on capital, and then on contingent circumstances. The variety of these circumstances produces *differences in the development* of physical and mental natural abilities, which are already *unequal* in themselves. This difference appears in every direction and at every level in this sphere of particularity. Together with other contingency and arbitrary choice, its necessary consequence is *inequality in individuals' resources and skills*.

The Idea contains the objective *right of spirit's particularity*. In civil society this right does not remove the inequality that nature—the element of inequality—has established among human beings. It produces inequality out of spirit and

raises it into an inequality of skill, resources, and even intellectual and moral education. Opposing this right with a demand for *equality* belongs to the empty understanding, which mistakes its abstraction and its *ought-to-be* for what is real and rational. This sphere of particularity shapes the universal into itself. But in this merely relative identity with the universal, it keeps natural particularity just as much as arbitrary particularity within itself, and therefore keeps a remnant of the state of nature. Moreover, the reason inherent in the system of human needs and their movement organizes that system into an organic whole of differences; see the following section.

Section 201

- ²⁰¹ The means are endlessly varied. Their movement in mutual production and exchange is equally endlessly intertwined. Through the universality inherent in their content, they gather and *divide* into *general groups*. In this way the whole connection develops into particular systems of needs, their means and kinds of work, ways of satisfying them, and theoretical and practical education. Individuals are assigned to these systems. This produces the distinction between the *estates*.

Section 202

- ²⁰² According to the *concept*, the estates take these forms: the *substantial* or *immediate* estate, the *reflective* or *formal* estate, and then the *universal* estate.

Section 203

203 a) The *substantial* estate has its resources in the natural products of the land it works. This land can be exclusive private property. It requires not merely indefinite use, but objective shaping. Work and earnings are tied to *particular* fixed seasons, and the yield depends on the changing character of natural processes. So the aim of satisfying needs becomes provision for the future. But because of these conditions, it still has the character of a livelihood less mediated by reflection and one's own will. In general, it retains the substantial outlook of an immediate ethical life resting on the family relationship and on trust.

The introduction of *agriculture*, together with the introduction of *marriage*, has rightly been taken as the true beginning and first foundation of states. Agriculture brings with it the shaping of the land, and therefore exclusive private property (compare § 170. Anm.). It brings the wandering life of the savage, who looks for his livelihood as he roams, back to the calm of private right and the security of satisfying needs. This connects with the restriction of sexual love to marriage, and therefore with the expansion of this bond into a *lasting* union that is universal within itself. It also connects with the expansion of need into *care for a family*, and of possession into *family property*. Security, consolidation, and lasting satisfaction of needs, and so on—the features that first recommend these institutions—are nothing other than forms of universality and configurations in which rationality, the absolute final end, asserts itself in these matters. What could be more interesting on this subject than the *explanations* of my highly esteemed friend Mr. *Creuzer*, as ingenious as they are learned? He has given them to us especially in the *fourth* volume of his *Mythologie und Symbolik*, on the *agronomic* festivals, images, and sanctuaries of the ancients. These people became conscious of the introduction of agriculture and the institutions connected with it as divine acts, and therefore devoted religious reverence to them.

Private law, especially the administration of justice, as well as teaching, education, and religion, bring changes to the substantial character of this estate. These do not affect its *substantial content*, but its *form* and the *development of reflection*. This is a further consequence that applies just as much to the other estates.

Section 204

- 204 b) The *business estate* has the *shaping* of natural products as its occupation. For its means of livelihood, it depends on its work, on *reflection* and the *understanding*, and essentially on mediation with other people's needs and work. It has chiefly *itself*, its own activity, to thank for what it produces and enjoys. Its occupation divides further. As work for particular needs, done in a concrete way and at the request of individuals, it is the *craft estate*. As a more abstract mass of work for particular needs, but supplying a more general demand, it is the *manufacturing estate*. As the business of exchanging separate means with one another, chiefly through the universal medium of exchange—money, in which the abstract value of all goods is real—it is the *commercial estate*.

Section 205

- 205 c) The *universal estate* has the *general interests* of society as its occupation. It must therefore be relieved of direct work to meet its needs. This can happen either through private resources or through compensation from the state, which calls on its activity. In this way its private interest finds satisfaction in its work for the universal.

Section 206

206 As particularity that has become objective to itself, the *estate* divides into its general differences according to the concept. But which particular estate an *individual* belongs to is another matter. Natural disposition, birth, and circumstances have their influence. Yet the final and essential determination lies in *subjective opinion* and *particular choice*. In this sphere, these give themselves their right, their merit, and their honor. So what happens in it through *inner necessity* is at the same time *mediated by choice*. For subjective consciousness, it takes the form of being the work of its own will.

In this respect too, the principle of particularity and subjective choice reveals the difference between the political life of the East and the West, and between the ancient and the modern world. In the former cases, the division of the whole into estates does arise *objectively on its own*, because it is rational in itself. But the principle of subjective particularity does not at the same time receive its right. For example, the assignment of individuals to estates is left to rulers, as in Plato's state (de Rep. III. p. 320. ed. Bip. T. VI.), or to *mere birth*, as in the Indian castes. Subjective particularity is therefore not taken up into the organization of the whole or reconciled within it. Since it also emerges as an essential element, it appears as hostile, as the corruption of the social order (see § 185. Anm.). Either it overthrows that order, as in the Greek states and the Roman republic, or, if the order preserves itself as force or perhaps as religious authority, particularity appears as inner corruption and complete degradation. This was to some extent the case among the Lacedaemonians and is now most completely the case among the Indians. But when the objective order preserves subjective particularity in a way that fits that order, while also respecting particularity's right, subjective particularity becomes the principle of everything that animates civil society: the development of thinking activity, merit, and honor. Recognition of this principle, and the right that what reason makes necessary

in civil society and the state should also happen through the mediation of *choice*, give a more precise meaning to what is chiefly called *freedom* in ordinary conception (§ 121.).

Section 207

207 An individual gives himself actual reality only by entering *existence* generally, and therefore *determinate particularity*. In doing so, he restricts himself exclusively to one of the particular spheres of need. The ethical outlook in this system is therefore *uprightness* and *the honor of one's estate*. By his own decision, through his activity, diligence, and skill, a person makes himself a member of one of the elements of civil society and maintains himself as such. He provides for himself only through this mediation with the universal. Through it, he is *recognized* in his own representation and in the representation of others. *Morality* has its proper place in this sphere. Here reflection on one's actions, and the aim of particular needs and well-being, predominate. The contingency of their satisfaction also makes contingent and individual help into a duty. At first, especially in youth, an individual resists the idea of deciding on a particular estate. He sees it as limiting his universal vocation and as a merely external necessity. This comes from abstract thinking, which stops at the universal and therefore at what has no actual reality. It does not recognize that, *in order to exist*, the concept generally enters into the difference between the concept and its reality, and therefore into determinacy and particularity (see § 7.). Only in this way can it gain actual reality and ethical objectivity.

Section 208

- 208 As the particularity proper to knowledge and will, the principle of this system of needs contains universality as it is in and for itself—the universality of *freedom*—only *abstractly*, and therefore as the *right of property*. But here this right is no longer merely *implicit*. It exists in its effective actual reality, as the protection of property through the *administration of justice*.

Section 209

B. The Administration of Justice

- 209 The relative character of the interaction of needs and the work done for them initially has its *reflection into itself* in infinite personality generally, in abstract right. But it is this sphere of the relative itself, as *education and cultivation*, that gives right its *existence*: being *universally recognized*, known, and willed. Through being known and willed in this way, right has binding force and objective actual reality.

It belongs to education and cultivation—to *thinking* as the individual's consciousness in the form of universality—that I am understood as a *universal* person, in which everyone is identical. A *human being* counts as such *because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, and so on. This consciousness, in which *thought* counts, is infinitely important. It is defective only when it fixes itself, perhaps as *cosmopolitanism*, in opposition to the concrete life of the state.

Section 210

- ²¹⁰ Right's objective actual reality has two sides. It exists for consciousness and, in general, becomes *known*. It also has the power of actual reality and has *binding force*. It is therefore also known as *universally valid*.

Section 211

a) Right as Law

- ²¹¹ What is right *in itself* is *posited* in its objective existence. That is, *thought* determines it for consciousness, and it is *known* as what is and has force as right: *law*. Through this determination, right becomes *positive* right generally.
- To posit something as *universal*—to bring it to consciousness as universal—is, as everyone knows, to *think* (compare above § 13. Anm. and § 21. Anm.). By reducing the content to its simplest form in this way, thinking gives it its final *determinacy*. Only by becoming law does what is right gain not just the form of its universality, but its true determinacy. So when we think of legislation, we must not focus only on one element: that something is expressed as a rule of behavior valid for everyone. Before this outward element comes the inner, essential one: *knowledge* of the content in its *determinate universality*. Customary rights themselves contain the element of being thoughts and becoming known, since only animals have their law as instinct, while only human beings have it as custom. They differ from laws only in being known in a subjective and contingent way. On their own, they are therefore less determinate and the universality of thought is clouded. Moreover, knowledge of right in one respect or another, and generally, is the contingent possession of a few. People claim that their form as *customs* should give them the advantage of having passed into *life* (incidentally, people nowadays speak most of *life* and of

passing into life precisely where they are immersed in the deadest material and the deadest thoughts). This is a deception, since a nation's valid laws do not stop being its customs because they have been written down and collected. When customary rights come to be collected and assembled, as must soon happen among a people that has reached even some degree of education and cultivation, that collection is then the *code of laws*. Of course, because it is merely a collection, its shapelessness, indeterminacy, and gaps will stand out. Its main difference from a code of laws properly so called will be that the latter grasps and states legal principles in thought, in their *universality* and therefore in their determinacy. England's law of the land, or common law, is, as everyone knows, contained in *statutes*—formal laws—and in a so-called *unwritten law*. This unwritten law is in fact written down too. Knowledge of it can and must be acquired simply by reading the many quarto volumes it fills. Experts describe the enormous confusion in both the administration of justice there and the subject itself. They point out especially that, since this unwritten law is contained in the decisions of courts and judges, the judges continually become *legislators*. They are *bound* by the authority of their predecessors, who have done nothing but pronounce the unwritten law. Yet they are equally *not bound*, since they have the unwritten law within themselves and therefore have the right to judge whether earlier decisions conform to it or not. To deal with a similar confusion in later Roman justice, arising from the authorities of all the different famous jurists, an emperor hit on an ingenious solution. It is called the *Law of Citations*. It introduced a kind of collegiate arrangement among *long-dead* legal scholars, with a majority vote and a presiding member. (See Mr. Hugo's history of Roman law, § 354.) To deny an educated nation, or its legal profession, the ability to make a code of laws would be one of the greatest insults that could be offered to either. The task cannot be to make a system of *new* laws in content. It is to know the existing legal content in its determinate universality—that is, to grasp it *in thought*—and to add its application to particular cases.

Section 212

²¹² In this identity of *being-in-itself* and *being-positated*, only what is *law* has binding force as right. Being-positated makes up the side of existence, where the contingency of self-will and other particular features can also enter. So in its content, what is law can still differ from what is right in itself.

In positive right, therefore, what *accords with the law* is the source of knowledge of what is right—or, more precisely, what is *lawful*. To this extent, the science of positive law is a historical science whose principle is authority. Anything else that can be done belongs to the understanding. It concerns external arrangement, compilation, consistency, further application, and the like. When the understanding gets involved with the nature of the subject itself, theories—for example, theories of criminal law—show what damage its reasoning from grounds can do. On one side, the science of positive law has not just the right but the necessary duty to derive historical developments, as well as applications and detailed subdivisions of given legal provisions, from its positive data, and to show their consistency. But on the other side, it must at least not be altogether surprised if it is asked whether, after all these demonstrations, a legal provision is *rational*. It may even regard this as an awkward question for its activity. Compare on *understanding* § 3. Anm.

Section 213

²¹³ When right enters existence, initially in the form of being posited, its content also enters into *application* to the *material* of civil society. This material consists of infinitely multiplying and intertwined relationships and forms of property and contract. It also includes ethical relationships based on feeling, love, and trust—but only so far as they contain the aspect of abstract right (§ 159.).

The moral side, and moral commands, concern the will in its very own subjectivity and particularity. They therefore cannot be objects of positive legislation. Further material is supplied by the rights and duties that flow from the administration of justice itself, from the state, and so on.

Section 214

²¹⁴ Besides application to the *particular*, right's being posited includes its applicability to the *individual case*. In this way it enters the sphere of *quantity*, which the concept leaves undetermined. This can be quantity on its own, or quantity as the determination of value when one qualitative thing is exchanged for another. Determination by the concept supplies only a general limit, within which there is still room to move back and forth. But to make it real, this movement must be cut off. A decision is therefore made within that limit that is contingent and arbitrary.

The *purely positive* element of laws lies chiefly in this *bringing to a point* of the universal, not just to the particular, but to the individual instance—that is, to *immediate application*. Reason cannot determine, nor can a determination derived from the concept decide, whether the just corporal punishment for an offense is forty strokes or forty minus one. It cannot decide whether a fine should be five thalers or four thalers and twenty-three groschen and so on, or whether a prison sentence should be a year, or three hundred and sixty-four days and so on, or a year and one, two, or three days. Yet one stroke too many, one thaler or one groschen, one week or one day in prison too many or too few, is already an injustice. Reason itself recognizes that contingency, contradiction, and appearance have their own, but *limited*, sphere and right. It does not try to bring contradictions of this kind into exact equality and justice. Here only the interest in *realization* remains: the interest that something should be determined and decided at all, in whatever way, within a limit. This decision belongs to formal certainty of oneself, to abstract subjectivity. It may simply hold to the

fact that it cuts off and fixes a point *within that limit*, so that a determination is made. Or it may hold to grounds such as a *round number*, or grounds that the number forty minus one may contain. Nothing changes if the law does not fix this final determinacy that actual reality requires, but leaves the decision to the judge and restricts him only by a minimum and maximum. Each minimum and maximum is itself just such a round number. They do not remove the need for the judge to make a finite, purely positive determination of this kind. Instead, they necessarily allow him to do so.

Section 215

b) The Existence of Law

- ²¹⁵ From the standpoint of the right of self-consciousness (§ 132. with the Anm.), being bound by the law requires that laws be *made generally known*.

Dionysius the Tyrant hung the laws so high that no citizen could read them. Burying them in a vast apparatus of learned books, collections of decisions with conflicting judgments and opinions, customs, and so on—and in a foreign language as well—makes knowledge of the law in force accessible only to people who devote scholarly study to it. These are one and the same injustice. Rulers who have given their peoples even an unshaped collection, like Justinian, and still more those who have given a law of the land as an orderly and determinate code, have not just become their peoples' greatest benefactors and received their grateful praise. They have also carried out a great *act of justice*.

Section 216

- ²¹⁶ For the public code of law, two things are required. On the one hand, it must consist of *simple* general provisions. On the other hand, the nature of *finite material* leads to endless further determination. On the one hand, the body of

laws should be a *finished*, closed whole. On the other hand, there is a continuing need for new legal provisions. But this contradiction falls within the *particularizing* of the general principles, and those principles stay fixed. So the right to a finished code of law remains intact. So does the right to hold that these general, simple principles can be grasped and set out by themselves, apart from their particularizing.

One main source of tangled legislation is this: the original institutions contained an injustice and were therefore merely historical, and over time what is rational and right in and for itself pushed its way into them. This happened with Roman law, as noted above (§ 180, Remark), and with the old feudal law and so on. But we must see that the nature of finite material itself brings it about that applying even provisions that are rational in and for themselves, and universal in themselves, leads to an endless progression. — One demand is that a code of law be absolutely finished and incapable of any further determination. This demand is chiefly a *German* disease. The other is to refuse, on the ground that a code cannot be perfected in this way, to let it become something merely so-called “imperfect,” that is, to let it reach actual reality. Both rest on a misunderstanding of the nature of finite things such as private right, in which so-called perfection is the *perpetual approximation*. Both also rest on a misunderstanding of the difference between the universal of reason and the universal of the understanding, and of *applying* it to the endlessly extending material of finitude and individuality. — “Le plus grand ennemi du Bien c’est le Meilleur” (“The greatest enemy of the good is the better”) is the saying of true, healthy common sense against vain reasoning and reflection.

Section 217

²¹⁷ Just as right *in itself* becomes law in civil society, so too the previously *immediate* and *abstract* existence of my individual right takes on the meaning of being recognized, that is, of existing in the existing universal will and knowledge.

Acquisitions and actions concerning property must therefore be carried out and equipped with the *form* that gives them this existence. Property now rests on *contract* and on the *formalities* that make it provable and legally binding.

The original, that is, immediate, ways of acquiring things and the titles to them (§ 54 ff.) really drop away in civil society and appear only as individual accidents or limited moments. — On one side there is a lasting feeling in the subject, and on the other a reflection that holds to the abstraction of its essentials. Both reject the formalities. The dead understanding, for its part, can in turn hold on to the formalities against the matter itself and multiply them without end. — Besides, it belongs to the course of education that a content moves, through long and hard work, from its sensuous and *immediate* form to the form of its thought, and so to a simple expression that fits it. So in a state where legal culture is only just beginning, solemnities and formalities are extremely elaborate, and are valued more as the thing itself than as its sign. For this reason Roman law also kept a great number of provisions, and especially of expressions, from the solemnities, instead of replacing them with determinations of thought and their fitting expression.

Section 218

²¹⁸ Property and personality now have legal recognition and validity in civil society. So *crime* is no longer only the violation of something *subjectively infinite*. It is the violation of the *universal* matter, which has a firm and strong existence in itself. This brings in the point of view of how *dangerous* the act is for society. On one side, this increases the magnitude of the crime. On the other side, the power of society, now sure of itself, reduces the outward *importance* of the violation, and so leads to greater mildness in punishing it.

That in *one* member of society *all* the others are injured does not change the nature of the crime in terms of its concept. It changes it in terms of outward existence, of the injury, which now strikes the ideas and consciousness of civil

society, and not only the existence of the person directly injured. In the heroic ages (see the tragedies of the ancients) the citizens do not regard themselves as injured by the crimes that members of the royal houses commit against one another. — A crime is *in itself* an infinite violation. But it must be measured as an existing thing by qualitative and quantitative differences (§ 96). That existence is essentially defined as an *idea and consciousness* of the *validity of the laws*. So the *danger to civil society* is a determination of the crime's magnitude, or *one* of its qualitative determinations. — This quality or magnitude, however, varies with the *condition* of civil society. In that condition lies the justification for punishing with death a theft of a few sous or of a turnip, and for punishing with a mild penalty a theft a hundred times that value or more. The point of view of danger to civil society seems to make crimes worse. In fact it is chiefly this point of view that has reduced their punishment. A penal code therefore belongs mainly to its own time and to the condition of civil society in that time.

Section 219

219 c. The Court.

Right, having come into existence in the form of law, exists for itself. It stands independent, over against *particular willing and opining* about right, and must make itself valid as *something universal*. This *knowledge and realization* of right in the particular case, without the subjective feeling of *particular* interest, belongs to a public power, the *court*.

The historical origin of the judge and the courts may have had the form of a patriarchal relation, or of force, or of free choice. For the concept of the matter this makes no difference. Herr von Haller (in his Restoration of Political Science) treats the introduction of the administration of justice by princes and governments as a mere matter of *arbitrary favor* and grace. That is thoughtlessness. It has no inkling that, where law and the state are concerned, the point 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 when we consider their rational ground. — The opposite extreme to this view is crudeness, which counts the administration of justice, as in the times of the right of the strongest, as improper violence, suppression of freedom, and despotism. The administration of justice must be seen as a duty of the public power as much as a right of it. It rests just as little on the pleasure of individuals, to entrust a power with it or not.

Section 220

²²⁰ Right against crime, in the form of revenge (§ 102), is only right *in itself*. It is not right in the form of what is lawful, that is, it is not just in its existence. In place of the injured party, the injured *universal* steps in. This has its own actuality in the court. It takes over the prosecution and punishment of the crime. Punishment then stops being merely *subjective* and accidental retaliation through revenge. It turns into the true reconciliation of right with itself, into *punishment*. From the objective side, it is the reconciliation of the law, which restores itself by cancelling the crime and so *makes itself actually valid*. From the subjective side of the criminal, it is the reconciliation with *his own law, which he knows* and which is valid for him and for *his protection*. When this law is carried out on him, he finds the satisfaction of justice in it, and finds only his own deed.

Section 221

²²¹ A member of civil society has the right *to stand in court*, and also the *duty to appear before the court*, and to take his disputed right only from the court.

