

HEGEL'S
Philosophy of Right

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as one generation succeeds another. Love, the ethical moment in marriage, is by its very nature a feeling for actual living individuals, not for an abstraction. This abstraction of the Understanding [the *gens*] appears in history as the principle underlying the contribution of the Roman Empire to world history (see Paragraph 357).³⁹ In the higher sphere of the state, a right of primogeniture arises together with estates rigidly entailed; it arises, however, not arbitrarily but as the inevitable outcome of the Idea of the state. On this point see below, Paragraph 306. [A.]

Transition of the Family into Civil Society

181. The family disintegrates (both essentially, through the working of the principle of personality, and also in the course of nature) into a plurality of families, each of which conducts itself as in principle a self-subsistent concrete person and therefore as externally related to its neighbours. In other words, the moments bound together in the unity of the family, since the family is the ethical Idea still in its concept, must be released from the concept to self-subsistent objective reality. This is the stage of difference. This gives us, to use abstract language in the first place, the determination of particularity which is related to universality but in such a way that universality is its basic principle, though still only an inward principle; for that reason, the universal merely shows in the particular as its form.⁴⁰ Hence this relation of reflection *prima facie* portrays the disappearance of ethical life or, since this life as the essence necessarily shows itself,* this relation constitutes the world of ethical appearance—civil society.

The expansion of the family, as its transition into a new principle, is in the external world sometimes its peaceful expansion until it becomes a people, i.e. a nation, which thus has a common natural origin, or sometimes the federation of scattered groups of families under the influence of an overlord's power or as a result of a voluntary association produced by the tie of needs and the reciprocity of their satisfaction. [A.]

SUB-SECTION 2

CIVIL SOCIETY

182. The concrete person,⁴¹ who is himself the object of his particular aims, is, as a totality of wants and a mixture of caprice and physical necessity, one principle of civil society. But the particular person is essentially so related to other particular persons

* Cf. *Enc.* [1st edn.], §§ 64 ff., §§ 81 ff. [3rd edn. §§ 115 ff., §§ 131 ff.].

that each establishes himself and finds satisfaction by means of the others, and at the same time purely and simply by means of the form of universality, the second principle here. [A.]

183. In the course of the actual attainment of selfish ends—an attainment conditioned in this way by universality—there is formed a system of complete interdependence, wherein the livelihood, happiness, and legal status of one man is interwoven with the livelihood, happiness, and rights of all. On this system, individual happiness, &c., depend, and only in this connected system are they actualized and secured. This system may be *prima facie* regarded as the external state,⁴² the state based on need, the state as the Understanding envisages it.

184. The Idea in this its stage of division imparts to each of its moments a characteristic embodiment; to particularity it gives the right to develop and launch forth in all directions; and to universality the right to prove itself not only the ground and necessary form of particularity, but also the authority standing over it and its final end. It is the system of the ethical order, split into its extremes and lost, which constitutes the Idea's abstract moment, its moment of reality. Here the Idea is present only as a relative totality⁴³ and as the inner necessity behind this outward appearance. [A.]

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

The development of particularity to self-subsistence (compare Remark to Paragraph 124) is the moment which appeared in the ancient world as an invasion of ethical corruption and as the ultimate cause of that world's downfall. Some of these ancient states were built on the patriarchal and religious principle, others on the principle of an ethical order which was more explicitly intellectual, though still comparatively simple; in either case they rested on primitive unsophisticated intuition. Hence they could not withstand the disruption of this state of mind when

self-consciousness was infinitely reflected into itself; when this reflection began to emerge, they succumbed to it, first in spirit and then in substance, because the simple principle underlying them lacked the truly infinite power to be found only in that unity which allows both sides of the antithesis⁴⁴ of reason to develop themselves separately in all their strength and which has so overcome the antithesis that it maintains itself in it and integrates it in itself.

In his *Republic*, Plato displays the substance of ethical life in its ideal beauty⁴⁵ and truth; but he could only cope with the principle of self-subsistent particularity, which in his day had forced its way into Greek ethical life, by setting up in opposition to it his purely substantial state. He absolutely excluded it from his state, even in its very beginnings in private property (see Remark to Paragraph 46) and the family, as well as in its more mature form as the subjective will, the choice of a social position, and so forth. It is this defect which is responsible both for the misunderstanding of the deep and substantial truth of Plato's state and also for the usual view of it as a dream of abstract thinking, as what is often called a 'mere ideal'. The principle of the self-subsistent inherently infinite personality of the individual, the principle of subjective freedom, is denied its right in the purely substantial form which Plato gave to mind in its actuality. This principle dawned in an inward form in the Christian religion and in an external form (and therefore in one linked with abstract universality) in the Roman world. It is historically subsequent to the Greek world, and the philosophic reflection which descends to its depth is likewise subsequent to the substantial Idea of Greek philosophy. [A.]