Section 222

- ²²² Before the courts, right takes on the requirement that it must be *provable*. The *legal procedure* puts the parties in a position to make their means of proof and their legal grounds count, and puts the judge in a position to get to know the matter. These *steps* are *themselves rights*. Their course must therefore be fixed by law, and they also make up an essential part of the theory of jurisprudence.

Section 223

- ²²³ These actions split up into more and more separate actions and their rights, and this has no limit in itself. Because of that, the legal procedure, which is already a means in itself, comes to stand as something external to its purpose. — The parties have the right to go through such lengthy formalism, which is *their* right. But it can equally be turned into an evil and even into a tool of injustice. So that the parties, and right itself as the substantial matter at stake, may be protected against the legal procedure and its abuse, the court must make it the parties' duty to submit to a simple tribunal (an arbitration or justice-of-the-peace court) and to an attempt at settlement before they proceed to the legal procedure.

Equity involves a reduction of formal right for moral or other reasons, and relates first of all to the *content* of the legal dispute. A *court of equity*, however, will mean this: it decides the individual case without holding to the formalities of legal procedure, and in particular without holding to the objective means of proof as the law can frame them. It also decides in the interest of the individual case as *this* case, and not in the interest of a general legal provision that has to be made.

Section 224

224 The public announcement 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, that is, the course of external actions, legal grounds and so on. This course is in itself a history of general validity. The case, in its particular content, concerns only the interest of the parties. But the universal content, the right in it, and its decision concern the interest of all. This is the *publicity* of the administration of justice.

When the members of the court deliberate among themselves on the judgment to be given, they are expressing opinions and views that are still *particular*. By their nature, then, these deliberations are not public.

Section 225

225 In the business of pronouncing judgment, which is the application of the law to the *individual case*, two sides are distinguished. *First*, there is knowing what the case is like in its *immediate* individuality: whether a contract and so on exists, whether a harmful act was committed, and who did it. In *criminal* law there is also the reflection that determines the act in its *substantial*, criminal character (§ 119, Remark). *Second*, there is the subsumption of the case under the law that restores right, and in criminal law punishment is included in this. The decisions on these two different sides are different functions.

In the Roman court system the distinction between these functions appeared in this way: the praetor gave his decision *in case* the matter stood one way or another, and appointed a special judex to investigate how it stood. — In English legal procedure, the description of an act by its specific criminal quality

(for example, whether it is murder or manslaughter) is left to the insight or choice of the accuser. If the court finds that description incorrect, it cannot make any other determination.

Section 226

²²⁶ The conduct of the whole course of the investigation belongs especially to the proper business of the judge trained in law. So does the direction of the legal acts of the parties, which are themselves rights (§ 222), and also the second side of the legal judgment (see the previous §). For the judge, as the organ of the law, the case must have been prepared so that it can be subsumed. That is, it must have been lifted out of its apparent, empirical condition and raised to an acknowledged fact and a general qualification.

Section 227

²²⁷ The first side, knowing the case in its *immediate* individuality and describing it, does not by itself involve pronouncing a legal judgment. It is a kind of knowing that belongs to *every educated* person. In describing an act, the subjective moment of the agent's insight and intention (see Part II) is essential. Besides, proof concerns no objects of reason or of abstract understanding. It concerns only individual things, circumstances, and objects of sense perception and subjective certainty, and so contains no absolutely objective determination. Therefore the last word in the decision is *subjective conviction* and conscience (*animi sententia*, "the judgment of the mind"). In the same way, where proof rests on the statements and assurances of others, the oath is the final confirmation, subjective though it is.

On the subject at hand, it is a main point to keep in view the nature of the *proving* that matters here, and to tell it apart from knowing and proving of another kind. To prove a determination of reason, such as the concept of right itself, that is, to know its necessity, requires a different method from the proof of a geometrical theorem. Further, in geometry the figure is determined by the understanding and has already been made abstract in accordance with a law. But with an empirical content, such as a *fact*, the material of knowing is the given sense perception and sensuous, subjective certainty, and the speaking and asserting of it. Inference and combination from such statements, testimonies, circumstances and the like are then at work on this material. Objective truth comes out of such material and the method that fits it, when we try to determine it objectively on its own. This truth leads to *half proofs*, and, by a further truly consistent step that also contains a formal inconsistency, to extraordinary *punishments*. It 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 knowing such empirical truth of an event belongs to the proper legal function of a court, that there lies in it a distinctive quality for this, and with that an exclusive right and necessity *in itself*: to show this was a main point of view in the question of how far the formal legal courts should be given the judgment on the fact as well as on the question of law.

Section 228

- 228 The right of self-consciousness of the party is preserved in the judge's verdict, so far as the verdict is the *subsumption* of the qualified case under the law. With regard to the law, it is preserved because the law is known and so is the party's own law. With regard to the *subsumption*, it is preserved because the legal procedure is public. But the decision on the *particular*, subjective and external *content* of the matter falls under the first of the sides named in § 225. With regard

to that, this right finds its satisfaction in *trust* in the subjectivity of those who decide. This trust rests chiefly on the party's equality with them in their particularity, in rank and the like.

The right of self-consciousness, the moment of subjective *freedom*, can be seen as the substantial point of view in the question of whether public administration of justice and so-called *juries* are necessary. What is essential in what can be offered for these institutions in the form of *usefulness* comes down to it. On other considerations and grounds, about this or that advantage or disadvantage, people can argue back and forth. Like all grounds of reasoning, these are secondary and not decisive, or else they are taken from other, perhaps higher, spheres. That the administration of justice *could* be carried out well by purely legal courts, perhaps better than by other institutions, is not the issue here. Even if this possibility could be raised to probability, or even to necessity, on the other side it is always the *right of self-consciousness* that keeps its claims in the matter and does not find them satisfied. — Suppose knowledge of right is the *property* of an estate that shuts itself off, through the nature of what the laws amount to in their whole extent, and further through the course of court proceedings and the possibility of pursuing one's right, and also through a terminology that is a foreign language to those whose right is at stake. Then the members of civil society, who depend for their subsistence on *their own activity* and *their own knowing and willing*, are held as *strangers* to right. That is not only what is most personal and their own, but also what is substantial and rational in it. They are placed under *guardianship*, even into a kind of serfdom toward that estate. They may well have the right to be bodily present in court, on their *feet* (in *judicio stare*, “to stand in court”). But that is little, if they are not to be present *in spirit*, with their own *knowledge*. The right they obtain remains for them an external *fate*.

Section 229

²²⁹ In the administration of justice, civil society returns to its *concept*. In civil society the idea had been lost in particularity and had split apart into inner and outer. The concept is the unity of the universal that exists in itself with subjective particularity. Yet in the administration of justice this subjective particularity is present in the individual case, and the universal has the meaning of *abstract* right. The realization of this unity, extended to the whole range of particularity, is at first a relative union. This is the task of the *police*. In a limited but concrete totality, it is the task of the *corporation*.

Section 230

²³⁰ C. The Police and the Corporation.

In the system of needs, the subsistence and well-being of each individual is a *possibility*. Its actuality is conditioned by his arbitrary choice and natural particularity, and equally by the objective system of needs. Through the administration of justice, the violation of property and personality is wiped out. But right that is *actual in particularity* contains two things. One is that *accidents* working against one purpose or another are *removed*, and that the *undisturbed security* of person and *property* is brought about. The other is the *securing* of the subsistence and well-being of individuals, so that *particular well-being is treated and realized as a right*.

Section 231

²³¹ a. *The Police*.

The securing power of the universal stays limited at first. So long as the particular will is still the principle for one purpose or another, this power is partly confined to the sphere of *accidents*, and partly it is an *external order*.

Section 232

²³² Besides the crimes that the universal power has to prevent or bring to court, which are accident in the form of the arbitrary choice of evil, permitted arbitrary choice, in lawful actions and in the private use of property, also has external relations to other individuals and to other public arrangements for a common purpose. Through this general side, private actions become an accident that passes out of my control, and that can or does bring harm and wrong to others.

Section 233

²³³ This is only a *possibility* of harm. But that the thing does no harm is likewise an accident and nothing more. This is the side of *wrong* that lies in such actions. It is therefore the final ground of the justice of police punishment.

Section 234

²³⁴ The relations of external existence fall under the understanding's infinity. So there is no limit *in itself* to what is harmful or not harmful. The same holds, in matters of crime, for what is suspicious or unsuspicious, and for what is to be forbidden or watched, or to be spared prohibitions, watching, suspicion,

inquiry and accounting. Customs, the spirit of the rest of the constitution, the current condition, the danger of the moment and so on supply the closer determinations.

Section 235

²³⁵ Daily needs multiply and interlock without any fixed limit. In regard to *procur-ing* and *exchanging the means* of satisfying them, everyone relies on these means being freely available. In regard to the investigations and dealings about them, which should be cut as short as possible, certain sides emerge. These are a common interest, and are at the same time the business of *one* person for *all*. Means and arrangements also emerge that can be for common use. These *general busi-nesses* and *arrangements for the common good* call for the supervision and care of the public power.

Section 236

²³⁶ The different interests of producers and consumers can come into conflict with each other. The right relation does establish itself of its own accord in the *whole*. Even so, the balancing also needs a regulation made consciously, standing above both. The right to such regulation for particular cases (for example, setting prices for the commonest necessities of life) lies in this. Goods of entirely general, everyday use are put on public display. They are offered not to an individual as such but to him as a universal, to the public. The public's right not to be cheated, and the inspection of the goods, can be represented and looked after by a public power as a common business. — Above all, however, large branches of industry depend on foreign conditions and distant combinations. The individuals assigned and bound to those branches cannot see these in their connection. This makes general care and direction necessary.

The opposite extreme to the freedom of trade and commerce in civil society is the providing for everyone, and the fixing of everyone's work, by public arrangement. The ancient work on the pyramids and on the other enormous Egyptian and Asian works is an example. These were produced for public purposes without the work of the individual being mediated by his particular arbitrary choice and particular interest. That interest calls for freedom against the higher regulation. But the more blindly it sinks into its selfish purpose, the more it needs such regulation, to be brought back to the universal. It needs it also so that the dangerous convulsions can be shortened and softened, along with the period in between, during which the conflicts are supposed to settle themselves by way of unconscious necessity.

Section 237

- ²³⁷ Suppose the possibility of sharing in the general wealth exists for individuals and is secured by the public power. Then, apart from the fact that this securing must remain incomplete, the possibility is still, from the subjective side, subject to accidents. It is all the more so, the more it presupposes conditions such as skill, health, capital and so on.

Section 238

- ²³⁸ First of all, the family is the substantial whole. The care for this particular side of the individual belongs to it. This covers the means and skills for acquiring a share of the general wealth, and also his subsistence and provision in case incapacity sets in. Civil society, however, tears the individual out of this bond. It estranges the family's members from one another and recognizes them as independent persons. It also puts its own in the place of external inorganic nature and of the paternal soil, in which the individual had his subsistence. It makes

the existence of the whole family itself dependent on it, and so subject to accident. In this way the individual has become a son of civil society. Civil society has claims on him just as he has rights against it.

Section 239

²³⁹ In this character of the *universal family*, civil society has the duty and the right to supervise and influence the *education* of children, against the *arbitrary choice* and accident of the *parents*. This applies so far as education bears on the ability to become a member of society. It applies especially when education is to be completed not by the parents themselves but by others. It likewise has the duty and right to make such provision so far as common arrangements for education can be made.

Section 240

²⁴⁰ In the same way, it has the duty and the right to take under guardianship those who destroy through extravagance the security of their own and their family's subsistence. In their place it carries out the purpose of society and their own.

Section 241

²⁴¹ But accidents can also bring individuals down to *poverty*, just as arbitrary choice can. These accidents may be physical, or may lie in outer circumstances (§ 200). Poverty leaves people with the needs of civil society. At the same time it takes away their natural means of earning a living (§ 217) and dissolves the wider bond of the family as a clan (§ 281). And it more or less deprives them of all the advantages of society: the ability to earn money through skills and edu-

cation generally, and also the administration of justice, health care, and often even the comfort of religion, and so on. The general power takes the place of the family for the *poor*. It does so both to meet their immediate want and to deal with the attitude of reluctance to work, the malice, and the further vices that arise from such a position and from the feeling of being wronged.

Section 242

242 The subjective side of poverty, and of distress of every kind to which each individual is exposed even within his natural circle, also calls for *subjective* help. This help must suit the *particular* circumstances, and it must come from feeling and *love*. Here is the place where *morality* finds plenty to do, whatever general arrangements are made. But this help depends on chance, both in itself and in its effects. So society works to find what is universal in need and in relieving it, to put that into effect, and to make that personal help less necessary. The chance element in giving alms, in endowments, and in burning lamps before images of saints, and so on, is made up for by public institutions for the poor, hospitals, street lighting, and the like. Charity still has plenty left to do. It is a wrong view when charity wants to keep the relief of need for itself alone, to be left to the *particularity* of feeling and the *chance* nature of its attitude and knowledge, and when it feels hurt and offended by general regulations and rules that *impose obligations*. On the contrary, a public condition of things should be judged more perfect the less is left for the individual to do on his own, according to his private opinion, compared with what is arranged in a general way.

Section 243

²⁴³ When civil society works without obstruction, it is occupied within itself with *growing population and industry*. — As people's connection with each other through their needs becomes more general, and so do the ways of preparing and supplying the means to meet those needs, the *accumulation of wealth* increases. For the greatest profit is drawn from this double universality. — On one side there is this accumulation. On the other side there is the *isolation and narrowness* of particular work, and with it the *dependence and distress* of the class tied to that work. This also brings an inability to feel and enjoy the wider freedoms, and especially the spiritual advantages, of civil society.

Section 244

²⁴⁴ A large mass of people may sink below a certain standard of living, which regulates itself on its own as the standard necessary for a member of society. — They then lose the feeling of right, of lawfulness, and of the honor of supporting themselves by their own activity and work. This brings about the creation of a *rabble*. At the same time it makes it easier to concentrate disproportionate wealth in a few hands.

Section 245

²⁴⁵ Suppose the burden were placed directly on the richer class. Or suppose other public property (rich hospitals, endowments, monasteries) had the direct means to keep the mass of people heading toward poverty at the level of their normal way of life. Then the livelihood of the needy would be secured without

being earned through work. That would go against the principle of civil society and against its individuals' feeling of independence and honor. Or suppose instead that their livelihood were earned through work (by giving them the chance to work). Then the amount of goods produced would increase. But the evil lies precisely in the excess of production and in the lack of a proportionate number of consumers who are themselves productive. Either way, the evil only grows. This shows that, despite an *excess of wealth*, civil society is *not rich enough*. That is, it does not own enough of the wealth that belongs 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*. So can the closer results of the poor tax, of immense endowments and equally unlimited private charity, and above all of the abolition of the corporations. In that country (mainly in Scotland), one method has proved the most direct against poverty, and in particular against the casting off of shame and honor, the subjective bases of society, and against laziness, waste, and so on, from which the rabble arises. That method is to leave the poor to their fate and to direct them to begging in public.

Section 246

- ²⁴⁶ Through this dialectic of its own, civil society is driven beyond itself. First it is driven, as *this particular* society, to look outside itself, among other peoples, for consumers and so for the means of livelihood it needs. These peoples are behind it in the goods it has in excess, or generally in skill and industry, and so on.

Section 247

²⁴⁷ The earth, solid *ground*, is the condition for the principle of family life. In the same way the *sea* is the natural element that gives life to industry in its outward reach. In the passion for gain, industry exposes gain to danger. By doing so it rises above gain, and it mixes being fixed to the clod of earth and to the limited circles of civil life, with their enjoyments and desires, with the element of fluidity, danger, and destruction. In this way, through this greatest medium of connection, industry also brings distant countries into trade. Trade is a relation of right that brings in the contract. In this trade the greatest means of education is also found, and commerce finds its significance for world history.

Rivers are *not natural* boundaries, though in modern times they have been claimed to be. Rivers, like seas, rather connect people. It is a mistaken thought when *Horace* says (*Carm.* I. 3.): — — “a god in his wisdom *cut off* the lands with the separating Ocean.” This is shown not only by the river basins that are inhabited by one tribe or people. It is shown also, for example, by the other circumstances of Greece, Ionia, and Magna Graecia, of Brittany and Britain, of Denmark and Norway, Sweden, Finland, Livonia, and so on. It is shown especially in contrast to the weaker connection between the inhabitants of the coast and those of the inland. — As for the means of education that lies in the connection with the sea, compare the relation to the sea of nations in which industry has flourished with that of nations that have forbidden themselves seafaring. The Egyptians and the Indians became dull and stagnant within themselves and sank into the most terrible and shameful superstition. And all great nations, striving within themselves, press toward the sea.

Section 248

- ²⁴⁸ This widened connection also offers the means of *colonization*. Developed civil society is driven to it, either in scattered fashion or systematically. Through it, civil society gives part of its population a return to the family principle on new soil. It also gives itself a new demand and a new field for its industrious labor.

Section 249

- ²⁴⁹ First, police provision makes real and maintains the universal that is contained in the particularity of civil society. It does so as *an outer order and arrangement* for the protection and security of the masses of particular purposes and interests, which have their existence in this universal. As a higher direction, it also looks after interests (§ 246) that lead beyond this society. According to the Idea, particularity itself makes this universal, which lies in its own immanent interests, the purpose and object of its will and activity. In this way the ethical *returns* into civil society as something immanent. This makes up the vocation of the *corporation*.

Section 250

b. The Corporation.

- ²⁵⁰ The *agricultural class* has its concrete universal directly within itself, in the substantial character of its family and natural life, and it lives in that universal. The *universal class* has the universal itself, for its own sake, as the purpose of its

activity and as its ground, because of its vocation. The class of trade and industry lies between the two. It is directed essentially toward the *particular*, and so the corporation is especially proper to it.

Section 251

- ²⁵¹ The work of civil society divides into different branches, according to the nature of its particularity. What is alike in itself in this particularity comes into existence as something *shared* in the *association*. The *self-seeking* purpose, directed toward its own particular interest, then grasps and acts on itself at the same time as universal. And the member of civil society is a member of the corporation according to his *particular skill*. The corporation's universal purpose is therefore entirely *concrete*, and has no wider reach than what lies in the trade, in its own business and interest.

Section 252

- ²⁵² Under this definition, the corporation has the right, under the oversight of the public power, to look after its own interests contained within it. It has the right to admit members, on the objective grounds of their skill and honesty, in a number fixed by the general context. It has the right to care for those who belong to it against particular accidents, and to provide the training that makes them able to be admitted. In general it has the right to stand up for them as a *second* family. This position remains more undefined for civil society in general, which is more remote from individuals and their particular needs.
- The tradesman is different from the day laborer, and from the person who is ready to do a single casual job. The tradesman is the *master*, or wants to become one. He is a member of the association not for a single casual earning, but for the *whole* extent, the universal, of his particular livelihood. — *Privileges*

are the rights of a branch of civil society that is formed into a corporation. Privileges in the strict sense, according to their etymology, are something different. The difference is that privileges in the strict sense are exceptions to the general law made by chance. The rights of a corporation, by contrast, are only provisions 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 its livelihood, which is conditioned by *ability*, and a firm *property* (§ 170). Both are also *recognized*. So a member of a corporation does not need to prove his competence, or his proper income and prospects, or that he is something, by any further *outward displays*. It is also recognized that he belongs to a whole, which is itself a member of society in general, and that he has an interest in, and takes trouble for, the less self-serving purpose of this whole. — In this way he has *his honor in his class*.

By securing property, the institution of the corporation corresponds, in another sphere, to the introduction of agriculture and private property (§ 203, Remark). — If complaints are to be made about the luxury and extravagance of the trading classes, which are connected with the creation of the rabble (§ 244), then among the other causes (for example, the way work keeps becoming more mechanical), the *ethical* reason, as it lies in what was said above, should not be overlooked. Without being a member of a legitimate corporation (and an association is a corporation only when it is legitimate), the individual has no *class honor*. His isolation reduces him to the self-seeking side of his trade, and his livelihood and enjoyment are nothing *lasting*. So he will try to gain *recognition* through outward displays of his success in his trade. These displays have no limit. For living in keeping with his class is not possible, since the class does not exist. In civil society only what is constituted and recognized by law *exists* as

shared. So no more general way of life suited to him develops either. — In the corporation, the help that poverty receives loses its chance character and its unjust humiliation. And wealth, in its duty to its association, loses the arrogance and the envy it can arouse: arrogance in its owner, envy in others. — Honesty receives its true recognition and honor.

Section 254

- ²⁵⁴ The corporation limits the so-called *natural right* to practice one's skill and so to earn whatever there is to earn only in so far as, within the corporation, this skill is made rational. That is, it is freed from one's own opinion and from chance, from one's own danger and from danger to others. It is recognized and secured, and at the same time raised to conscious activity for a common purpose.

Section 255

- ²⁵⁵ Alongside the *family*, the *corporation* makes up the second *ethical* root of the state, a root grounded in civil society. The family holds the moments of subjective particularity and objective universality together in a *substantial* unity. The corporation does the same with these moments, but they have first been split apart in civil society. There they appear as the particularity of need and enjoyment, *reflected* into itself, and as an *abstract* universality of right. The corporation unites them in an inward way, so that in this union the particular welfare is present as a right and is made real.
- The sanctity of marriage and honor in the corporation are the two moments on which the disorganization of civil society turns.

Section 256

256 The purpose of the corporation is limited and finite. Its truth lies in the *universal purpose* that is so in and for itself, and in that purpose's absolute actual reality. The same holds for the separation present in the outer arrangements of the police, and for the relative identity of what is separated. So the sphere of civil society passes over into the *state*.

City and country make up the two moments, still ideal ones in general. The city is the seat of civil trade and industry, of reflection that turns in on itself and isolates. The country is the seat of ethical life resting on nature. In other words, the two moments are the individuals who secure their self-preservation in relation to other legal persons, and the family. The state *proceeds from* them as their true *ground*. — This development leads from immediate ethical life, through the split of civil society, to the state, which shows itself to be their true ground. Only such a development is the *scientific proof* of the concept of the state. — In the course of the scientific concept the state appears as a *result*, since it turns out to be the *true ground*. So that *mediation* and that appearance *cancel* themselves just as much into *immediacy*. In actual reality, therefore, the *state* in general is rather what comes first. Only within it does the family develop into civil society. It is the Idea of the state itself that divides itself into these two moments. In the development of civil society, the ethical substance gains its *infinite* form. This form holds two moments within itself. First, infinite *distinction*, up to the being-within-itself, for itself, of self-consciousness. Second, the form of *universality* that is present in education, the form of *thought*. Through this form spirit is objective and real in laws and institutions, which are its thought will, as an *organic* totality.

Section 257

Third Section.

The State.

²⁵⁷ The state is the actual reality of the ethical Idea. It is ethical spirit as the *revealed* substantial will, clear to itself, which thinks and knows itself, and carries out what it knows and as far as it knows it. The state has its immediate existence in *custom*. It has its mediated existence in the *self-consciousness* of the individual, in the individual's knowledge and activity. In turn, through his attitude, the individual has his *substantial freedom* in the state, as in his essence, as in the purpose and 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, ethical life that conducts itself in feeling. *Political virtue* is the willing of the thought purpose that is so in and for itself.

Section 258

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

Suppose the state is confused with civil society, and its vocation is set in the security and protection of property and personal freedom. Then the *interest of individuals as such* is the final purpose for which they are united. It follows just as much that being a member of the state is something optional. — But the

state has a quite different relation to the individual. Since it is objective spirit, the individual himself has objectivity, truth, and ethical life only as a member of it. The *union* as such is itself the true content and purpose. The vocation of individuals is to lead a universal life. Their further particular satisfaction, activity, and way of acting have this substantial and universally valid thing as their starting point and their result. — Seen in the abstract, rationality consists in the unity, in which the two penetrate each other, of universality and individuality. Here, concretely, in terms of content, it consists in the unity of objective freedom, that is, the universal substantial will, and subjective freedom, as the individual's knowing and his will that seeks particular purposes. And so, in terms of form, it consists in acting that is determined by thought, that is, by *universal* laws and principles. — This Idea is the eternal and necessary being of spirit, in and for itself. — Now what is or was the *historical* origin of the state in general, or rather of any particular state, with its rights and provisions? Did it first arise from patriarchal relations, from fear or trust, from the corporation, and so on? And how did that on which such rights rest come to be grasped and fixed in consciousness, as divine or positive right, or contract, custom, and so forth? None of this concerns the Idea of the state itself. In regard to scientific knowledge, which is the only matter discussed here, it is a historical matter, as an appearance. In regard to the authority of an actual state, to the extent that it enters into giving reasons, these are taken from the forms of the law that is valid in it. — Philosophical consideration deals only with the inner side of all this, the *thought concept*. In the search for this concept, *Rousseau* had the merit of setting up a principle for the state that is *thought* not only in its form (as the social drive or divine authority are) but also in its content. It is indeed *thinking* itself. That principle is the *will*. But *Rousseau* grasped the will only in the determinate form of the *individual* will (as *Fichte* did later). And he grasped the general will not as what is rational in and for itself in the will, but only as what is *held in common*, which comes out of this individual *will as conscious*. So the union of individuals in the state becomes a *contract*. A contract has their arbitrary choice, their opinion, and their freely given, express consent as its basis. The further consequences follow, merely of the understanding, which

destroy the divine that is in and for itself, and its absolute authority and majesty. When these abstractions came to power, they therefore produced, on the one hand, the first tremendous spectacle since we have known of the human race. They set about overthrowing everything existing and given in the constitution of a great actual state, starting again entirely from the beginning and from *thought*, and *wanting* to give it only the *supposedly rational* as its basis. On the other hand, because they are only abstractions without Idea, they turned the attempt into the most terrible and glaring event. — Against the principle of the individual will, we should recall the basic concept that the objective will is what is rational in itself, in its *concept*, whether or not individuals recognize it and want it by their liking. — The opposite of this, the subjectivity of freedom, knowing and willing, is held *alone* in that principle. It contains only the *one* moment, and therefore a one-sided moment, of the *Idea of the rational* will. The will is rational only because it is in itself just as much as it is for itself. — The other opposite of the thought that the state is to be grasped in knowledge as something rational in itself is this: taking the *outwardness* of appearance, the chance of need, of the need for 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 knowing. But it is not even the *thought* of this individuality. On the contrary, it is the empirical individualities with their chance 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 grasp of its inner nature, has surely never appeared so unmixed as in Herr von Haller's *Restoration of Political Science*. I say *unmixed*. For in all attempts to grasp the essence of the state, however one-sided or superficial the principles may be, this very intention to *comprehend* the state brings thoughts and general determinations with it. Here, however, there is a conscious renunciation of the rational content that the state is, and of the form of thought. And a passionate rage is stormed against both. This *Restoration* perhaps owes part of the wide effect of its principles, which Herr von Haller asserts, to the fact that he knew how to rid himself of *all thoughts* in his presen-

tation, and so how to keep the whole thoughtless and of a piece. For in this way there is no confusion or disturbance, which weakens the impression of a presentation in which a prompting toward the substantial is mixed in among the chance, and a reminder of the universal and rational among the merely empirical and external, so that in the sphere of the poor and empty one is reminded of the higher infinite. — This presentation is therefore also *consistent*. For when the sphere of chance is taken, instead of the substantial, as the essence of the state, then with such a content consistency lies precisely in the complete inconsistency of a thoughtlessness. It 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 described. The author's indignation could be something noble in itself, since it was kindled by the false theories mentioned above, which came mainly from *Rousseau*, and chiefly by the attempt to put them into practice. But Herr von Haller, to save himself, threw himself into an opposite, which is a complete lack of thought, and about which, therefore, there can be no question of content. That opposite is the bitterest hatred of all *laws, legislation, and all right that is formally and lawfully determined*. Hatred of the law, of lawfully determined *right*, is the shibboleth by which fanaticism, feeble-mindedness, and the hypocrisy of good intentions reveal themselves and unfailingly make known what they are, whatever clothes they may put on. — An originality like Haller's is always a remarkable appearance. For those of my readers who do not yet know the book, I will quote some passages as a sample. First Herr von H. (vol. 1, p. 342 ff.) sets out his main principle: "that just as in the *inanimate* world the greater drives out the smaller, the mighty the weak, and so on, so too among the *animals*, and then among human beings, the same law returns, in nobler forms (often surely in ignoble ones too?)." And "that it is therefore the eternal, *unchangeable* order of God that the *mightier* rules, must rule, and always will rule." — One already sees from this, and equally from what follows, in what sense *might* is meant here. It is not the might of what is just and ethical, but the chance violence of nature. — He then supports this further, and among other grounds with this (p. 365 f.): that nature has arranged things with admirable wisdom so that pre-

cisely the feeling of *one's own superiority* irresistibly ennobles the character and favors the development of exactly those virtues that are most necessary to subordinates. He asks, with much school rhetoric, “whether in the realm of the sciences it is the strong or the weak who misuse authority and trust more for low, selfish purposes and for the ruin of believing people. And whether among jurists the masters of the science are the petty lawyers and pettifoggers who cheat the hopes of trusting clients, who make white black and black white, who misuse the laws as a vehicle of injustice, who lead those who need protection toward beggary and tear apart the innocent lamb like hungry *vultures*,” and so on. Here Herr von H. forgets that he cites such rhetoric precisely in support of the proposition that the *rule of the mightier* is the eternal order of God, the order by which the vulture tears apart the innocent lamb. So those who are mightier through their knowledge of the laws are entirely right to plunder the trusting people who need protection, as the weak. But it would be asking too much that two thoughts be brought together where not even one is found. — That Herr von H. is an enemy of *law codes* goes without saying. According to him, civil laws are in general, on the one hand, “unnecessary, since they are understood of themselves from the *natural law*.” Since states have existed, much effort would have been saved, effort spent on legislating and on law codes, and still spent on them and on the study of lawful right, if people had always rested content with the thorough thought that *all of this is understood of itself*. — “On the other hand, laws are not really given to private persons, but as instructions for the lower judges, to make known to them the will of the lord of the court. In any case *jurisdiction* (vol. 1, p. 297; part 1, p. 254; and everywhere) is not a duty of the state but a favor, namely help given by the mightier, and merely supplementary. Among the means of securing right it is not the most perfect. It is rather *unsure and uncertain*. It is the only means that our modern jurists leave us, and they rob us of the *three other* means, precisely those that *lead to the goal* most quickly and surely, and that the *kindly* nature has given man, besides that one, for securing his lawful freedom.” And these *three* are (what do you suppose?): “1) *one's own observance* and inculcation of the natural law, 2) *resistance* to injustice, 3) *flight* where no help is to be found any more.”

(How unkind jurists are, compared with kindly nature!) “But the *natural divine* law, which (vol. 1, p. 292) all-good nature has given to everyone, is: *Honor* everyone who is your equal (on the author’s principle it would have to read: honor not your equal, but the one who is mightier), *offend no one who does not offend you*; demand nothing that he does not owe you (but what does he owe?), indeed more: love your neighbor and benefit 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 come into the world! — In vol. 3, p. 362 ff., the author comes to the “so-called national freedoms,” that is, the laws of right and of constitution of the nations. In this broad sense every lawfully determined right was called *a freedom*. Of these laws he says, among other things, “that their content is usually *very insignificant*, even though in books great value may be placed on such *documented freedoms*.” Then one sees that the national freedoms the author speaks of are those of the German imperial estates, of the English nation (the Magna Carta, “which is *little read and, because of its antiquated expressions, even less understood*,” the bill of rights, and so on), of the Hungarian nation, and so on. One is surprised to learn that these possessions, otherwise held to be so important, are insignificant. And one is surprised to learn that these nations place value on their laws only in books, though those laws have contributed to every piece of clothing the individuals wear and every piece of bread they eat, and contribute daily and hourly in everything. — Herr von H. also speaks especially ill of the *general Prussian law code*, to mention this too (vol. 1, p. 185 ff.). The reason is that unphilosophical errors (not yet, at least, Kantian philosophy, against which Herr von Haller is most bitter) have shown their *incredible* influence in it. The main reason, among others, is that it speaks of the state, the property of the state, the purpose of the state, the head of the state, the head’s *duties*, state officials, and so on. Worst of all to Herr von H. is “the right to tax people’s private property, their trade, products, or consumption, *to meet the needs of the state*.” For the king himself, since the property of the state is classed not as the prince’s private property but as property of the state, thus also the

Prussian citizens have nothing of their own any more, neither their body nor their goods, and all subjects are *serfs by law*, for — *they may not withdraw from the service of the state.*”

Amid all this incredible crudity, one might find the most comical thing to be the emotion with which Herr von Haller describes the inexpressible pleasure he takes in his discoveries (vol. 1, preface). It is “a joy such as only the friend of truth can feel, when after honest research he gains the certainty that he has, *as it were* (yes, indeed, as it were!), hit upon the pronouncement of *nature, the word of God himself*” (the word of God, rather, distinguishes its revelations very expressly from the pronouncements of nature and of natural man). “He felt he could have sunk down in sheer admiration, a stream of joyful tears welled from his eyes, and from that, living religiousness arose in him.” — Out of religiousness, Herr von H. should rather have wept over it as God’s hardest punishment. For it is the hardest thing that can happen to 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 slips itself in for him as the *word of God*.

Section 259

259 The idea of the state has three stages. a) It has *immediate* actuality. Here it is the individual state, an organism that relates to itself. This is the *constitution*, or *internal* constitutional law. b) It passes over into the relation of the single state to other states. This is *external constitutional law*. c) It is the universal idea, as the *kind* to which individual states belong and as the absolute power over them. This is spirit, which gives itself its actuality in the process of *world history*.

Section 260

260 A. Internal Constitutional Law.

The state is the actuality of concrete freedom. *Concrete freedom* means this. Personal individuality and its particular interests get their full development, and their right is *recognized* in its own terms (in the system of the family and of civil society). At the same time, these interests, through their own action, partly *pass over* into the interest of the universal. And partly they knowingly and willingly acknowledge the universal as their own *substantial* spirit, and they work for it as their *final end*. So the universal does not count or get accomplished without particular interest, knowledge and will. And individuals do not live only for the particular, as private persons, without also willing within and for the universal, and without having an activity that is aware of this aim. The principle of modern states has this immense strength and depth: it lets the principle of subjectivity reach its full development as the *independent* extreme of personal particularity, and at the same time *brings it back* to the *substantial unity*, so that this unity is preserved in the principle of subjectivity itself.

Section 261

261 Compared with the spheres of private right and private welfare, the family and civil society, the state is in one respect an *external* necessity and their higher power. Their nature, and also their laws and interests, are subordinate to it and depend on it. But in another respect the state is their *immanent* end. Its strength lies in the unity of its universal final end with the particular interest of individuals. It lies in this: individuals have *duties* toward the state to the extent that they also have rights. (§ 155.)

Montesquieu, in his famous work *The Spirit of the Laws*, focused especially on the thought that even the laws of private right depend on the specific character of the state. He also took the philosophical view that a part should be considered only in its relation to the whole, and he tried to carry this out in detail. This was already noted above, in the Remark to § 3. — *Duty* is, first of all, behavior *toward* something *substantial* for me, something that is universal in and for itself. Right, by contrast, is the *existence* of this substantial thing in general, and so it is the side of its *particularity and of my particular* freedom. On the merely formal levels, then, the two appear divided between different sides or persons. The state is ethical, a penetration of the substantial and the particular. It therefore contains this: 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 in the state the different moments also come to their *own distinct* shape and reality, and so the difference between right and duty returns. Since they are identical *in themselves*, that is, formally, they are at the same time *different in their content*. In private right and in morality, the *actual* necessity of the relation is missing, and so only an *abstract* equality of content is present. What is right for one person in these abstract spheres should also be right for the other, and what is duty for one should also be duty for the other. That absolute identity of duty and right occurs only as an equal identity of *content*. It lies in the determination that this content is itself entirely 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 the reverse also holds. (Religious duties are not under discussion here.) — But in the concrete idea, which develops within itself, its moments are distinguished, and their determinateness becomes at the same time a different content. In the family the son does not have rights of *the same content* as the duties he has toward his father. And the citizen does not have rights of *the same content* as the duties he has toward the prince and the government. — That concept of the union of duty and right is one of the most important determinations, and it holds the inner strength of states. — The abstract side of duty stops at overlooking and banishing particular interest, as

an unessential and even unworthy moment. The concrete view, the idea, shows the moment of particularity to be just as essential, and so shows its satisfaction to be absolutely necessary. In fulfilling his duty, the individual must in some way also find his own interest, his satisfaction or benefit. And a right must grow for him out of his relation to the state, through which the universal cause becomes *his own particular* cause. Particular interest should truly not be set aside or even suppressed. It should be brought into agreement with the universal, and so both it and the universal are preserved. The individual is a subject in terms of his duties. As a citizen, in fulfilling them, he finds protection of his person and property, consideration of his particular welfare, and satisfaction of his substantial being. He finds the awareness and the self-esteem of being a member of this whole. And in this carrying out 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 only be that its tasks, the services it requires, are carried out as duties.

Section 262

- ²⁶² The actual idea is spirit. It divides itself into the two ideal spheres of its concept, the family and civil society, as into its finitude. It does this in order to be, out of their ideality, infinite actual spirit for itself. In doing so, it assigns to these spheres the material of this, its finite actuality, namely the individuals as the *mass*. The assignment appears, in the case of each individual, as *mediated* by circumstances, by arbitrary choice and by his own choice of his calling. (§ 185 and the Remark there.)

Section 263

- ²⁶³ In these spheres, where its moments, individuality and particularity, have their immediate and their reflected reality, spirit is the objective universality *shining* into them. It is the power of the rational in necessity (§ 184). That is, it is the *institutions* considered above.

Section 264

- ²⁶⁴ The individuals of the mass are themselves spiritual natures. So they contain in themselves a double moment. One is the extreme of *individuality* that knows and wills *for itself*. The other is the extreme of *universality* that knows and wills the substantial. They therefore come to the right of both sides only to the extent that they are actual both as private persons and as substantial persons. In those spheres they reach the first partly directly, and the second in this way: partly, in the institutions, as the *universal* of their particular interests that exists in itself, they have their essential self-consciousness. And partly, the institutions give them, in the corporation, a task and an activity directed to a universal aim.

Section 265

- ²⁶⁵ These institutions make up the *constitution*, that is, developed and realized rationality, in the *particular*. For that reason they are the firm basis of the state, and of the trust and the disposition individuals have toward it. They are the main pillars of public freedom, because in them particular freedom is realized and rational. So the union of freedom and necessity is present in them *in itself*.

Section 266

- ²⁶⁶ But spirit is objective and actual not only as this necessity and as a realm of appearance. It is so also as the *ideality* of this necessity and as its inner side. In this way this substantial universality is *itself* its own object and aim, and that necessity thereby has just as much 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. As *objective* substantiality, distinguished from that, it is the *organism* of the state, the state in the strict sense, the *political* state, and its *constitution*.

Section 268

- ²⁶⁸ Political *disposition*, patriotism in general, is certainty that stands in *truth*. (Merely subjective certainty does not come out of truth, and is only opinion.) It is also willing that has become habit. It is only a result of the institutions that exist in the state, in which rationality is *actually* present, just as it receives its confirmation through action in keeping with those institutions. — This disposition is, in general, *trust* (which can pass over into more or less developed insight). It is the awareness that my substantial and particular interest is preserved and contained in the interest and aim of an other (here, the state), in its relation to me as an individual. As a result, this other is for me immediately not an other, and in this awareness I am free.

By patriotism people often understand only a readiness for *extraordinary* sacrifices and actions. But essentially it is the disposition that is used to knowing the community, in ordinary conditions and ordinary circumstances of life, as the substantial ground and aim. This awareness, which proves itself in all relations in the ordinary course of life, is then also the basis for readiness for extraordinary effort. But people are often more eager to be generous than to be law-abiding. So they easily persuade themselves that they have that extraordinary patriotism, in order to spare themselves this true disposition, or to excuse its absence. — Further, suppose *disposition* is regarded as something that can make a beginning on its own and arise out of subjective ideas and thoughts. Then it is confused with opinion, since on this view it lacks its true ground, objective reality.

Section 269

²⁶⁹ The disposition takes its particular, determinate *content* from the different sides of the organism of the state. This *organism* is the development of the idea into its differences and into their objective actuality. These different sides are thus the *various powers*, with their tasks and activities. Through them the universal continually produces itself. It does so in a *necessary* way, because they are determined by the *nature of the concept*. And because it is just as much presupposed in its own production, it preserves itself. — This organism is the *political constitution*.