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

187. Individuals in their capacity as burghers⁴⁶ in this state are private persons whose end is their own interest. This end is mediated through the universal which thus appears as a means to its realization. Consequently, individuals can attain their ends only in so far as they themselves determine their knowing, willing, and acting in a universal way and make themselves links in this chain of social connexions. In these circumstances, the interest of the Idea—an

interest of which these members of civil society are as such unconscious—lies in the process whereby their singularity and their natural condition are raised, as a result of the necessities imposed by nature as well as of arbitrary needs, to formal freedom and formal universality of knowing and willing—the process whereby their particularity is educated up to subjectivity.

The idea that the state of nature is one of innocence and that there is a simplicity of manners in uncivilized (*ungebildeter*) peoples, implies treating education (*Bildung*) as something purely external, the ally of corruption. Similarly, the feeling that needs, their satisfaction, the pleasures and comforts of private life, and so forth, are absolute ends, implies treating education as a mere means to these ends. Both these views display lack of acquaintance with the nature of mind and the end of reason. Mind attains its actuality only by creating a dualism within itself, by submitting itself to physical needs and the chain of these external necessities, and so imposing on itself this barrier and this finitude, and finally by maturing (*bildet*) itself inwardly even when under this barrier until it overcomes it and attains its objective reality in the finite. The end of reason, therefore, is neither the manners of an unsophisticated state of nature, nor, as particularity develops, the pleasure for pleasure's sake which education procures. On the contrary, its end is to banish natural simplicity, whether the passivity which is the absence of the self, or the crude type of knowing and willing, i.e. immediacy and singularity, in which mind is absorbed. It aims in the first instance at securing for this, its external condition, the rationality of which it is capable, i.e. the form of universality or the Understanding (*Verständigkeit*). By this means alone does mind become at home with itself within this pure externality. There, then, mind's freedom is existent and mind becomes objective to itself in this element which is implicitly inimical to mind's appointed end, freedom; it has to do there only with what it has itself produced and stamped with its seal. It is in this way then that the form of universality comes explicitly into existence in thought, and this form is the only worthy element for the existence of the Idea. The final purpose of education, therefore, is liberation and the struggle for a higher liberation still; education is the absolute transition from an ethical substantiality which is immediate and natural to the one which is intellectual and so both infinitely subjective and lofty enough to have attained universality of form. In the individual subject, this liberation is the hard struggle against pure subjectivity of demeanour, against the immediacy of desire, against the empty subjectivity of feeling and the caprice of inclination. The disfavour showered on education is due in part to its being this hard struggle; but it is through this educational struggle that the subjective will itself

attains objectivity within, an objectivity in which alone it is for its part capable and worthy of being the actuality of the Idea.

Moreover, this form of universality—the Understanding, to which particularity has worked its way and developed itself, brings it about at the same time that particularity becomes individuality genuinely existent in its own eyes. And since it is from this particularity that the universal derives the content which fills it as well as its character as infinite self-determination, particularity itself is present in ethical life as infinitely independent free subjectivity. This is the position which reveals education as a moment immanent in the Absolute and which makes plain its infinite value. [A.]

188. Civil society contains three moments:

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

A. The System of Needs

189. Particularity is in the first instance characterized in general by its contrast with the universal principle of the will and thus is subjective need (see Paragraph 59).⁴⁷ This attains its objectivity, i.e. its satisfaction, by means of (α) external things, which at this stage are likewise the property and product of the needs and wills of others, and (β) work and effort, the middle term between the subjective and the objective. The aim here is the satisfaction of subjective particularity, but the universal asserts itself in the bearing which this satisfaction has on the needs of others and their free arbitrary wills. The show of rationality thus produced in this sphere of finitude is the Understanding, and this is the aspect which is of most importance in considering this sphere and which itself constitutes the reconciling element within it.

Political economy is the science which starts from this view of needs and labour but then has the task of explaining mass-relationships and mass-movements in their complexity and their qualitative and quantitative character. This is one of the sciences which have arisen out of the conditions of the modern world. Its development affords the interesting

spectacle (as in Smith, Say, and Ricardo⁴⁸) of thought working upon the endless mass of details which confront it at the outset and extracting therefrom the simple principles of the thing, the Understanding effective in the thing and directing it. It is to find reconciliation here to discover in the sphere of needs this show of rationality lying in the thing and effective there; but if we look at it from the opposite point of view, this is the field in which the Understanding with its subjective aims and moral fancies vents its discontent and moral frustration. [A.]

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

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

In [abstract] right, what we had before us was the person; in the sphere of morality, the subject; in the family, the family-member; in civil society as a whole, the burgher or *bourgeois*. Here at the standpoint of needs (compare Remark to Paragraph 123) what we have before us is the composite idea which we call *man*. Thus this is the first time, and indeed properly the only time, to speak of *man* in this sense.⁴⁹ [A.]