Section 270

²⁷⁰ The aim of the state is the universal interest as such, and in it, as its substance, the preservation of particular interests. This is, first, its 1) *abstract actuality* or substantiality. But it is also 2) its *necessity*, since it divides itself into the *concep-*

tual differences of its activity. Through that substantiality, these differences are just as much actual, *fixed* determinations, that is, powers. 3) This same substantiality, however, is spirit that knows and wills itself, having *passed through the form of cultivation*. The state therefore knows what it wills, and knows it in its *universality*, as something *thought*. For that reason it works and acts according to known aims and recognized principles, and according to laws that exist not only *in themselves* but for consciousness. In the same way, insofar as its actions relate to existing circumstances and conditions, it acts according to a precise knowledge of them.

This is the place to touch on the *relation of the state to religion*. In recent times it has been repeated so often that religion is the foundation of the state. This claim is also made with the pretension that it exhausts the science of the state. And no claim is better suited to produce so much confusion, even to raise confusion itself to the constitution of the state, to the form that knowledge should take. — At first it may seem suspicious that religion is recommended and sought above all in times of public misery, disorder and oppression. People are pointed to it for comfort against *injustice* and for hope of compensation for *loss*. It is then also taken as a teaching of religion to be indifferent to worldly interests and to the course and business of actuality. But the state is spirit *that stands in the world*. So pointing to religion seems either unfit to raise the interest and business of the state to an essential, serious aim, or else it seems to give out everything in the government of the state as a matter of indifferent arbitrary choice. This happens whether the talk goes as if the aims of passions, of unjust force and so on ruled in the state, or whether this pointing to religion wants to count on its own and claim the determining and the carrying out of what is right. It would be taken as mockery if all feeling against tyranny were turned aside by saying that the oppressed find their comfort in religion. In the same way we must not forget that religion can take a form that brings the harshest servitude under the chains of superstition, and the degradation of human beings below the animal. (This was so among the Egyptians and the Indians, who worship animals as their higher beings.) This phenomenon can at least draw our attention to the fact that we should not speak of religion quite in

general. Against religion as it is in certain shapes, a saving power is needed that takes up the rights of reason and of self-consciousness. — The essential determination of the relation between religion and state comes out only when we recall their concept. Religion has absolute truth as its content, and so the highest of disposition falls within it. It is intuition, feeling and representational knowledge. It is concerned with God as the unlimited foundation and cause on which everything depends. So it contains the demand that everything also be grasped in this relation and obtain in it its confirmation, justification and certainty. In this relation, the state and laws, like duties, receive for consciousness their highest proof and their highest binding force. For even state, laws and duties, in their actuality, are something determinate that passes over into a higher sphere as its foundation. (Encyclopedia of the Philosophical Sciences, § 453.) For this reason religion is also the place that gives consciousness of the unchangeable, and of the highest freedom and satisfaction, amid all change and in the loss of actual aims, interests and possessions. If religion in this way makes up the *foundation* that holds the ethical in general, and more precisely the nature of the state, as the divine will, then it is at the same time only a *foundation*, 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 in opposition to the state behave like those who think they have what is right in knowledge if they always stay with the *essence* and do not go on from this abstraction to existence. Or they behave like those (see above, § 140, Remark) who want only the *abstract* good and leave it to arbitrary choice to decide what is good. Religion is the relation to the absolute *in the form of feeling, representation and faith*. In its all-containing center, everything is only an accident, and also something vanishing. Suppose this form is held to in relation to the state as well, so that it is also essentially decisive and valid for the state. Then the state, as an organism developed into lasting differences, laws and institutions, is given up to wavering, insecurity and disorder. The objective and universal, the laws, are not set as standing and valid. Instead they take on the character of a negative against that form, which wraps everything determinate in itself and so becomes subjective.

For human conduct the consequence follows: no law is given to the righteous. Be devout, and you can otherwise do as you please. You can give yourselves over to your own arbitrary choice and passion. You can send the others, who suffer wrong because of it, to the comfort and hope of religion. Or, worse, you can reject and condemn them as irreligious. But suppose this negative attitude does not stay merely an inner disposition and view, and turns to actuality and asserts itself in it. Then religious *fanaticism* arises. Like political fanaticism, it banishes all arrangements of the state and all legal order as confining limits, unsuited to the inner side and to the infinity of the heart. It 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. But a decision must be made for actual existence and action. So the same thing happens as with the subjectivity of the will that knows itself as the absolute in general (§ 140). The decision comes from subjective representation, that is, from *opining* and from the *whim of arbitrary choice*. — But what is true, against this truth wrapped in the subjectivity of feeling and representing, is the immense passage of the inner into the outer, the building of reason into reality. All of world history has worked on this. Through this work 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 opinion assure themselves that they have everything *immediately*, instead of taking on the work of raising their subjectivity to knowledge of the truth and to knowing objective right and duty, nothing can come but the smashing of all ethical relations, silliness and abomination. These are necessary consequences of the disposition of religion when it rests exclusively on its form and so turns against actuality and against the truth that is present in the form of the universal, of laws. Yet it is not necessary that this disposition go on to realization in this way. With its negative standpoint it can indeed also remain something inner, submit to the institutions and laws, and leave it at resignation and sighing, or at contempt and wishing. It is not strength but weakness that in our times has made religiosity a *polemical* kind of piety, whether it is connected with a real need or merely with unsatisfied vanity. Instead of mastering one's opining by the labor of study, and

subjecting one's willing to discipline and so raising it to free obedience, the cheapest course is to give up knowledge of objective truth. One keeps a feeling of being oppressed, and with it self-conceit. And one takes devoutness to be already all that is needed to see through the nature of laws and state institutions, to pass judgment on them, and to say how they should and must be. One does this, moreover, in an infallible and untouchable way, because it comes from a pious heart. For when intentions and claims make religion their foundation, nothing can be held against them, neither for their shallowness nor for their injustice.

Religion, like knowledge and science, has as its principle a form of its own, different from that of the state. They therefore enter the state partly as *means* of cultivation and disposition. And partly, insofar as they are essentially *ends in themselves*, they enter on the side that they have external existence. In both respects the principles of the state *apply* to them. In a fully concrete treatment of the state, those spheres, and art, merely natural relations and so on, must likewise 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* sphere according to its idea, their principles and the application of the state's right to them can be spoken of only in passing.

If religion is of the true kind, it takes no such negative and polemical stance against the state. It rather acknowledges and confirms the state. In that case it has its own further *condition* and its own *expression*. The work of its worship consists of acts and teaching. For this it needs *possessions* and *property*, and also *individuals* devoted to the *service* of the congregation. So a relation arises between the state and the church community. The rule for this relation is simple. It is in the nature of the matter that the state has a duty to give the congregation every support and protection for its religious aim. Since religion is, for the state, an integral moment of the deepest part of disposition, it is also a duty of the state even to require all its members to belong to a church community, and to some church or other, for the state cannot enter into the content, insofar as it concerns the inner side of representation. A state that is fully developed in its organization, and therefore strong, can be all the more liberal here. It can

overlook individual cases that touch it. It can even put up with communities within it (here the number does matter) that do not recognize, on religious grounds, even their direct duties toward it. It does this by leaving the members of such communities to civil society under its laws. It is content with their passive fulfillment of their direct duties to the state, perhaps through substitution or exchange. — But when the church community owns *property*, performs other *acts* of worship, and has individuals in its service for this, it steps out of the inner realm into the worldly one. It thereby crosses into the territory of the state and so places itself *directly* under its laws. The oath, the ethical in general, and the relation of marriage do bring with them an inner penetration and an elevation of *disposition*, which receives its deepest assurance through religion. But ethical relations are essentially relations of *actual rationality*. So it is the rights of this rationality that must be asserted first in them, and the church's assurance joins them as only the inner, more abstract side. — Consider further expressions that come from the church association. In the case of *doctrine*, the inner side outweighs the outer more than it does in the *acts* of worship and in other conduct connected with them. In these acts and conduct, the *legal* side at least appears right away, on its own, as a matter for the state. (Churches have indeed taken for themselves exemption of their servants and property from the power and jurisdiction of the state. They have even taken jurisdiction over lay persons in matters, such as divorce cases and oath matters, where religion has a share.) — The side of *police* regulation, in regard to such acts, is admittedly less defined. But that lies in the nature of this side, equally in regard to other, entirely civil acts (see above, § 234). Insofar as the religious community of individuals raises itself into a congregation, a corporation, it stands in general under the supervision of the state's higher police authority. — But *doctrine* itself has its territory in conscience. It stands in the right of the subjective freedom of self-consciousness, the sphere of inwardness, which as such is not the territory of the state. Yet the state too has a doctrine. Its institutions, and what holds for it in general about right, the constitution and so on, are essentially in the form of thought, as law. And the state is not a mechanism, but the rational life of self-conscious freedom, the system of the ethical world. So *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. As doctrine it is rather an *expression*, and at the same time an expression about a content that is most closely connected with ethical principles and the laws of the state, or that directly concerns them. State and church therefore *meet* directly here, either *together* or *against each other*. The church can push the difference between the two territories to a sharp opposition. It holds that it contains the absolute content of religion in itself, and so regards the *spiritual* in general, including the ethical element, as its part. It regards the state as a mechanical framework for unspiritual external aims. It sees itself as the kingdom of God, or at least as the way and forecourt to it, and the state as the kingdom of the world, that is, of the transient and finite. In this way it takes itself as the end in itself, and the state as a mere *means*. With this pretension, in regard to *teaching*, goes the demand that the state not only let the church act in it with complete freedom. The state must also show unconditional respect for its teaching, whatever it may be, because this determination belongs to the church alone, as teaching. The church comes to this pretension on the broad ground that the spiritual element in general is its property. But *science* and knowledge in general also stand in this territory. Science forms itself, as a church does, into a totality with a principle of its own, and it can even regard itself as taking the place of the church with still greater right. So the same independence from the state is demanded for science, which the state is supposed to care for only as a means, with science as an end in itself. — For this relation, by the way, it makes no difference whether the individuals and leaders devoted to the service of the congregation have been driven to an existence separate from the state, so that only the other members are subject to the state. Nor does it matter whether they otherwise stand in the state and their church calling is only one side of their station, which they hold apart from the state. First, it should be noted that such a relation goes together with a certain notion of the state. On that notion the state has its purpose only in the protection and security of each person's life, property and arbitrary choice, so far as these do not harm the life, property and arbitrary choice of others. The state is then regarded only as an arrange-

ment for need. In this way the element of the higher spiritual, of what is true in and for itself, is placed beyond the state, as subjective religiosity or as theoretical science. The state, as a *layperson* by its very nature, has only to respect it. And what is properly ethical drops out of the state entirely. History has indeed seen times and conditions of barbarism, when everything higher in spirit had its seat in the church. The state was then only a worldly government of violence, arbitrary choice and passion, and that abstract opposition was the main principle of actuality. (See § 358.) That belongs to history. But it is too blind and shallow a procedure to give out this position as the one truly in keeping with the idea. The development of this idea has rather proved this to be the truth: spirit, as free and rational, is ethical in itself. The true idea is *actual* rationality, and this is what exists as the state. It also followed just as much from this idea that the ethical *truth* in it is, for *thinking* consciousness, a *content* worked into the form of *universality*, as law. The state in general knows its ends. It recognizes them with definite consciousness and according to principles, and it carries them out. As noted above, religion has the true as its universal object, but as a *given* content, whose basic determinations are not known through thinking and concepts. In the same way, the individual's relation to this object is an obligation founded on authority. 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 do not stand in opposition in the *content* of truth and rationality, but in a difference of form. So when the church moves into *teaching*, and its teaching concerns *objective* principles, the thoughts of the ethical and the rational, it passes in this expression directly into the territory of the state. (There are, and have been, churches that have only worship. In others worship is the main thing, and teaching and more cultivated consciousness are only secondary.) Against the church's *faith* and its authority over the ethical, right, laws and institutions, against its *subjective conviction*, the state is rather the one that *knows*. In the state's principle the content essentially does not stay in the form of feeling and faith, but belongs to determinate thought. The content that is in and for itself appears, in the shape of religion, as a particular content, as the doctrines peculiar to the church as a religious community. In that

shape they remain outside the state's domain. (In Protestantism there is no clergy that would be the exclusive depositary of church doctrine, because in it there is no *laity*.) But ethical principles and the order of the state in general draw into the territory of religion. They can be put in relation to it, and they should be. This relation, on the one hand, gives the state itself religious authentication. On the other hand, the state keeps the right and the form of self-conscious, objective rationality. It keeps the right to make this rationality count and to uphold it against claims that spring from the *subjective* shape of truth, whatever *assurance* and *authority* surround them. The principle of the state's form, as universal, is essentially thought. So it has also happened that the *freedom of thought* and of *science* has come from its side. (A church, by contrast, burned *Giordano Bruno* and made Galileo kneel and beg pardon for *presenting* the *Copernican* solar system, and so on.) *Science* too therefore has its place on the state's side. For it has the same element of form as the state. It has the aim of *knowing*, namely of thought-through *objective* truth and rationality. Thinking knowledge can, it is true, also fall away from science into opining and into arguing from grounds. It can turn to ethical matters and to the organization of the state and set itself in contradiction to their principles. It may even do this with the same pretensions the church makes for what is its own, appealing to this *opining* as reason, and to the right of subjective self-consciousness to be free in its opinion and conviction. The principle of this subjectivity of knowing was considered above (§ 140, Remark). Here we need only remark the following. In one respect the state can show an infinite indifference toward *opining*, insofar as it is only opinion, a subjective content, and so has no true strength or power in itself, however much it puffs itself up. It is like painters who keep to the three primary colors on their palette and are infinitely indifferent to the *school wisdom* of seven primary colors. In another respect, however, the state has to take the objective truth and the principles of ethical life under its protection against this *opining* of bad principles. This applies when such opining makes itself into a general existence that eats away at actuality. It applies all the more when the formalism of unconditional subjectivity, which would take the scientific starting point as its ground, would turn and raise the state's own teaching institu-

tions into the pretension of a church against the state. And in the whole, conversely, against the church that claims an unlimited and unconditional *authority*, the state has to uphold the formal right of self-consciousness to its own insight and conviction, and in general to its own thinking about what is to count as objective truth.

Of the Quakers, Anabaptists and similar groups, one can say that they are only active members of civil society. As private persons they deal only in private dealings with others, and even in these they have been excused from the oath. They fulfill their direct duties to the state in a passive way. One of the most important duties is to defend the state against enemies, and they directly refuse it. It is sometimes allowed that they fulfill it by exchange for another service. Toward such sects it is true in the strict sense that the state practices *toleration*. For since they do not acknowledge their duties toward the state, they cannot claim the right to be members of it. Once, when the abolition of the slavery of Negroes was being pressed with greater force in the North American Congress, a deputy from the southern provinces made a fitting 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. It relies mainly on the power of custom and on the inner rationality of its institutions. Since it does not assert its rights strictly in this matter, these will reduce and overcome the distinction. However much formal right one might have had to withhold from the *Jews* even the grant of civil rights, since 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 overlooked all the more that they are first of all *human beings*. And this is not only a flat, abstract quality (§ 209, Remark). It also means that, through civil rights being granted, the *self-esteem* of counting as *legal* persons in civil society arises. From this infinite root, free of everything else, the equalization of ways of thinking and of disposition that is demanded comes about. The separation charged against the Jews would rather have been kept up. It would have become, with justice, the fault and reproach of the excluding state. For the state would thereby have failed to recognize its own principle, the objective institu-

tion and its power. (Compare § 268, Remark at the end.) The claim to this exclusion believed it had the highest right on its side. Experience has shown it to be the most foolish, and the way the governments acted to be the wise and worthy one. —

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 motion of the Earth beyond contradiction. But the idea of this motion was declared heretical by an assembly of cardinals. Galileo, its most famous defender, was summoned before the Inquisition. He was forced to retract it, to escape a harsh imprisonment. In a man of spirit, the passion for truth is one of the strongest passions. — *Galileo*, convinced of the motion of the Earth by his own observations, thought for a long time of a new work in which he had resolved to set out all the proofs for it. But to escape at the same time 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 with the defender of the Copernican system. But Galileo did not decide between them, and he gave the objections of the followers of Ptolemy as much weight as possible. So he might well have expected not to be disturbed in the enjoyment of the peace that his great age and his labors deserved. In his seventieth year he was summoned again before the tribunal of the Inquisition. They shut him in a prison, where they demanded from him a second retraction of his opinions, under threat of the punishment intended for relapsed heretics. They had him sign the following formula of abjuration: ‘I, *Galileo*, who in my seventieth year have appeared in person before the court, kneeling, 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: a venerable old man, famous for a long life devoted solely to the study of nature, abjuring 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,

through the intervention of the Grand Duke of Florence, he was set free. — He died in 1642. Europe mourned his loss. Europe had been enlightened by his labors and was enraged at the judgment passed against so great a man by a hated tribunal.”

The *unity of state and church* is a notion much discussed in recent times as well and put forward as the highest ideal. It can still be mentioned. If their essential unity is the unity of the truth of principles and of disposition, it is just as essential that, along with this unity, the *difference* they have in the form of their consciousness has come to *particular existence*. In oriental despotism there is that unity of church and state which is so often wished for. But with it the state is not there. What is not there is the self-conscious shape, worthy of spirit alone, in right, free ethical life and organic development. — Further, for the state to come to existence as the ethical actuality of spirit that *knows itself*, it must be distinguished from the form of authority and of faith. This distinction emerges only when the church side comes to a division within itself. Only in this way, above the *particular* churches, has the state won the *universality* of thought, the principle of its form, and brought it to *existence*. To see this, one must know not only what universality is in itself but what its *existence* is. It is therefore so far from true that the division of the church is, or was, a misfortune for the state, that only *through* it could the state become what its vocation is, self-conscious rationality and ethical life. It is also the happiest thing that could have happened to the church for its own sake, and to thought for its freedom and rationality.

Section 271

- ²⁷¹ The political constitution is, *first*, the organization of the state and the process of its organic life *in relation to itself*. In this process it distinguishes its moments within itself and develops them into an established existence.

Second, as an individuality, the state is an exclusive one and so relates to other states. It therefore turns its differentiation outward. In accordance with this determination, it sets the established distinctions within itself in their *ideality*.

Section 272

272 The internal constitution in its own right.

The constitution is rational insofar as the state *differentiates* and defines its activity within itself *according to the nature of the concept*, and does so in such a way that *each* of these powers is itself the whole within itself, because it contains the other moments and has them active within it. And because these powers express the differentiation of the concept, they remain entirely within its ideality and make up only *one individual* whole.

In recent times there has been endless chatter about constitutions, as about reason itself. The shallowest of it has appeared in Germany, from people who persuaded themselves that they understood what a constitution is better than anyone else—indeed, to the exclusion of everyone else, above all governments. They thought they had an unanswerable right to speak because religion and piety were supposed to underlie all these superficialities of theirs. It is no wonder that this chatter has made rational people sick of the words reason, enlightenment, right, and so on, as well as constitution and freedom, and that one might feel ashamed even to join in a discussion of political constitutions. Still, we may at least hope that this disgust will spread the conviction that philosophical knowledge of such matters cannot come from argumentative reasoning, from purposes, grounds, and advantages, still less from feeling, love, and enthusiasm, but only from the concept. Those who hold the divine to be beyond comprehension and knowledge of truth to be a pointless undertaking must refrain from joining the discussion. Whatever undigested talk or uplifting sentiment they produce from their feelings and enthusiasm, neither can claim philosophical attention, at any rate.

Among current ideas, the *necessary division of the powers* of the state should be mentioned in connection with § 269. This is an extremely important determination. If it had been taken in its true sense, it could rightly have been regarded as the guarantee of public freedom. Yet precisely those who think they speak from enthusiasm and love know nothing of this idea and want to know nothing of it. For it is here that the moment of *rational definiteness* lies. The principle of the division of powers contains the essential moment of *difference*, of real rationality. But as abstract understanding grasps it, it contains both the false determination that the powers are *absolutely independent* of one another and the one-sided view that their relationship is negative, one of mutual *limitation*. On this view the relationship becomes hostility, a fear of each power. Each produces this fear of the other as of an evil, intending to oppose it and, through these counterweights, to produce a general balance, but not a living unity. Only the concept's *self-determination* within itself, not any other purposes or advantages, contains the absolute origin of the distinct powers. This alone makes the organization of the state inherently rational and an image of eternal reason. How the concept, and then, in concrete form, the Idea, determine themselves in themselves and thereby posit their moments—abstractly, universality, particularity, and individuality—is to be learned from logic, though certainly not the logic ordinarily current. In general, to start from the negative, to make the will to do evil and distrust of it the primary things, and then, on this assumption, cleverly devise barriers which, as an effective force, need only barriers set against one another: in thought this characterizes *negative understanding*, and in disposition it characterizes the view of the rabble. (See above, § 244.) When the powers are *independent*—for example, the powers that have been called executive and legislative—the destruction of the state is immediately implied, as has also been seen on a large scale. Or, insofar as the state essentially maintains itself, there is a struggle in which one power subordinates the other. This first brings about unity, whatever its other characteristics may be, and only in this way saves what is essential: the continued existence of the state.

Section 273

273 The political state thus divides into these substantial distinctions:

- a) The power to determine and establish the universal: *legislative power*.
- b) The power to bring the *particular* spheres and individual cases under the universal: the *governmental power*.
- c) The power of subjectivity as the final decision of the will: *the power of the prince*. In it the distinct powers are brought together into an individual unity. It is therefore the summit and the beginning of the whole—of *constitutional monarchy*.

The development of the state into constitutional monarchy is the achievement of the modern world, in which the substantial Idea has acquired infinite form. The *history* of the world's spirit deepening into itself—or, what is the same thing, this free development in which the Idea releases its moments, and only its moments, from itself as totalities, and thereby contains them in 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 classification of constitutions into *monarchy*, *aristocracy*, and *democracy* rests on the still undivided substantial unity. This unity has not yet reached its *internal differentiation*—an organization developed within itself—and therefore has not yet reached *depth* and *concrete rationality*. For that standpoint of the ancient world, this classification is therefore true and correct. For difference within that still substantial unity, which has not yet unfolded itself absolutely, is essentially *external*. It appears first as a difference in the *number* (Encyclopedia of Philosophy, § 82) of those in whom that substantial unity is supposed to be present. These forms, which in this way belong to different wholes, are reduced to moments in constitutional monarchy. The monarch is *one*; *a few* enter with the governmental power, and *the many* as such enter with legislative power. But as already said, such merely quantitative differences are

superficial and do not express the concept of the matter. It is equally inappropriate that so much has recently been said about democratic and aristocratic elements *in monarchy*. The determinations meant by this, precisely insofar as they occur *in monarchy*, are no longer democratic or aristocratic. There are conceptions of constitutions in which only the *abstraction* of a state is placed at the top, to rule and command. Whether *one, several, or all* stand at the head of this state is left undecided and regarded as immaterial. “All these forms,” says Fichte in his *Naturrecht*, Part 1, p. 196, “are lawful, provided only that an *ephorate*”—a counterweight to the highest power that he invented and supposed should exist—“is present, and can produce and maintain universal right in the state.” Such a view, like that invention of an ephorate, comes from the shallowness in the concept of the state noted earlier. In a very simple condition of society these distinctions admittedly have little or no significance. Thus *Moses*, in his legislation for the case that the people should demand a king, makes no other change in the institutions. He merely adds the command that the king’s cavalry, wives, and gold and silver should not be numerous (Deuteronomy 17:16 and following). In one sense, incidentally, it can indeed be said that those three forms are also immaterial to the Idea. This includes the *monarchical* form in the limited meaning in which it is placed *alongside* the *aristocratic and democratic* forms. But this is true in the opposite sense: none of them conforms to the Idea in its rational development (§ 272), and in none could the Idea attain its right and actual reality. For this reason, too, asking which of them is best has become an entirely idle question. Such forms can only be discussed historically. Still, in this matter, as in so many others, we must recognize *Montesquieu’s* deep insight in his famous account of the principles of these forms of government. But to recognize its correctness, we must not misunderstand it. As is well known, he named *virtue* as the principle of *democracy*. Such a constitution does in fact rest on *disposition*, as the merely substantial form in which the rationality of the will that is in and for itself still exists within it. But Montesquieu adds that in the seventeenth century *England* presented the fine spectacle of showing the efforts to establish a democracy to be powerless, because its leaders lacked virtue. He adds further that when virtue disap-

pears in a republic, ambition takes hold of those whose minds are capable of it, and greed takes hold of everyone; the state then becomes everyone's prey, with its strength lying only in the power of a few individuals and the excesses of everyone. On this we should observe that in a more developed condition of society, with the development and liberation of the powers of *particularity*, the virtue of the state's leaders is insufficient. Rational law needs a form other than disposition alone, so that the whole has the strength to hold itself together and allow the powers of developed particularity their positive as well as their negative right. Equally, we must remove the misunderstanding that because a virtuous disposition is the substantial form in a democratic republic, this disposition is declared unnecessary or even absent in a monarchy; and still more the misunderstanding that virtue and the *legally defined* activity of an *articulated* organization are opposed and incompatible. That *moderation* is the principle of *aristocracy* follows from the separation, beginning here, of public power and private interest. At the same time they touch so directly that this constitution is poised to turn immediately into the harshest condition of tyranny or anarchy (see Roman history) and destroy itself. That Montesquieu recognizes *honor* as the principle of *monarchy* itself already shows that he does not mean patriarchal or ancient monarchy in general, nor monarchy developed into an objective constitution. He means *feudal monarchy*, specifically insofar as the relationships of its internal constitutional law have been fixed as the legal private property and privileges of individuals and corporations. In this constitution political life rests on privileged persons. Much of what must be done for the state to continue existing is left to their discretion. The objective element in these services therefore rests not on *duties* but on *notion* and *opinion*. Thus honor alone, instead of duty, is what holds the state together.

Another question readily arises: *who should make the constitution?* This question seems clear, but on closer inspection immediately proves meaningless. It assumes that no constitution exists, and therefore that there is only an atomistic *heap* of individuals assembled together. How a *heap* would acquire a constitution—whether by itself or through others, through kindness, thought, or force—would have to be left to it. For the concept has nothing to do with a

heap. But if that question already assumes an existing constitution, *making* it means only changing it. The assumption of a constitution itself immediately entails that the change can happen only constitutionally. In general, however, it is absolutely essential that the constitution, although it has arisen in time, should not be regarded as something *made*. Rather, it is what is unconditionally in and for itself. It must therefore be regarded as divine and enduring, and as above the sphere of things that are made.

Section 274

²⁷⁴ Spirit is actual only as what it knows itself to be. And the state, as the spirit of a people, is also the law *permeating* all its relationships, the customs and the consciousness of its individuals. A particular people's constitution therefore depends, in general, on the character and development of its self-consciousness. In this lies its subjective freedom, and with it the actual reality of the constitution.

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

Section 275

²⁷⁵ A. The power of the prince.

The power of the prince itself contains the three moments of the whole (§ 272): the *universality* of the constitution and laws; deliberation as the relation of the *particular* to the universal; and the moment of final *decision*, as *self-determina-*

tion, to which everything else returns and from which it begins to become actual. This absolute self-determination is the distinguishing principle of the power of the prince as such. It must be developed first.

Section 276

- ²⁷⁶ 1) The fundamental determination of the political state is substantial unity as the *ideality* of its moments. In this unity, α) its particular powers and functions are both dissolved and preserved. They are preserved only insofar as they have no independent entitlement, but only the kind and extent of entitlement determined in the Idea of the whole. They proceed from its power and are its fluid members, with the whole as their simple self.

Section 277

- ²⁷⁷ β) The state's particular functions and activities are *its own*, as its essential moments. They are connected to the *individuals* who carry them out and put them into effect, not through those individuals' immediate personalities, but only through their universal and objective qualities. Their connection to a particular personality as such is therefore external and contingent. State functions and powers consequently cannot be *private property*.

Section 278

- ²⁷⁸ These two determinations constitute the *sovereignty of the state*: its particular functions and powers are neither independent and fixed in themselves nor grounded in the particular will of individuals. Rather, they have their ultimate root in the unity of the state as their simple self.

This is sovereignty *internally*. It also has another side, directed *outward*; see below. In the former *feudal monarchy*, the state was indeed sovereign externally, but internally it was not just the monarch who lacked sovereignty: the state itself lacked it. On the one hand (compare § 273, Remark), the particular functions and powers of the state and civil society were constituted as independent corporations and communities, so that the whole was more an aggregate than an organism. On the other hand, they were individuals' private property, and what these individuals should therefore do for the whole was left to their opinion and discretion. The *idealism* that constitutes sovereignty is the same determination according to which, in an animal organism, its so-called *parts* are not parts but members, organic moments, and their isolation and existence for themselves is disease (see Encyclopedia of the Philosophical Sciences, § 293). It is the same principle that appeared in the abstract concept of the will (see the next section's Remark) as negativity relating to itself, and thus as universality *determining itself into individuality* (§ 7). In this universality, all particularity and determinacy are superseded; it is the absolute ground that determines itself. To grasp it, one must in general understand the concept of what substance and the true subjectivity of the concept are. Because sovereignty is the ideality of every particular entitlement, the misunderstanding readily arises, and is very common, that it is mere power and empty arbitrary choice, and that sovereignty means the same thing as despotism. But despotism means, in general, a condition of lawlessness, where a particular will as such—whether that of a monarch or of a people (mob rule)—counts as law, or rather takes the place of law. Sovereignty, by contrast, constitutes precisely in a lawful, constitutional condition the moment of the ideality of particular spheres and functions. That is, such a sphere is not independent and self-sufficient in its purposes and ways of working, absorbed only in itself. In these purposes and ways of working it is determined by and dependent on the *purpose of the whole*, which has generally been called the *welfare of the state*, a less definite expression. This ideality appears in two ways. In *peace*, the particular spheres and functions continue along their course of satisfying their particular functions and purposes. In part, only the unconscious *necessity* of the matter turns their self-interest into a con-

tribution to their mutual preservation and the preservation of the whole (see § 183). In part, however, *direct intervention* from above continually brings them back to the purpose of the whole and limits them accordingly (see governmental power, § 289), while also requiring them to make direct contributions to preserving it. But *in an emergency*, internal or external, the organism that otherwise exists in its particular spheres comes together in the simple concept of sovereignty. Sovereignty is entrusted with saving the state by sacrificing what is otherwise entitled to exist. Here that idealism comes into its own actual reality (see below, § 321).

Section 279

279 2) Sovereignty, at first only the *universal* thought of this ideality, exists only as *subjectivity* certain of itself, and as the abstract and, to that extent, groundless *self-determination* of the will in which the final decision lies. This is the individual element of the state as such, and only in it is the state itself *one*. But subjectivity has its truth only as a *subject*, and personality only as a *person*. In a constitution that has developed into real rationality, each of the three moments of the concept has its own 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—without this, a science at least does not deserve the name of philosophical science—has this distinctive feature: one and the same concept, here the will, which is abstract at first precisely because it is the beginning, preserves itself but also condenses its determinations, again only through itself, and in this way acquires concrete content. Thus the fundamental moment of personality, initially abstract in immediate right, has developed through its different forms of subjectivity. Here, in absolute right, the state, the fully concrete objectivity of the will, it is the *personality of the state*, its certainty

of itself. It is the final element that supersedes all particularities in the simple self, breaks off the weighing of reasons and counterreasons between which one can always keep wavering, and concludes them with “*I will*,” beginning all action and actual reality. Further, personality and subjectivity in general, as the infinite relating to itself, have *truth* only—and their nearest, immediate truth—as a *person*, a subject that is for itself. What is for itself is likewise unconditionally *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 actual reality. Only with this determination is the concept Idea and truth. A so-called *moral person*—a society, community, or family—however concrete it is within itself, has personality only as a moment, abstractly within it. In this respect it has not reached the truth of its existence. The state, however, is precisely this totality in which the moments of the concept attain actual reality in accordance with their own distinctive truth. All these determinations have already been discussed, both in themselves and in their various forms, throughout the preceding course of this work. They are repeated here because people readily admit them in their particular forms, but fail to recognize and grasp them precisely where they occur in their true position: not in isolation, but in their truth as *moments* of the Idea. For this reason the concept of the monarch is the hardest concept for argumentative reasoning—that is, for reflective understanding—because it remains stuck in isolated determinations and consequently knows only reasons, finite points of view, and *derivation* from reasons. It therefore presents the dignity of the monarch as something *derived*, not only in form but in its determination. On the contrary, the monarch’s concept is to be not something derived, but what *begins unconditionally from itself*. The conception that comes closest to it is therefore to regard the monarch’s right as founded on divine authority, since this contains its unconditional character. But the misunderstandings attached to this are well known, and the task of philosophical consideration is precisely to comprehend this divine element.

Popular sovereignty can be spoken of in the sense that a people is independent externally and forms a state of its own. This is true of the people of Great Britain. But the peoples of England, Scotland, Ireland, or Venice, Genoa,

Ceylon, and so on are no longer sovereign peoples, since they have ceased to have their own princes or supreme governments. One can likewise say of *internal sovereignty* that it resides in the people, provided one is speaking only of the *whole*. This is just as it was shown above (§§ 277, 278) that sovereignty belongs to the *state*. But popular sovereignty understood as opposed to the sovereignty existing in the *monarch* is the usual sense in which people have recently begun speaking of popular sovereignty. In this opposition, popular sovereignty is one of those confused thoughts founded on a crude conception of the people. The people, taken without their monarch and without the *articulation* of the whole necessarily and immediately connected with him, are a formless mass. They are no longer a state, and *none* of the determinations found only in a whole *formed within itself*—sovereignty, government, courts, authorities, estates, or anything else—belongs to them any longer. As soon as such moments relating to an organization, to political life, appear in a people, it ceases to be this indeterminate abstraction called *people* in a merely general conception. If popular sovereignty means the form of a *republic*, and more specifically democracy—for “republic” also includes various empirical mixtures that in any case do not belong in a philosophical treatment—then what is necessary has already been said above, in the Remark to § 273. Besides, in the face of the developed Idea there can no longer be any question of such a conception. If a people is conceived neither as a patriarchal *tribe*, nor in the undeveloped condition in which democracy or aristocracy is possible (see the same Remark), nor in some other arbitrary, inorganic condition, but as an internally developed, truly organic totality, then sovereignty is the personality of the whole, and this personality, in a reality corresponding to its concept, is the *person of the monarch*.

At the stage noted earlier, where constitutions were classified as democracy, aristocracy, and monarchy, the standpoint is that of substantial unity still remaining within itself, not yet having reached its infinite differentiation and inward deepening. At this stage the moment of the *final, self-determining decision of the will* does not emerge independently into its *own actual reality* as an immanent organic moment of the state. Even in those less developed forms of the state, there must always be an individual at the top. This individual may

exist independently, as in the monarchies belonging to this category, or may emerge in statesmen and generals, as in aristocracies and especially democracies, through chance and the *particular* need of the *circumstances*. For all action and actual reality have their beginning and completion in the decisive unity of a leader. But enclosed within the powers' still undifferentiated union, this subjectivity of decision must be partly accidental in its origin and emergence, and partly subordinate in general. Pure, unmixed decision could therefore lie only beyond such conditioned leaders, as a fate determining things from outside. As a moment of the Idea it had to come into existence, but rooted outside human freedom and the sphere of freedom encompassed by the state. Here lies the origin of the need to obtain the *final decision* on the great affairs and important moments of the state from *oracles*, the daemon in the case of *Socrates*, the entrails of animals, the feeding and flight of birds, and so on. People did not yet have the strength to see such a decision *within* human existence. They had not yet grasped the depth of self-consciousness and emerged from the compactness of substantial unity into this being-for-self. In the *daemon of Socrates* (compare above, § 138), we can see the beginning of the will's moving into itself and recognizing itself within itself, whereas previously it had placed itself only *beyond* itself. This is the beginning of freedom that *knows itself* and is therefore true freedom. This real freedom of the Idea consists precisely in giving each moment of rationality its own present, *self-conscious* actual reality. It therefore assigns to the function of a consciousness the final, self-determining certainty that constitutes the summit of the concept of the will. But this final self-determination can fall within the sphere of human freedom only insofar as it occupies the position of a summit *set apart in its own right, raised above all particularization and conditioning*. For only in this way is it actual in accordance with its concept.

Section 280

280 3) This final self of the state's will is simple in this abstraction of itself, and therefore *immediate individuality*. Its concept itself thus contains the determination of *naturalness*. The monarch is therefore essentially determined as *this* individual, apart from all other content, and this individual is determined for the dignity of the 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 nature. Understanding it therefore belongs to logical philosophy. In general, moreover, it is the same transition that is known as the nature of the will in general: the process of transferring 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 turning* of the will's pure self-determination—the simple concept itself—into a *this* and a natural existence, without mediation by a *particular* content, a purpose in action. In the so-called *ontological* proof of the existence of *God*, it is this same turning of the absolute concept into being that constituted the depth of the Idea in modern times. But in the most recent times this has been declared *incomprehensible*. Since only the unity of the concept and existence (§ 23) is *truth*, this amounts to giving up knowledge of *truth*. The consciousness of understanding does not contain this unity and stays with the *separation* of the two moments of truth. In the case of this subject it may still admit a *belief* in that unity. But the conception of the monarch is regarded as belonging wholly to ordinary consciousness. Here, therefore, understanding clings all the more to its separation and to the results of its clever argumentative reasoning. It then denies that the moment of final decision in the state is *in and for itself*—that is, in the concept of reason—connected with immediate naturalness. From this it first infers the *contingency* of

this connection. Then, by asserting the absolute difference of those moments as what is rational, it further infers that such a connection is irrational. The other consequences that wreck the Idea of the state follow from this.

Section 281

281 The two moments in their undivided unity—the ultimate, groundless self of the will and its equally groundless existence, as a determination left to *nature*—this Idea of what is *unmoved* by arbitrary choice constitutes the monarch’s *majesty*. In this unity lies the *actual unity* of the state. Only through this inner and outer *immediacy* is it removed from the possibility of being dragged down into the sphere of *particularity*, with its arbitrary choices, purposes, and views; from the struggle of factions against factions for the throne; and from the weakening and destruction of state power.

The *rights of birth and inheritance* constitute the ground of *legitimacy*, as a ground not merely in positive law but also in the Idea. Fixed succession to the throne—that is, natural succession—prevents factions when the throne falls vacant. This is an aspect that has long and rightly been put forward in favor of its hereditary character. But this aspect is only a consequence. If made the *ground*, it drags majesty down into the sphere of argumentative reasoning. Majesty’s character is this groundless immediacy and this ultimate being-within-itself. Yet this argument bases it not on the Idea of the state immanent in it, but on something *outside it*, a thought different from it, such as the *welfare of the state or people*. Heredity can indeed be inferred from such a determination through intermediate terms. But it also allows other intermediate terms, and therefore other consequences. It is all too well known what consequences have been drawn from this *welfare* of the people (“the people’s safety”). For this reason *only* philosophy may consider this majesty in thought. Any mode of investigation other than the speculative investigation of the infinite Idea, grounded in itself, inherently cancels the nature of majesty. An *elective monarchy* readily

seems the *most natural* conception. That is, it lies closest to shallow thinking: since it is the people's concerns and interests that the monarch must look after, the people should also be left to choose whom they wish to entrust with looking after their welfare, and only this commission gives rise to the right to govern. This view, like the ideas of the monarch as the highest state official, of a contractual relationship between him and the people, and so on, starts from the will as the *preference*, opinion, and arbitrary choice of the *many*. As discussed long ago, this is a determination that counts as primary in civil society—or rather, merely tries to assert itself there. It is not the principle of the family, still less of the state, and is opposed to the Idea of ethical life in general. That elective monarchy is instead the worst of institutions is already clear, even to argumentative reasoning, from its *consequences*. To that reasoning they admittedly appear only as something *possible* and *probable*, but in fact they are essential to this institution. For in an elective monarchy the nature of the relationship makes the *particular will* the final deciding factor. The constitution therefore becomes an electoral capitulation: a surrender of state power to the discretion of the particular will. This produces the transformation of the state's particular powers into private property, the weakening and loss of the state's sovereignty, and therefore its internal dissolution and external destruction.

Section 282

²⁸² The monarch's sovereignty gives rise to the right to pardon criminals. Only sovereignty can actualize the power of spirit to undo what has happened and, through forgiving and forgetting, destroy the crime.

The right to pardon is one of the highest acknowledgments of the majesty of spirit. This right, incidentally, belongs among the applications or reflections of the determinations of a higher sphere onto an earlier one. But applications of this kind belong to the particular science that must deal with its subject across its empirical range (compare § 270, Remark. Such applications also include

bringing violations of the state in general, or of sovereignty, majesty, and the prince's personality, under the concept of crime discussed earlier (§§ 95–102). They are determined as the *highest* crimes, and their special procedure and so on are determined as well.

Section 283

²⁸³ The *second* element contained in the power of the prince is the moment of *particularity*, or of determinate content and its inclusion under the universal. Insofar as this element acquires a distinct existence, it takes the form of the highest advisory offices and individuals. They bring before the monarch, for decision, the content of state affairs that arise, or of legal provisions made necessary by existing needs, together with their *objective* aspects: the grounds for decision, relevant laws, circumstances, and so on. Since these *individuals* deal with the monarch's immediate person, choosing them for this work and removing them falls within his unrestricted choice.