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

192. Needs and means, as things existent *realiter*, become something which has being for others by whose needs and work satisfaction for all alike is conditioned. When needs and means become abstract in quality (see Paragraph 191), abstraction is also a character of the reciprocal relation of individuals to one another.⁵⁰ This abstract character, universality, is the character of being recognized and is the moment which makes concrete, i.e. social, the isolated and abstract needs and their ways and means of satisfaction. [A.]

193. This social moment thus becomes a particular end-determinant for means in themselves and their acquisition, as well as

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

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

The idea has been advanced that in respect of his needs man lived in freedom in the so-called 'state of nature' when his needs were supposed to be confined to what are known as the simple necessities of nature, and when he required for their satisfaction only the means which the accidents of nature directly assured to him. This view takes no account of the moment of liberation intrinsic to work, on which see the following Paragraphs. And apart from this, it is false, because to be confined to mere physical needs as such and their direct satisfaction would simply be the condition in which the mental is plunged in the natural and so would be one of savagery and unfreedom, while freedom itself is to be found only in the reflection of mind into itself, in mind's distinction from nature, and in the reflex of mind in nature.

195. This liberation is abstract since the particularity of the ends remains their basic content. When social conditions tend to multiply and subdivide needs, means, and enjoyments indefinitely—a process which, like the distinction between natural and refined⁵¹ needs, has no qualitative limits—this is luxury. In this same process, however, dependence and want increase *ad infinitum*, and the material to meet these is permanently barred to the needy man because it consists of external objects with the special character of being property, the embodiment of the free will of others, and hence from his point of view its recalcitrance is absolute.⁵² [A.]

(b) The Kind of Work [typical of civil society]

196. The means of acquiring and preparing the particularized means appropriate to our similarly particularized needs is work.

Through work the raw material directly supplied by nature is specifically adapted to these numerous ends by all sorts of different processes. Now this formative change confers value on means and gives them their utility, and hence man in what he consumes is mainly concerned with the products of men. It is the products of human effort which man consumes. [A.]

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

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

(c) Capital [and class-divisions]⁵³

199. When men are thus dependent on one another and reciprocally related to one another in their work and the satisfaction of their needs, subjective self-seeking turns into a contribution to the satisfaction of the needs of everyone else. That is to say, by a dialectical advance,⁵⁴ subjective self-seeking turns into the mediation

of the particular through the universal, with the result that each man in earning, producing, and enjoying on his own account is *eo ipso* producing and earning for the enjoyment of everyone else. The compulsion which brings this about is rooted in the complex interdependence of each on all, and it now presents itself to each as the universal permanent capital (see Paragraph 170) which gives each the opportunity, by the exercise of his education and skill, to draw a share from it and so be assured of his livelihood, while what he thus earns by means of his work maintains and increases the general capital.

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

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

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

201. The infinitely complex, criss-cross, movements of reciprocal production and exchange, and the equally infinite multiplicity of means therein employed, become crystallized, owing to the universality inherent in their content, and distinguished into general groups. As a result, the entire complex is built up into

particular systems of needs, means, and types of work relative to these needs, modes of satisfaction and of theoretical and practical education, i.e. into systems, to one or other of which individuals are assigned—in other words, into class-divisions. [A.]

202. The classes are specifically determined in accordance with the concept as (a) the *substantial* or immediate [or agricultural] class; (b) the reflecting or *formal* [or business] class; and finally, (c) the *universal* class [the class of civil servants].⁵⁵

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

The real beginning and original foundation of states has been rightly ascribed to the introduction of agriculture along with marriage, because the principle of agriculture brings with it the formation of the land and consequently exclusively private property (compare Remark to Paragraph 170); the nomadic life of savages, who seek their livelihood from place to place, it brings back to the tranquillity of private rights and the assured satisfaction of their needs. Along with these changes, sexual love is restricted to marriage, and this bond in turn grows into an enduring league, inherently universal, while needs expand into care for a family, and personal possessions into family goods. Security, consolidation, lasting satisfaction of needs, and so forth—things which are the most obvious recommendations of marriage and agriculture—are nothing but forms of universality, modes in which rationality, the final end and aim, asserts itself in these spheres.

In this matter, nothing is of more interest than the ingenious and learned explanations which my distinguished friend, Herr Creuzer,⁵⁶ has given* of the agrarian festivals, images, and sanctuaries of the ancients. He shows that it was because the ancients themselves had

* Notably in the fourth volume of his *Mythologie und Symbolik*.

become conscious of the divine origin of agriculture and other institutions associated with it that they held them in such religious veneration.