Section 284

²⁸⁴ Only the *objective* side of the decision—the knowledge of its content and circumstances, and the legal and other determining grounds—allows *accountability*, that is, proof of its objectivity. It can therefore belong to an advisory function distinct from the monarch's personal will as such. To this extent, these advisory offices or individuals alone are accountable. But the monarch's distinctive majesty, as the final deciding subjectivity, is raised above all responsibility for acts of government.

Section 285

- 285 The *third* moment of the power of the prince concerns what is universal in and for itself. Subjectively, this consists in the *conscience* of the *monarch*; objectively, in the *whole* of the *constitution* and in the laws. To this extent the power of the prince presupposes the other moments, just as each of them presupposes it.

Section 286

- 286 The *objective guarantee* of the power of the prince, of lawful succession through inheritance of the throne, and so on, lies in this: just as this sphere has an actual reality distinct from the other moments determined by reason, so the others, in their own right, have the distinctive rights and duties of their determination. In a rational organism, each member, by preserving itself for itself, thereby preserves the others in their distinctive character.

To have developed the monarchical constitution into a hereditary succession to the throne fixed by primogeniture, thus returning it to the patriarchal principle from which it began historically, but with the higher determination of being the absolute summit of an organically developed state, is one of history's later achievements. It is the most important for public freedom and a rational constitution. Yet, as noted earlier, although it is respected, it is often the least understood. Former merely feudal monarchies, like despotisms, display in history this succession of rebellions, acts of violence by princes, internal wars, the fall of individual princes and dynasties, and the general devastation and destruction, internal and external, resulting from them. This happens because in such a condition the division of state functions, with their parts entrusted to vassals, pashas, and so on, is merely mechanical. It is not a difference in determination and form but only a difference in greater or lesser power. Each part, by

preserving itself, preserves and produces only *itself*, not the others at the same time. It contains all the moments completely within itself for independent self-sufficiency. In an organic relationship, where members, not parts, relate to one another, each preserves the others by fulfilling *its own* sphere. For each member, in its *own* self-preservation, the preservation of the *other* members is equally a substantial purpose and product. The guarantees people ask for, whether for stable succession, the power of the prince in general, justice, public freedom, and so on, are safeguards through *institutions*. Love of the people, character, oaths, force, and so on can be regarded as *subjective* guarantees. But as soon as we speak of a *constitution*, we are speaking only of *objective* guarantees: institutions, that is, organically interwoven and mutually conditioning moments. Thus public freedom in general and the hereditary character of the throne guarantee each other and are absolutely connected. Public freedom is the rational constitution, and the hereditary character of the power of the prince is, as shown, the moment contained in its concept.

Section 287

²⁸⁷ B. *The governmental power.*

Distinct from decision is the carrying out and application of the prince's decisions: in general, continuing and maintaining what has already been decided, the existing laws, arrangements, institutions for common purposes, and so on. The *governmental power* includes this general work of *bringing particulars under the universal*. It also includes the *judicial* and *police* powers. These relate more directly to the particular affairs of civil society and assert the universal interest within these purposes.

Section 288

²⁸⁸ The shared *particular* interests that fall within civil society and lie outside the universal in and for itself of the state itself (§ 256) are administered by the corporations (§ 251) of communities and of other trades and estates, and by their authorities, heads, administrators, and the like. On the one hand, the affairs they manage are the *private property* and *interest* of these *particular* spheres. In this respect their authority rests partly on the confidence of their fellow estate members and civic communities. On the other hand, these circles must be subordinate to the state's higher interests. In general, therefore, filling these positions will involve a combination of election by the interested parties in common and confirmation and appointment by a higher authority.

Section 289

²⁸⁹ *Upholding the universal interest of the state and what is lawful* within these particular rights, and bringing these rights back to that interest, requires the work of delegates of the governmental power: the *executive state officials* and the higher advisory authorities, constituted to that extent as collegiate bodies. These converge in the highest offices, which come into contact with the monarch.

Civil society is the battlefield of everyone's individual private interest against everyone else's. Here, in the same way, is the seat of the conflict of that interest with shared particular affairs, and of both together with the state's higher viewpoints and arrangements. The spirit of the corporation, generated by the entitlement of particular spheres, also turns within itself into the spirit of the state, since it has in the state the means to preserve its particular purposes. This is the secret of the citizens' patriotism in this respect: they know the state as their sub-

stance because it preserves their particular spheres, their entitlement and authority as well as 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 has in *disposition*.

Administration of corporate affairs by the corporations' own heads will often be inept. They know and have before them their own distinctive interests and affairs, but have less complete knowledge of the connection with more distant conditions and of general viewpoints. Other circumstances contribute as well: for example, the heads' close private contact with, and other respects in which they are equal to, those who are also supposed to be subordinate to them; their various dependencies; and so on. But this sphere of their own can be seen as left to the moment of *formal freedom*, where people's own knowing, deciding, and carrying out, as well as their petty passions and conceits, have a playground in which to move about. This holds all the more, the less the substance of these affairs—which are thereby spoiled, managed less well, with more difficulty, and so on—matters to the more universal concerns of the state; and the more the laborious or foolish management of such insignificant affairs stands in direct proportion to the satisfaction and self-opinion drawn from it.

Section 290

²⁹⁰ The *division of labor* (§ 198) also occurs in the work of government. The *organization* of the authorities therefore has a formal but difficult task. At the lower levels, where civil life is *concrete*, it must be governed concretely. Yet this work must be divided into its *abstract* branches, handled by distinct authorities as separate centers. Their activity must converge again into a concrete overall view, both in its operation downward and in the highest governmental power.

Section 291

²⁹¹ The tasks of government are objective. By their substance they are already settled in nature (§ 287), and individuals must carry them out and make them real. No direct natural link joins the two. So individuals are not picked for these tasks by their natural personality or by birth. What decides who is picked is an objective factor: knowing that a person is fit for the work, and proof of it. This proof secures the state the people it needs. It is also the only condition, and so it gives every citizen the chance to devote himself to the universal class.

Section 292

²⁹² There is also a subjective side. *This* individual is chosen from several, appointed to a post, and given authority to run public business. Here the objective side does not lie in genius, as it does in art, so there are necessarily an indefinite number of candidates, and no preference among them can be absolutely settled. This joining of an individual to an office, two sides that are always accidental in relation to each other, belongs to the power of the prince, which is the deciding and sovereign power of the state.

Section 293

²⁹³ The particular affairs of the state, which the monarchy hands over to the government authorities, make up part of the *objective* side of the sovereignty that belongs to the monarch. Their specific *differences* are likewise given by the nature of the matter. The work of the authorities is the fulfilling of a duty, and in the same way their business is also a right that is removed from accident.

Section 294

294 The individual who is tied to an official calling by the sovereign act (§ 292) is bound to fulfill his duty, which is the substantial part of his relationship, as the condition of this tie. In this tie he finds, *as a consequence* of that substantial relationship, a livelihood and secure satisfaction of his particularity (§ 264). He also finds that his outward situation and his official work are freed from other kinds of personal dependence and influence.

The state does not count on arbitrary, optional services (for example, justice administered by knights errant), precisely because they are optional and arbitrary. Such people keep it in their own hands to carry out their services according to their own views, just as they keep the option of not performing them and of pursuing their own private aims. The opposite extreme to the knight errant, in regard to public service, would be the state servant who is tied to his service only by need, with no true duty and, equally, with no right. — Public service demands rather that a person give up independent and optional satisfaction of his private aims. By doing so it gives him the right to find that satisfaction in the performance of his duty, but only there. In this, from this side, lies the link between universal and particular interest, and this link makes up the concept of the state and its inner strength (§ 260). — The official relationship is also not a relationship of *contract* (§ 75), although there is consent on both sides and each side performs something. The official is not called to a single, accidental service, as an agent is. He puts the main interest of his spiritual and particular existence into this relationship. Likewise, what he has to perform and what is entrusted to him is not a thing that is merely particular and outside him in its nature. The *value* of such a thing is something inner, different from its outward form, and it is not yet violated when the stipulated performance is not delivered (§ 77). But what the state servant has to perform is, just as it stands, a value in and for itself. So the wrong done by not performing, or by actively vio-

lating (acting against his duty, and both count as that), is a violation of the universal content itself (compare § 95, an infinite negative judgment). That is why it is an offense, or even a crime. — Secure satisfaction of his particular needs removes the outward necessity that might drive someone to look for the means at the expense of his office and duty. In the universal power of the state, those entrusted with its business find protection against the other, subjective side, namely the private passions of the governed, whose private interest and so on is offended when the universal is asserted against it.

Section 295

295 The state and the governed are protected against abuse of power by the authorities and their officials in two ways. On the one hand, the protection lies directly in the hierarchy and accountability of the officials. On the other hand, it lies in the rights of communities and corporations. These rights by themselves block the intrusion of subjective arbitrary choice into the power entrusted to officials. And the control from above, which does not reach down to individual conduct, is supplemented from *below*.

The conduct and the education of officials are the point where the laws and decisions of the government touch the individual and are made to count in reality. This is therefore the point on which citizens' satisfaction with the government and their trust in it depend. It is also the point on which the carrying out of the government's intentions, or their weakening and frustration, depends. This is so because feeling and attitude easily rate the *manner* of carrying something out as highly as the *content* of what is carried out, which may already be a burden in itself. It lies in the immediacy and personal character of this contact that control from above reaches its aim less completely here. That aim can also meet obstacles in the shared interest of the officials, who form a class that closes ranks against both those below and those above. Removing

these obstacles, especially where institutions are otherwise still imperfect, requires and justifies the higher intervention of the sovereign (for example, Frederick II in the notorious case of the miller Arnold).

Section 296

²⁹⁶ Calmness, honesty and mildness in conduct become *custom* partly through the direct *ethical and intellectual education* of officials. This education balances the spirit against what is mechanical in learning the so-called sciences of these fields, in the needed practice in the business, in the actual work, and so on. They also become custom partly through the *size* of the state, which is a main factor. Size weakens the weight of family and other private ties, and it makes revenge, hatred and other such passions less powerful and so duller. In dealing with the great interests present in a large state, these subjective sides fade away by themselves, and a habit of universal interests, views and business develops.

Section 297

²⁹⁷ The members of the government and the state officials make up the main part of the *middle class*, in which the educated intelligence and the legal awareness of the mass of a people are found. Two things keep this class from taking the isolated position of an aristocracy, and keep education and skill from becoming a tool of arbitrary choice and of domination. One is the institutions of sovereignty working from above. The other is the rights of corporations working from below.

So in the past the administration of justice, whose object is the own interest of every individual, was turned into an instrument of profit and domination. Knowledge of the law was hidden in learned scholarship and a foreign language, and knowledge of legal procedure was hidden in tangled formalism.

Section 298

298 C. The Legislative Power.

The *legislative* power concerns the laws as such, insofar as they need further development, and the internal affairs that are completely universal in their content. This power is itself a part of the constitution. The constitution is presupposed by it, and in that respect lies in and for itself outside its direct determination. But the constitution receives its further development through the continued development of the laws and through the advancing character of the universal affairs of government.

Section 299

299 These matters are defined more closely, in relation to individuals, by two sides: α) what the state does for them, which they get to enjoy, and β) what they have to do for the state. Under the first fall the laws of private right in general, the rights of communities and corporations, and quite general arrangements, and indirectly (§ 298) the whole of the constitution. What is owed, however, can be fixed in a just way only if it is reduced to money, which is the existing universal *value* of things and services. It can then also be fixed in such a way that the *particular* work and services which the individual can give are mediated through his arbitrary choice.

In general, we can distinguish what should be the object of general legislation from what should be left to the administrative authorities and to government regulation. Only what is wholly universal in content among the legal provisions falls to legislation, while the particular and the manner of *execution* fall to the administration. But this distinction is not fully settled, because a law, to be a law and not a mere command in general (such as “you shall not kill,” compare

the note to § 140, p. 144), must be *determinate* in itself. The more determinate it is, the closer its content comes to being capable of being carried out just as it stands. At the same time, such far-reaching determination would give the laws an empirical side. In actual execution this side would have to be changed, and that would harm the character of laws as laws. It lies in the organic unity of the powers of the state that it is one spirit that fixes the universal and that also brings it to its determinate actuality and carries it out. — In the state it may first seem striking that, out of the many skills, possessions, activities and talents, and the endlessly varied living *abilities* contained in them, which are also joined with attitude, the state demands no direct service. It claims only the *one* ability that appears as *money*. — The services that relate to defending the state against enemies belong to duty in the next division. In fact, money is not a particular ability alongside the others. It is the universal of them, insofar as they produce themselves into the outwardness of existence in which they can be taken as a *thing*. Only at this outermost point is *quantitative* determination possible, and with it justice and equality of what is given. — *Plato* in his state has the rulers assign individuals to the particular classes and impose on them their *particular* services (compare § 185, note). In the feudal monarchy vassals likewise had services of an undefined kind, but also services in their *particularity*, for example holding judicial office. The services in the East and in Egypt, for the immense buildings and so on, are likewise of a *particular* kind. In these relationships the principle of *subjective freedom* is missing. By this principle, the individual's substantial activity, which in such services is anyway particular in content, should be mediated through his *particular will*. — This is a right that is possible only if services are demanded in the form of universal value. It is also the ground that brought about this change.

Section 300

300 In the legislative power as a totality, the two other elements are first at work. One is the *monarchical* element, to which the highest decision belongs. The second is the *governing power*, which is the advising element, with its concrete knowledge and overview of the whole in its many sides and the real principles that have become established in it, and with its knowledge of the needs of the state power in particular. Last comes the *estates* element.

Section 301

301 The *estates* element has the purpose that the universal concern should exist not only *in itself* but also *for itself*. That is, it should bring into existence the element of subjective *formal freedom*, namely public consciousness as the *empirical universality* of the views and thoughts of the *many*.

The expression “the *many*” (οἱ πολλοί) names empirical universality more correctly than the common expression “*all*.” If it is said that it goes without saying that among these *all*, at least children, women and so on are not meant, then it goes without saying even more that one should not use the quite definite word “*all*” where something quite indefinite is in question. — So many crooked and false ideas and phrases about people, constitution and estates have come into circulation that it would be wasted effort to try to list them, discuss them and correct them. The idea that ordinary consciousness usually first has before it about why the estates are necessary or useful is mainly this: that the deputies of the people, or even the people themselves, must *understand best* what serves their own good, and that they undoubtedly have the best will for that good. As for the first point, the fact is rather that the people, taken as a particular part of the members of a state, is the part that *does not know what it wants*. To know

what one wants, and still more to know what the will that is in and for itself, reason, wants, is the fruit of deep knowledge and insight, and that is not the business of the people. — On some reflection, the guarantee that the estates give for the general good and public freedom is not found in their particular insight. The highest state officials necessarily have deeper and wider insight into the nature of the state's institutions and needs, and more skill and practice in these affairs. They *can* do the best without estates, just as they must continue to do the best at the assemblies of the estates. The guarantee lies partly in an added measure of insight on the part of the deputies. This is mainly insight into the doings of the officials who stand farther from the eyes of the higher posts, and in particular into more urgent and special needs and defects that the deputies see before them in concrete observation. It lies partly in the effect that the expected criticism of many people, and public criticism at that, has. It makes people put their best insight in advance into the business and the plans to be put forward, and shape them only by the purest motives. This pressure works equally on the members of the estates themselves. As for the especially *good will* of the estates toward the general good, it was already remarked above (§ 272, note) that it belongs to the outlook of the rabble, the standpoint of the negative in general, to assume an evil or less good will on the part of the government. If one answered in the same form, this assumption would first lead to the counter-charge that the estates, since they come from individuality, from the private standpoint and from particular interests, are inclined to use their influence for these at the expense of the universal interest. The other elements of the power of the state, on the other hand, are already placed by themselves on the standpoint of the state and are devoted to the universal aim. As for the guarantee in general that is supposed to lie especially in the estates, every other institution of the state shares this with them, namely that it is a guarantee of public welfare and rational freedom. Some of these institutions, such as the sovereignty of the monarch, the hereditary succession to the throne, and the court system, carry this guarantee to a much stronger degree. The proper determination of the estates by the concept must therefore be sought in this: in them the subjective element of universal freedom, the own insight and own will of the

sphere that has been called civil society in this account, comes into existence *in relation to the state*. That this element is a determination of the Idea developed into a totality, this inner necessity, which is not to be confused with *external necessities* and *usefulnesses*, follows, as everywhere, from the philosophical point of view.

Section 302

302 Seen as a *mediating* organ, the estates stand between the government in general on one side and the people, broken up into particular spheres and individuals, on the other. Their task requires of them the sense and *attitude* of the state and the government as much as that of the *interests* of the *particular* circles and of *individuals*. At the same time, this position has the meaning of a mediation shared with the organized power of government. Its purpose is that the power of the prince does not appear isolated as an *extreme*, and thereby as mere power to rule and arbitrary choice. It is also that the particular interests of communities, corporations and individuals do not become isolated. And above all it is that individuals do not come to appear as a *crowd* and a *heap*, with an unorganized opinion and will, and as a merely massive force against the organic state. It is among the most important logical insights that a determinate element which stands in opposition and so has the position of an extreme ceases to be one, and is an *organic* element, by being at the same time a *middle*. In the matter considered here it is all the more important to bring out this side. It is a common but highly dangerous prejudice to picture the estates mainly from the viewpoint of *opposition* to the government, as if that were their essential position. The estates element proves itself organic, that is, taken up into the totality, only through the function of mediation. With this the opposition itself is reduced to an appearance. If the opposition, insofar as it appears, did not merely affect the surface but became a truly substantial opposition, the state would be going under. — The sign that the conflict is not of this kind appears,

by the nature of the matter, when its objects are not the essential elements of the state organism but more special and more indifferent things. It also appears when the passion that is attached to this content becomes factional strife over a merely subjective interest, such as the higher state posts.

Section 303

303 The *universal* class, which devotes itself more closely to the service of the *government*, has it directly in its calling to take the universal as the aim of its essential activity. In the *estates* element of the legislative power, the *private class* comes to a *political significance* and effectiveness. In this role it can appear neither as a mere undivided mass nor as a crowd dissolved into its atoms. It must appear as *what it already is*, namely divided into the class that rests on the substantial relationship and the class that rests on particular needs and the work that mediates them (§ 201 ff.). Only in this way, in this respect, is what is truly real in the state, the *particular*, tied to the universal.

This goes against another common idea. When the private class is raised to a share in the universal cause in the legislative power, it supposedly has to appear in the form of *individuals*, either by choosing representatives for this function or even by each person casting a vote. This atomistic, abstract view disappears already in the family and in civil society, where the individual appears only as a member of a universal. The state, however, is essentially an organization of members that are *circles in themselves*, and in it no element should show itself as an unorganized crowd. The *many* as individuals, which people like to understand by “the people,” are indeed a *together*, but only as the *crowd*. That is a formless mass whose movement and action would therefore be only elemental, without reason, wild and terrible. When one still hears talk about the people, this unorganized whole, in connection with a constitution, one can know in advance that only generalities and crooked declamation are to be expected. — The idea that dissolves the communities already present in those circles back

into a crowd of individuals, just when they enter the political sphere, that is, the standpoint of the *highest concrete universality*, keeps civil life and political life apart. It leaves political life, so to speak, hanging in the air. Its base would then be only the abstract individuality of arbitrary choice and opinion, and so the accidental, not a foundation that is firm in and for itself and *entitled*. — In the ideas of so-called theories, the *classes of civil* society and the *estates* in a *political* sense lie far apart. Yet language has kept the union of the two, which in any case existed earlier.

Section 304

- 304 The difference between the classes, already present in the earlier spheres, is also contained in the political estates element in its own determination. Its position is at first abstract: it is the *extreme of empirical universality* standing against the principle of the *prince* or *monarch* in general. In this position there lies only the *possibility* of agreement, and so equally the *possibility of hostile* opposition. This abstract position becomes a rational relationship (a syllogism, compare the note to § 302) only when its *mediation* comes into existence. On the side of the prince's power, the governing power (§ 300) already has this task. In the same way, on the side of the estates one element of them must be turned toward the task of existing essentially as the element of the middle.

Section 305

- 305 One of the classes of civil society contains the principle that is by itself able to be formed into this political relation. It is the class of natural ethical life. Its base is family life, and, as to its livelihood, ownership of land. So, in regard to its

particularity, it has a will resting on itself, and it shares with the princely element the determination given by nature, which the princely element contains in itself.

Section 306

306 It is more closely formed for its political position and meaning in this way. Its wealth is made independent of the wealth of the state, and also of the insecurity of trade, the hunger for gain, and the changeability of property in general. It is independent of the favor of the governing power and likewise of the favor of the crowd, and even of *its own arbitrary choice*. This is secured by the members of this class who are called to this role going without the right other citizens have: to dispose freely of their whole property, and to know that it passes to their children in equal shares out of equal love for them. — The wealth thus becomes an *inalienable family estate*, burdened with primogeniture.

Section 307

307 The right of this part of the substantial class rests, in this way, on the natural principle of the family. But that principle is at the same time turned around by hard sacrifices for the *political purpose*. Because of this, the class is essentially directed to activity for this purpose. For the same reason it is called to this activity and *entitled* to it by *birth*, without the accident of a choice. So it has a firm, substantial position between the arbitrary choice, or accident, of the two extremes. As it carries within itself an image of the element of the princely power (see the preceding §), so it also shares with the other extreme the needs and rights that are otherwise the same. In this way it becomes at once a support of the throne and of society.

Section 308

308 In the other part of the estates element falls the *mobile* side of *civil society*. Outwardly because of the number of its members, but essentially because of the nature of its character and occupation, it can enter only through *deputies*. Since these are sent out by civil society, it follows directly that civil society does this as *what it is*. It does not do it as dissolved atomistically into individuals and gathering for a moment, with no further hold, for a single, temporary act. It does it as divided into its already established associations, communities and corporations, which in this way gain a political connection. In their right to send out such deputies, called on by the power of the prince, as in the right of the first class to appear (§ 307), the existence of the estates and of their assembly finds an established and proper guarantee.

The idea is that *all* individually should take part in the deliberation and decision on the general affairs of the state. The reasoning is that these *all* are members of the state, and its affairs are the affairs of *all*, in which they have a *right* to be present with their knowledge and will. This idea would put the *democratic* element, *without any rational form*, into the state organism, which is an organism only through such form. It lies close at hand because it stops at the *abstract* determination of being a member of the state, and shallow thinking holds to abstractions. Rational thinking, the consciousness of the Idea, is *concrete*. In this it agrees with true *practical* sense, which is itself nothing other than rational sense, the sense of the Idea. This is not to be confused with mere office routine and the horizon of a narrow sphere. The concrete state is the whole *divided into its particular circles*. The member of the state is a *member* of such a *class*, and only in this objective character can he count in the state. His universal character in general contains a double element: he is a *private person*, and, as a *thinking* being, equally a consciousness and will of the *universal*. But this consciousness and will is not empty, and is *filled* and truly *alive*, only when it is

filled with particularity, and this is the particular class and calling. Or: the individual is a *genus*, but has his *immanent* universal *actuality* as the *nearest* genus. — He therefore reaches his real and living determination for the *universal* first within his own sphere, the corporation, community and so on (§ 251). It remains open to him to enter, through his skill, any sphere for which he is qualified, and the universal class is among them. Another assumption lies in the idea that *all* should take part in the affairs of the state: that *all understand these affairs*. This is as absurd 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 about the universal. —

Section 309

- 309 The deputation is made for deliberating and deciding on the *general* affairs. So it means that, through trust, those individuals are picked who understand these affairs better than those who send them. It also means that they uphold not the particular interest of a community or corporation against the general interest, but essentially the general interest. They are therefore not in the position of being agents under orders or bearers of instructions. This is all the more so because the assembly is meant to be a living gathering, in which members inform and convince one another and deliberate together.

Section 310

- 310 The guarantee that the deputies have the qualities and the attitude suited to this purpose is, since independent wealth already claims its right in the first part of the estates, shown in the second part. This part comes from the mobile and changing element of civil society. The guarantee lies mainly in the attitude, skill and knowledge of the institutions and interests of the state and of civil society,

gained through *real* conduct of business in *magisterial* or *state offices* and *proved by deed*. It also lies in the *magisterial sense and sense of the state* that has thereby been formed and tested.

Subjective opinion of itself easily finds the demand for such guarantees unnecessary, even insulting, when it is made with regard to the so-called people. But the state has as its purpose what is objective, not a subjective opinion and its self-confidence. Individuals can be for the state only what is objectively recognizable and proved in them. The state has to look to this all the more in this part of the estates element, because this part has its root in interests and occupations directed to the particular, where accident, changeability and arbitrary choice have their right to roam. — The outward condition, a certain amount of wealth, taken by itself appears as the one-sided extreme of outwardness. Against it stands the other, equally one-sided extreme, the merely subjective trust and opinion of the voters. Each of the two, in its abstraction, forms a contrast to the concrete qualities that are required for deliberating on affairs of state, and that are contained in the determinations indicated in § 302. — In any case, in elections to magisterial and other offices of the associations and communities, the quality of wealth already has the sphere where it can have its effect. This is so especially when many of these tasks are carried out without pay, and, with regard to the work of the estates directly, when the members receive no salary. —

Section 311

- ³¹¹ Since the deputation proceeds from civil society, it further means that the deputies are familiar with its special needs, obstacles and particular interests, and belong to it themselves. Since, by the nature of civil society, it proceeds from its various corporations (§ 308), and the simple course of this process is

not disturbed by abstractions and atomistic ideas, it directly meets that requirement. Then electing is either something superfluous altogether or is reduced to a small play of opinion and arbitrary choice. —

The interest suggests itself that, among the deputies, for each particular great branch of society, for example trade and manufacturing, there be individuals who know it thoroughly and belong to it themselves. In the idea of loose, undefined electing, this important point is left to chance. But each such branch has the same right as the others to be represented. If the deputies are considered as *representatives*, this has an organic and rational sense only if they are not *representatives* of individuals, of a crowd, but representatives of one of the essential *spheres* of society, representatives of its great interests. Representing then no longer means that one stands *in the place of another*. The interest itself is *actually present* in its representative, just as the representative is there for his own objective element. — Of electing by the many individuals one can remark further that, especially in large states, *indifference* about casting one's vote necessarily arises, since in the crowd it has a negligible effect. Those entitled to vote, however highly this right may be rated and presented to them, simply do not show up to vote. So the result of such an institution is rather the opposite of its purpose. The election falls into the power of a few, of a party, and so of the particular and accidental interest, which was exactly what was meant to be neutralized.

Section 312

- ³¹² Each of the two sides contained in the estates element (§ 305, 308) brings a particular coloring into the deliberation. And because, besides, one element has the proper function of mediation within this sphere, between things that already exist, it also gets a separate existence. The assembly of the estates will therefore divide into *two chambers*.

Section 313

- ³¹³ This separation does several things. It gives greater security to the maturity of the decision through a number of *instances*. It removes the accidental influence of the mood of the moment, and also the accident that can attach to a decision by majority of votes. But above all, the estates element is less likely to stand directly opposed to the government. And if the mediating element is also found on the side of the second class, the weight of its view is strengthened all the more, because it then appears more impartial and its opposition appears neutralized.

Section 314

- ³¹⁴ The institution of estates does not exist so that the affairs of the state may be best deliberated and decided *in themselves*. In that respect the estates are only an addition (§ 301). Its distinctive purpose is that, in the estates' sharing in knowledge, deliberation and decision about the general affairs, the element of *formal* freedom gains its right for those members of civil society who do not take part in the government. So the element of *general* knowledge first receives its extension through the *publicity* of the proceedings of the estates.

Section 315

- ³¹⁵ Opening up this chance for knowledge has a more general side. Only in this way does *public* opinion come to *true thoughts* and to *insight* into the condition and concept of the state and its affairs, and so to an *ability to judge them more rationally*. And then it also learns to know and respect the business, talents,

virtues and skills of the state authorities and officials. Such publicity gives these talents a powerful opportunity to develop and a stage for high honor. It is in turn the remedy against the conceit of individuals and of the crowd, and a means of education for them, and one of the greatest.

Section 316

- 316 Formal subjective freedom means that individuals, as individuals, have and voice their *own* judgments, opinions and advice about public affairs. This freedom shows itself in what is called *public* opinion. What is universal in and for itself, the *substantial* and true, is tied here to its opposite, to what is *peculiar* to itself and *particular* in the opinions of the many. So this way of existing is the contradiction of itself, present before us. It is knowing as *appearance*: what is essential is just as immediately what is inessential.

Section 317

- 317 Public opinion therefore contains within it the eternal, substantial principles of justice. It contains the true content and the result of the whole constitution, the legislation and the general condition of things as a whole, in the form of *common sense*, which is the ethical foundation running through everyone in the shape of prejudices. It also contains the true needs and the correct tendencies of actual reality. At the same time, when this inner content comes into consciousness and is put into general statements, it does so partly for its own sake and partly to support concrete argument about events, arrangements and relations in the state and about felt needs. Then all the chance and accident of opinion comes in as well, with its ignorance, its distortion, and its false knowledge and false judgment. Here what matters is the awareness of the *peculiarity* of a view and of what one knows. So the worse an opinion's content is, the more peculiar

it is. For what is bad is whatever is wholly particular and peculiar in its content, while what is rational is what is universal in and for itself. And the *peculiar* is what opinion *takes pride in*.

So it should not be taken as a difference of subjective view when one time we
are told,

“The voice of the people is the voice of God”;

and another time (in Ariosto, for example):

“That the ignorant crowd should blame everyone, and speak most of what it
understands least.”

Or in *Goethe*:

“The mass can strike a blow;

There it is respectable.

Judging, it manages miserably.”

Both belong together in public opinion. Since truth and endless error are united so immediately in it, one is not truly in earnest about either of the two. What one is in earnest about may seem hard to tell apart. In fact it will be hard, if one holds to the *immediate expression* of public opinion. But since what is substantial is its inner side, one is truly in earnest only about that. Yet this cannot be known from public opinion itself. Precisely because it is the substantial, it can only be known from and for itself. No matter what passion is put into what is opined, and no matter how earnestly it is asserted or attacked and fought over, none of this is a standard for what is really at stake. But this opining would least of all let itself be persuaded that its earnestness is nothing serious. A great mind once put a question to the public for an answer: 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 definite character of its spirit. But about the way it knows this, and about how it judges its actions, events and so on by that way of knowing, it is deceived *by itself*.

Section 318

- 318 Public opinion therefore deserves to be *respected* as much as to be *despised*. It deserves contempt for its concrete awareness and expression. It deserves respect for its essential foundation, which shows through, more or less clouded, only as a glimmer in that concrete form. Public opinion has in itself neither a standard for telling the two apart nor the ability to raise the substantial side into definite knowledge. So independence from it is the first formal condition for anything great and rational, whether in actual life or in science. In its turn, the great and rational can be sure that public opinion will later accept it, acknowledge it, and make it one of its own prejudices.

Section 319

- 319 Freedom of public communication (one means of which, the *press*, has a far wider reach than the other, spoken words, but falls behind it in liveliness) is the satisfaction of that itching urge to say one's opinion and to have said it. This freedom has its direct protection in police and legal laws and regulations, which partly prevent its excesses and partly punish them. It has its indirect protection in its harmlessness. That harmlessness rests chiefly on the rationality of the constitution and the firmness of the government. It also rests on the openness of the assemblies of the estates. This openness helps insofar as these assemblies give voice to solid, educated insight into the interests of the state. That leaves others little of any importance to say, and above all it takes away the notion that such saying has special importance and effect. Finally it rests on the indifference and contempt toward shallow and spiteful talk, to which that talk has soon necessarily brought itself down.

To define freedom of the press as the freedom to say and write *whatever one wants* is parallel to defining freedom in general as the freedom to *do whatever one wants*. Such talk belongs to a wholly uneducated crudeness and superficiality of thinking. Besides, by the nature of the matter, there is nowhere that formalism holds on so stubbornly and lets itself be persuaded so little as on this topic. For the subject is the most fleeting, most accidental, most particular, most accidental side of opining, with endless variety in content and in turns of phrase. Beyond direct incitement to theft, murder, rebellion and so on lies the art and cultivation of expression. In itself it looks wholly general and indefinite. But partly it also hides a quite definite meaning at the same time, and partly it is tied to consequences that are not actually spoken. It cannot be determined whether those consequences follow correctly, or whether they are meant to be contained in that expression. This indeterminacy of material and form means that laws on the subject cannot reach the definiteness that is demanded of a law. It also makes the judgment a wholly *subjective* decision, since offenses, wrongs and injuries here have the most particular, most *subjective* shape. Besides, the injury is aimed at the thoughts, opinion and will of others. These are the element in which it gains actuality. But this element belongs to the freedom of those others, and so it depends on them whether that injuring act is a real deed. So against the laws one can point out their indefiniteness. One can also invent turns of phrase and forms of expression that get around the laws, or that make the judge's decision look like a merely subjective judgment. Further, when an utterance is treated as an *injurious deed*, one can claim that it is no deed at all, but only an *opinion* and a *thought*, or only a *saying*. In one breath, then, the mere subjectivity of the content and form, the *insignificance and unimportance* of a mere opinion and saying, is used to claim that it should go *unpunished*. And in the same breath *high respect and regard* is demanded for this very opinion, as my own and indeed my most *spiritual* property, and for the saying, as the expression and use of this my property. But what is substantial is and remains this: injury to the honor of individuals in general, slander, abuse, bringing the government, its authorities and officials, and the person of the prince in particular, into contempt, mocking the laws, incitement to rebellion

and so on, are crimes and offenses of the most varied degrees. The greater indeterminacy that such acts get from the element in which they are expressed does not remove their substantial character. It has only the result that the *subjective* ground on which they are committed also decides the *nature and shape of the response*. This ground of the offense itself is what, in the response, makes the subjectivity of the view, chance and the like into a necessity. This holds whether the response is set as police prevention of crimes or as actual punishment. Here, as always, formalism sets out to argue away the substantial and concrete nature of the matter, using *single* aspects that belong to the outward appearance and the abstractions it draws from them. The *sciences*, however, are another matter, provided that they really are sciences. They are not on the ground of opining and subjective views. Their presentation does not consist in the art of turns of phrase, hints, half-saying and hiding, but in the clear, definite and open statement of meaning and sense. So they do not fall under the category of what makes up public opinion (§ 316). Moreover, as noted above, the element in which views and their expressions become a *carried-out action* and gain real existence is the intelligence, principles and opinions of others. So this side of the actions, their real effect and their *danger* to individuals, society and the state (compare § 218), also depends on the condition of this ground. A spark thrown on a heap of gunpowder is dangerous in quite a different way than one thrown on solid earth, where it dies away without a trace. So just as scientific expression has its right and its protection in its subject matter and content, the wrong of an utterance can also find protection, or at least toleration, in the contempt into which it has put itself. Some of such offenses, which are also punishable by law in themselves, can be put down to a kind of *nemesis*. Inner powerlessness feels itself weighed down by superior talents and virtues, and is driven to practice this nemesis. In this way it comes back to itself against such superiority, and gives its own nothingness a self-awareness again. In the same way the Roman soldiers, in the triumphal procession, exercised a more harmless nemesis on their imperators through mocking songs. This was for their hard service and obedience, and above all because their names did not count in that honor. They put themselves into a kind of balance with them. That bad and spiteful

nemesis loses its effect through contempt. Through this it is confined, like the public that perhaps forms a circle around such busy activity, to meaningless malicious glee and to the damnation it carries in itself.

Section 320

320 *Subjectivity* has its most *external* appearance as the dissolution of the existing life of the state. This happens in opining and arguing that want to assert their own chance and accident, and that thereby destroy themselves as well. Its true actuality lies in its opposite: *subjectivity* as identical with the substantial will. This is what makes up the concept of the power of the prince. As the *ideality* of the whole, it has not yet come into its right and existence in what has been discussed so far.

Section 321

321 II. Sovereignty toward the outside.

Sovereignty toward the inside (§ 278) is this ideality insofar as the moments of spirit and of its actuality, the state, are unfolded in their necessity and stand as its members. But spirit, being in freedom an infinitely negative relation to itself, is just as essentially being-for-itself. It has taken the existing difference into itself, and so it is exclusive. In this determination the state has *individuality*. This individuality is essentially an individual, and in the sovereign it is 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 the being-for-itself of actual spirit has its existence in this independence, independence is the first freedom and the highest honor of a people.

Some people speak of wishes in a whole body of people that makes up a more or less independent state and has a center of its own. They speak of wishes to lose this center and its independence, in order to form one whole with another state. Such people know little about the nature of a whole body of people and about the self-respect a people has in its independence. The first power in which states appear in history is therefore this independence as such, even if it is quite abstract and has no further inner development. For that reason it 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*, then, this *negative* relation of the state to itself appears as the relation of one *other* to another other, as if the negative were something *external*. So the existence of this negative relation takes the shape of something that happens, and of entanglement with chance events that come from *outside*. But it is the state's own highest *moment*. It is its actual infinity, as the ideality of everything finite in it. It is the side in which the substance, as the absolute power over everything individual and particular, over life, property and its rights, and over the wider circles, brings home their nothingness into existence and consciousness.

Section 324

324 This determination, in which the interest and right of individuals is set as a vanishing moment, is at the same time the *positive* side of their individuality. This is their individuality as not accidental and changeable, but *being in and for itself*. This relation, and recognition of it, is therefore their substantial duty. It is the duty to preserve this substantial individuality, the *independence* and sovereignty of the state, at the risk and sacrifice of their property and life, and all the more of their opinion and of everything that is by itself included in the range of life.

It is a very skewed calculation when, in demanding this sacrifice, the state is seen only as civil society, and its final purpose only as securing the life and property of individuals. For this security is not reached by sacrificing what is supposed to be *secured*. On the contrary. In what has been said lies the ethical *moment of war*. War is not to be seen as an absolute evil or as a merely external accident, one that would have its cause, itself accidental, in whatever it may be: in the passions of those in power or of peoples, in injustices and so on, in short in something that ought not to be. What is of the nature of the accidental is struck by the accidental, and this very fate is therefore necessity. In the same way, the concept and philosophy in general make the standpoint of mere accident vanish, and recognize in it, as *mere show*, its essence, necessity. It is *necessary* that the finite, possession and life, be *posited* as accidental, because this is the concept of the finite. On one side this necessity has the shape of a natural force, and everything finite is mortal and passing. 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 passing away becomes a *willed* passing, and the negativity underlying it becomes the substantial, own individuality of the ethical essence. War is the condition in which the vanity of temporal goods and things is taken seriously. Otherwise this vanity tends to be an edifying

phrase. So war is the moment in which the ideality of the particular gets its right and becomes actual. It has the higher meaning that through it, as I have put it elsewhere, “the ethical health of peoples is preserved in their indifference to the hardening of finite determinations, just as the movement of the winds keeps the sea from the rot into which lasting calm would put it, as lasting or even eternal peace would put peoples.” That this is *only* a philosophical idea, or, as people otherwise tend to put it, a justification of *providence*, and that actual wars need a different justification, will be taken up later. The ideality that comes to light in war, lying outside in an accidental relation, and the ideality by which the inner powers of the state are organic moments of the whole, are the same. This shows itself in history, among other ways, in that successful wars have prevented inner unrest and strengthened the inner power of the state. Other cases belong right here too. Some peoples would not tolerate sovereignty toward the inside, or feared it, and were subjugated by others. They struggled for their independence with less success and honor, the less it had been possible to arrive at a first organization of state power inside (their freedom died of the fear of dying). Some states have the guarantee of their independence not in their armed force but in other considerations (for example states disproportionately small beside their neighbors). They can last with an inner constitution that by itself would guarantee neither peace inside nor peace outside, and so on. These are all phenomena that belong to this point.

Section 325

- 325 The sacrifice for the individuality of the state is the substantial relation of *all* and therefore a *general duty*. At the same time it is *one side* of ideality as set against the reality of particular existence, and so it becomes itself a particular relation. An estate of its own, the *estate of bravery*, is devoted to it.

Section 326

³²⁶ Quarrels between states may concern some *particular* side of their relation. For such quarrels the *particular* part devoted to the defense of the state has its main task. But when the state as such, its independence, comes into danger, duty calls on all its citizens to defend it. When the whole has thus become a power, and has been torn out of its inner life and turned outward, the defensive war passes over into a war of conquest.

The armed force of the state becomes a *standing army*, and the task of its particular business of defense becomes an *estate*. This follows from the same necessity by which the other particular moments, interests and businesses become estates: a marriage, and estates of trade, of the state, of business and so on. Reasoning that goes back and forth over grounds indulges in reflections on the greater advantages or the greater disadvantages of introducing standing armies. Opinion likes to decide for the disadvantages. This is partly because the concept of the matter is harder to grasp than single and external sides. It is partly because the interests and purposes of particularity (the costs and their consequences, higher taxes and so on) are rated higher in the consciousness of civil society than what is necessary in and for itself. In this way the necessary counts only as a means for those interests.

Section 327

³²⁷ Bravery is in itself a *formal virtue*, because it is the highest abstraction of freedom from all particular purposes, possessions, enjoyment and life, but this negation takes place in an *externally actual* way, and because the giving up, as

something *carried out*, is not in itself of a spiritual nature. The inner attitude behind it may be this ground or that, and its actual result can also not be *for itself*, but only for others.

Section 328

328 The content of bravery as an attitude lies in the true, absolute final purpose, the *sovereignty* of the state. The *actuality* of this final purpose, as the work of bravery, has the giving up of personal actuality as its means. This form therefore contains the harshness of the highest opposites. The giving up itself is the *existence* of freedom. It is the highest *independence* of being-for-itself, whose *existence* is at the same time in the mechanical side of an *external order and service*. It is complete obedience and the laying aside of one's own opining and arguing, and so an *absence* of one's own spirit. And yet it is the most intense and all-embracing *presence* of spirit in the moment, and resolve. It is the most hostile action against individuals, and at the same time the most personal, with a wholly indifferent, even good attitude toward them as individuals.

To stake one's life is certainly more than merely fearing death. But it is therefore merely the negative, and so has no determination and no worth for itself. The positive, the purpose and content, first gives this courage its meaning. Robbers and murderers, whose purpose is a crime, and adventurers, whose purpose is one they have made up in their own opinion, and so on, also have that courage to stake their life. The principle of the modern world, *thought* and the *universal*, has given bravery a higher form. Its expression seems more mechanical, and appears not as the doing of this *particular* person, but only as that of a *member* of a whole. It also appears as turned not against single persons but against a hostile whole in general. So personal courage appears as not personal. That principle therefore invented the *firearm*. It was not a chance invention of this weapon that changed the merely personal form of bravery into the more abstract one.

Section 329

- 329 The state has its direction outward in that it is an individual subject. Its relation to others therefore falls to the *power of the prince*. So it belongs immediately and solely to the prince 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 state law.
External state law starts from the relation of independent states. What is *in and for itself* in this relation therefore takes the form of an *ought*, because its being actual rests on *different sovereign wills*.

Section 331

- 331 The people as a state is spirit in its substantial rationality and immediate actuality. It is therefore the absolute power on *earth*. A state is consequently, toward every other state, in sovereign independence. To exist *for the other* as such, that is, to be *recognized* by it, is its first absolute entitlement. But this entitlement is at the same time only formal, and the demand that the state be recognized merely because it is a state is abstract. Whether it really is a state that exists in and for itself depends on its content, constitution and condition. And recognition, which contains an identity of both, rests just as much on the view and the will of the other.

An individual is not an actual person without relation to other persons (§ 71 and elsewhere). In the same way, a state is not an actual individual without a relation to other states (§ 322). The legitimacy of a state, and more closely of its power of the prince insofar as it is turned outward, is on one side a matter that concerns wholly the *inside* (a state should not meddle in the inner affairs of another). On the other side 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 the others who are to recognize it, that is, will respect them in their independence. So what goes on inside it cannot be a matter of indifference to them. In the case of a nomadic people, for example, and in general of one that stands at a low stage of culture, the question even arises how far it can be regarded as a state. The religious standpoint (formerly among the Jewish people and the Mohammedan peoples) can contain a still higher opposition, which does not allow the general identity that belongs to recognition.

Section 332

- ³³² The immediate actuality in which states stand to one another divides into many kinds of relations. Their terms come from the independent arbitrary choice of both sides, and so they have the formal nature of *contracts* in general. The *material* of these contracts, however, is infinitely less varied than in civil society. In civil society individuals depend on one another in the most manifold ways, whereas independent states are chiefly wholes that satisfy themselves within themselves.

Section 333

³³³ The basic principle of *international law* is that *treaties* should be *kept*. International law is the *general* law that is supposed to hold in and for itself between states, as distinct from the particular content of positive treaties. The obligations of states toward one another rest on treaties. But their relation has their sovereignty as its principle. So in this respect they are in a state of nature toward one another. Their rights have their *actuality* not in a general will set up as a power over them, but in their own particular will. That general determination therefore stays at an *ought*. The condition becomes a swing back and forth between a relation that follows the treaties and the cancellation of that relation. There is no praetor between states. At most there are arbitrators and mediators, and even these only by chance, that is, according to particular wills. *Kant's* idea of an *eternal peace* through a league of states, one that would settle every dispute, resolve every disagreement as a power recognized by each single state, and so make a decision by war impossible, presupposes the *agreement* of the states. That agreement would rest on moral or religious grounds or whatever other grounds and considerations, and so always on particular sovereign wills. It would thereby remain affected by chance.

Section 334

³³⁴ Disputes between states can therefore, when the particular wills find no agreement, be decided only by *war*. Which injuries are to count as a definite breach of treaties or as an injury to recognition and honor remains something *in itself* that cannot be determined. Such injuries can easily occur in great numbers, given the wide range of a state and the many-sided relations through its mem-

bers. A state can place its infinity and honor in every one of its single details. It is the more inclined to this touchiness the more a strong individuality is driven, by long inner calm, to seek out and create material for activity outside.

Section 335

- 335 Moreover, the state, being spiritual, cannot in general stay with wanting to heed only the *actuality* of an injury. The *idea* of an injury as a *danger* threatening from another state also comes in as a cause of quarrels. With it come ups and downs in greater or lesser probabilities, guesses about intentions and so on.

Section 336

- 336 States stand toward one another in their relation of independence as *particular* wills, and the *validity* of treaties itself rests on this. The *particular will* of the whole, according to *its* content, is its *welfare* in general. So this is the highest law in the state's conduct toward others. This holds all the more because the idea of the state is precisely this: in it the opposition between right as abstract freedom and the particular content that fills it, welfare, is both canceled and preserved. And the first recognition of states (§ 331) is directed at them as *concrete* wholes.

Section 337

- 337 The substantial welfare of the state is its welfare as a *particular* state, in its definite interest and condition, in the equally peculiar outer circumstances, and in its particular relation of treaties. The government is therefore a *particular wisdom*, not general providence (compare § 324, Remark). In the same way, the

purpose in relation to other states, and the principle for the justice of wars and treaties, is not a general (philanthropic) thought. It is the welfare that has really been hurt or threatened, in *its definite particularity*.

At one time there was much discussion of the opposition between morals and politics, and of the demand that politics conform to morals. Here it is enough to remark in general that the welfare of a state has a quite different entitlement from the welfare of an individual. The ethical substance, the state, has its existence, that is, its right, immediately in a concrete existence and not an abstract one. Only this concrete existence, and not one of the many general thoughts held to be moral commandments, can be the principle of its acting and conduct. The view of the supposed wrong that politics is always said to commit in this supposed opposition rests rather on the shallowness of ideas about morality, about the nature of the state and about its relation to the moral standpoint.

Section 338

- 338 States recognize one another as states. So even in *war*, the condition of lawlessness, violence and chance, *a bond* remains in which they count for one another as being in and for themselves. In war itself, then, war is determined as something that is supposed to pass away. War thereby contains the rule of international law that the possibility of peace is kept alive in it. So, for example, envoys are respected. And in general war is not to be waged against the inner institutions, against peaceful family and private life, or against private persons.

Section 339

- 339 Otherwise the mutual conduct in war (for example, that prisoners are taken) rests chiefly on the *customs* of nations. So does what rights a state grants in peacetime to the members of another state for private dealings, and so on.

Customs are the inner universality of conduct that is kept up in all circumstances.

Section 340

³⁴⁰ In the relation of states to one another, because they are there as *particular* states, there falls the most restless play of inner particularity: of passions, interests, purposes, talents and virtues, of violence, wrong and vice, and also of outer chance, on the largest scale of appearance. In this play the ethical whole itself, the independence of the state, is exposed to chance. The principles of the *spirits of the peoples* are limited in general, because of their particularity. In it they have their objective actuality and their self-consciousness as *existing* individuals. Their fates and deeds in relation to one another are the appearing dialectic of the finitude of these spirits. Out of it the *universal* spirit, the *spirit of the world*, produces itself as unlimited. It is also this spirit that exercises its right on them, and its right is the very highest, in *world history* as the *judgment of the world*.

Section 341

³⁴¹ C. World History.

Universal spirit exists in a certain *element*. In art that element is intuition and image. In religion it is feeling and imagination. In philosophy it is pure, free thought. In *world history* it is spiritual actuality in its whole range, both inner and outer. World history is a court of judgment. In its *universality*, which is in and for itself, the *particular* (the household gods, civil society and the spirits of the peoples in all their varied reality) exists only as something *ideal*. The movement of spirit in this element is to show this.

Section 342

³⁴² Nor is world history merely the judgment of spirit's power, that is, the abstract and unreasoning necessity of a blind fate. Spirit is reason in and for itself, and its being-for-itself in spirit is knowing. So world history is the development of the *moments* of reason, which follows necessarily from the *concept* of spirit's freedom alone. Through that development spirit comes to its self-consciousness and its freedom. World history is the interpretation and the *realization* of *universal* spirit.

Section 343

³⁴³ The history of spirit is its own *deed*. Spirit is only what it does, and its *deed* is to make itself, here as spirit, the object of its own consciousness, and to grasp itself by interpreting itself to itself. This grasping is its being and its principle. When a grasping is *completed*, that is at once spirit's giving itself up and its passing on. Put in formal terms, spirit then grasps this grasping *anew*. This is the same as going into itself out of its self-surrender. Such a spirit is spirit at a higher stage compared with itself, as it stood in that first grasping.

The question of the *perfectibility* and the *education* of the *human race* belongs here. Those who have asserted this perfectibility have had some sense of the nature of spirit. Its nature is to have "Know yourself" (Γνῶθι σεαυτόν) as the law of its *being*. By grasping what it is, it becomes a higher form than the one that made up its former being. But for those who reject this thought, spirit has remained an empty word. For them history is a shallow play of *accidental* strivings and passions, so-called *merely human* ones. They may express a belief in a

higher governing power, using the words *providence* and the *plan of providence*. But these remain unfulfilled notions, since they also expressly declare that the plan of providence is something unknowable and incomprehensible to them.

Section 344

344 States, peoples and individuals take part in this work of the world spirit. Each arises with its own *particular, determinate principle*. That principle is interpreted and made actual in its *constitution* and in the whole *breadth* of its *condition*. They are aware of this, and they are absorbed in its interests. Yet at the same time they are unconscious tools and members of that inner work, in which these forms pass away. Spirit in and for itself meanwhile prepares and works out for itself its passage to the next higher stage.

Section 345

345 Justice and virtue, wrong, violence and vice, talents and their deeds, small and great passions, guilt and innocence, the splendor of individual and national life, independence, and the good and bad fortune of states and of individuals all have their determinate meaning and value in the sphere of conscious actuality. In that sphere they find their judgment and their justice, which is, however, imperfect. World history falls outside these points of view. In world history, the necessary moment of the idea of the world spirit that is currently *its* stage receives its *absolute right*. The people living in that moment, and its deeds, receive their fulfillment, and their good fortune and glory.

Section 346

³⁴⁶ History is the shaping of spirit in the form of events, of immediate natural actuality. So the stages of development are present as *immediate natural principles*. Because they are natural, they are a plurality, one outside another. It follows further that *one of them falls to each people*. This is that people's *geographical and anthropological* existence.

Section 347

³⁴⁷ The people to whom such a moment belongs as a *natural* principle is charged with carrying it out in the advance of the world spirit's developing self-consciousness. In world history, for this epoch, this people is the *dominant* one. It can mark an epoch in world history only *once* (§ 346). Against this, its absolute right to be the bearer of the world spirit's present stage of development, the spirits of the other peoples have no rights. They, like those whose epoch is over, no longer count in world history.

The particular history of a world-historical people contains two things. First, it contains the development of its principle, from its childlike, wrapped-up state up to its full bloom. There it has reached free ethical self-consciousness and intervenes in universal history. Second, it also contains the period of decline and corruption. For in this way the rise of a higher principle shows itself in that people, as merely the negative of its own. This indicates that spirit, and with it world history, is passing over to that principle and to *another* people. From that period on, the earlier people has lost its absolute interest. It does take the higher principle into itself positively and shapes itself to fit it. But it relates to that principle as to something received, and not with inner vitality and freshness.

Perhaps it loses its independence. Perhaps it carries on, or drags on, as a particular state or a group of states, and tosses about by chance in many inner experiments and outer struggles.

Section 348

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

These individuals are the living embodiments of the world spirit's substantial deed, and so they are immediately identical with it. For that reason the deed is hidden from them and is not their object or purpose (§ 344). They also receive no honor or thanks for it from their contemporaries (same place), nor from the public opinion of later generations. As formal subjectivities, they get only their share in that opinion, as *immortal fame*.

Section 349

³⁴⁹ A people is at first not yet a state. A family, horde, tribe, crowd and so on becomes a state, and this change is the *formal* realization of the idea in it generally. Without this form, a people, as the ethical substance that it is *in itself*, lacks objectivity. It has no universal and universally valid existence in laws, which are determinations in thought, for itself and for others. So it is not recognized. Its independence, being without objective lawfulness and without a rationality firm in itself, is only formal. It is not sovereignty.

In ordinary thinking as well, a patriarchal condition is not called a constitution. A people in that condition is not called a state, and its independence is not called sovereignty. So two things come before the beginning of actual history.

On one side there is uninterested, dull innocence. On the other there is the bravery of the formal struggle for recognition and for revenge. (Compare § 331 and p. 61.)

Section 350

- ³⁵⁰ It is the absolute right of the idea to step forth in legal determinations and in objective institutions, beginning from marriage and agriculture (see § 203, Remark). This holds whether the form of this realization appears as divine legislation and benefit, or as force and wrong. This right is the *right of heroes* to found states.

Section 351

- ³⁵¹ From the same determination it follows that civilized nations regard and treat other nations as barbarians. These are nations that lag behind them in the substantial moments of the state (herding peoples treat hunting peoples this way, farming peoples treat both this way, and so on). Civilized nations do this with a consciousness of unequal right, and they treat the other nations' independence as something merely formal.

Wars and disputes arise under such conditions. What gives them a meaning for world history is that they are struggles for recognition concerning a determinate content.

Section 352

352 The concrete ideas, the spirits of the peoples, have their truth and destiny in the concrete idea as *absolute universality*. This is the world spirit. The peoples stand around its throne as those who carry out its realization, and as witnesses and ornaments of its glory. As spirit, it is only the movement of its own activity, which is to know itself absolutely. In doing so it frees its consciousness from the form of natural immediacy and comes to itself. So the *principles* of the shapes of this self-consciousness, in the course of its liberation, that is, of the *world-historical* realms, are *four*.

Section 353

353 In the *first* realm, as an *immediate* revelation, spirit has as its principle the form of *substantial* spirit. This is an identity in which individuality is sunk into its essence and has no rights of its own. —

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

The *third* is the sinking of knowing being-for-itself into itself, to *abstract universality*. With that comes an infinite *opposition* to an objectivity that is thereby likewise abandoned by spirit. —

The principle of the *fourth* form is the reversal of this opposition. Spirit receives its truth and concrete essence within its inner life, and is at home in objectivity and reconciled with it. This spirit has come back to the first substantiality, but it has returned from the *infinite opposition*. So it produces and knows 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 a substantial view of the world. It starts from the patriarchal natural whole and is not divided within itself. In it, worldly government is theocracy. The ruler is also high priest or god. The constitution of the state and its legislation are at the same time religion. The religious and moral commands, or rather customs, are equally laws of the state and laws of right. In the splendor of this whole, individual personality goes under without any rights. Outer nature is immediately divine, or an ornament of the god, and the history of actual reality is poetry. Differences develop on the various sides of morals, government and the state. Where laws would stand, there arise, alongside simple custom, heavy, long-winded, superstitious ceremonies. There also arise chance occurrences of personal force and arbitrary rule, and the division into estates becomes a natural fixity of castes. So the Oriental state is alive only in its movement. Nothing in the state itself stands still, and whatever is fixed is turned to stone. So the movement goes outward and becomes an elemental raging and devastation. Inner calm is a private life and a sinking into weakness and exhaustion.

The moment of still *substantial, natural spirituality* in the formation of the state is the absolute starting point in the history of every state, as its *form*. This moment has been brought out and demonstrated for particular states, historically, with deep insight and with learning. The work is *On the Downfall of the*

Natural States (Berlin, 1812), by Dr. Stuhr. In this way it has opened the way for a rational study of the history of constitutions and of history in general. There the principle of subjectivity and self-conscious freedom is likewise pointed out in the Germanic nation. But the treatise goes only as far as the downfall of the natural states. So it carries that principle only up to the point where it appears partly as restless mobility, human arbitrary choice and corruption, and partly in its particular form as *disposition of the heart*. It has not developed into the objectivity of *self-conscious* substantiality, into organic *lawfulness*.

Section 356

356 2) The Greek Realm.

This realm has that substantial unity of the finite and the infinite. But it has it only as a mysterious foundation, pushed back into dull memory, into caves and into images of tradition. This foundation is born out of spirit as it distinguishes itself, into individual spirituality and into the daylight of knowing. It is moderated and transfigured into beauty and into free and cheerful ethical life. In this determination, the principle of personal individuality emerges. It is not yet caught up in itself, but is still held in its ideal unity. For this reason the whole breaks up into a circle of particular spirits of peoples. Also, the final decision of the will is not yet placed in the subjectivity of self-conscious being-for-itself. It is placed in a power that is higher than that subjectivity and outside it (compare § 279, Remark). And the particularity that belongs to need is not yet taken up into freedom. It is shut out into a class of slaves.

Section 357

357 3) The Roman Realm.

In this realm the distinction is carried through to an infinite tearing apart of ethical life. It splits into the extremes of *personal*, private self-consciousness and *abstract universality*. The opposition starts from the substantial view of an aristocracy, set against the principle of free personality in democratic form. On the aristocratic side, it develops into superstition and the assertion of cold, greedy power. On the democratic side, it develops into the corruption of a mob. The dissolution of the whole ends in general misfortune and the death of ethical life. In this, the individualities of the peoples die away in the unity of a Pantheon. All individuals sink down to private persons and to *equals* with formal right. What holds them together is only an abstract arbitrary choice that is driven to monstrous extremes.

Section 358

358 4) The Germanic Realm.

Spirit loses itself and its world and feels infinite pain at this loss. The *Israelite* people had been kept ready as the people of this pain. Spirit is driven back into itself. In the extreme of its absolute *negativity*, which is the *turning point* in and for itself, it grasps the *infinite positivity* of its own inner life. This is the principle of the unity of the divine and human natures. It is reconciliation, as the objective truth and freedom that have appeared within self-consciousness and subjectivity. The northern principle of the *Germanic peoples* is charged with carrying this out.

Section 359

359 The inwardness of the principle is still abstract. It exists in feeling, as faith, love and hope, and it is the reconciliation and resolution of every opposition. It unfolds its content in order to raise it to actuality and self-conscious rationality,

to a *worldly* realm that starts from the disposition of the heart, from loyalty and from the fellowship of free people. In this very subjectivity, that realm is equally a realm of crude arbitrary choice that exists for itself, and of barbarous customs. Against it stands a world beyond, an *intellectual* realm. Its content does contain that truth of spirit, but still *unthought*, wrapped in the barbarism of imagination. As a spiritual power over the actual heart, it relates to the heart as an unfree and fearful force.

Section 360

360 These two realms stand in hard struggle. In it their difference has reached absolute opposition, and yet they are rooted in one unity and one idea. In this struggle, the spiritual realm lowers the existence of its heaven to an earthly here and now and to common worldliness, both in actuality and in imagination. The worldly realm, on the other hand, 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. As a result, the opposition has in itself faded into a form without substance. The present has shed its barbarism and its unjust arbitrary choice. Truth has shed its beyond and its accidental force. So true reconciliation has become objective. It unfolds the *state* as the image and the actuality of reason. In the state, self-consciousness finds the actuality of its substantial knowing and willing, in organic development. In *religion* it finds the feeling and imagination of this, its truth, as an ideal essence. In *science* it finds the free, conceptual knowledge of this truth, as one and the same truth in its mutually complementing manifestations: the *state*, *nature* and the *ideal world*.