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

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

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

205. (c) The universal class [the class of civil servants] has for its task the universal interests of the community. It must therefore be relieved from direct labour to supply its needs, either by having private means or by receiving an allowance from the state which claims its industry, with the result that private interest finds its satisfaction in its work for the universal.

206. It is in accordance with the concept that class-organization, as particularity become objective to itself, is split in this way into its general divisions. But the question of the particular class to which an individual is to belong is one on which natural capacity, birth, and other circumstances have their influence, though the essential and final determining factors are subjective opinion and the individual's arbitrary will, which win in this sphere their right, their merit, and their dignity. Hence what happens here by inner necessity occurs at the same time by the mediation of the arbitrary will, and to the conscious subject it has the shape of being the work of his own will.

In this respect too there is a conspicuous difference, in relation to the principle of particularity and the subject's arbitrary will, between the political life of the east and the west, and also between that of the ancient and the modern world. In the former, the division of the whole into classes came about objectively of itself, because it is inherently rational; but the principle of subjective particularity was at the same time denied its rights, in that, for example, the allotment of individuals to classes was left to the ruling class, as in Plato's *Republic*,* or to the accident of birth, as in the Indian caste-system. Thus subjective particularity was not incorporated into the organization of society as a whole; it was not reconciled in the whole, and therefore—since as an essential moment it emerges there in any event—it shows itself there as something hostile, as a corruption of the social order (see Remark to Paragraph 185). Either it overthrows society, as happened in the Greek states and in the Roman Republic; or else, should society preserve itself in being as a force or as a religious authority, for instance, it appears as inner corruption and complete degeneration, as was the case to some extent in Sparta and is now altogether the case in India.

But when subjective particularity is upheld by the objective order in conformity with it and is at the same time allowed its rights, then it becomes the animating principle of the entire civil society, of the development alike of mental activity, merit, and dignity. The recognition and the right that what is brought about by reason of necessity in civil society and the state shall at the same time be effected by the mediation of the arbitrary will is the more precise definition of what is primarily meant by freedom in common parlance (see Paragraph 121).

207. A man actualizes himself only in becoming something definite, i.e. something specifically particularized; this means restricting himself exclusively to one of the particular spheres of need. In this class-system, the ethical frame of mind therefore is rectitude and *esprit de corps*, i.e. the disposition to make oneself a member of one of the moments of civil society by one's own act, through one's energy, industry, and skill, to maintain oneself in this position, and to fend for oneself only through this process of mediating oneself with the universal, while in this way gaining recognition both in one's own eyes and in the eyes of others. Morality has its proper place in this sphere where the paramount thing is reflection on one's doings, and the quest of happiness and private wants, and where the contingency in satisfying these makes into a duty even a single and contingent act of assistance.

At first (i.e. especially in youth) a man chafes at the idea of resolving

* Book iii [415 a-d].

on a particular social position, and looks upon this as a restriction on his universal character and as a necessity imposed on him purely *ab extra*. This is because his thinking is still of that abstract kind which refuses to move beyond the universal and so never reaches the actual. It does not realize that if the concept is to be determinate, it must first of all advance into the distinction between the concept and its real existence and thereby into determinacy and particularity (see Paragraph 7). It is only thus that the concept can win actuality and ethical objectivity. [A.]

208. As the private particularity of knowing and willing, the principle of this system of needs contains absolute universality, the universality of freedom, only abstractly and therefore as the right of property. At this point, however, this right is no longer merely implicit but has attained its recognized actuality as the protection of property through the administration of justice.

B. The Administration of Justice

209. The relatedness arising from the reciprocal bearing on one another of needs and work to satisfy these is first of all reflected into itself as infinite personality, as abstract right.⁵⁷ But it is this very sphere of relatedness—a sphere of education—which gives abstract right the determinate existence of being something universally recognized, known, and willed, and having a validity and an objective actuality mediated by this known and willed character.

It is part of education, of thinking as the consciousness of the single in the form of universality, that the ego comes to be apprehended as a universal person in which all are identical. A man counts as a man in virtue of his manhood alone, not because he is a Jew, Catholic, Protestant, German, Italian, &c. This is an assertion which thinking ratifies and to be conscious of it is of infinite importance. It is defective only when it is crystallized, e.g. as a cosmopolitanism in opposition to the concrete life of the state. [A.]

210. The objective actuality of the right consists, first, in its existence for consciousness, in its being known in some way or other; secondly, in its possessing the power which the actual possesses, in its being valid, and so also in its becoming known as universally valid.

(a) Right as Law

211. The principle of rightness becomes the law (*Gesetz*) when, in its objective existence, it is posited (*gesetzt*), i.e. when thinking makes it determinate for consciousness and makes it known as

what is right and valid; and in acquiring this determinate character, the right becomes positive law in general.

To posit something as universal, i.e. to bring it before consciousness as universal, is, I need hardly say, to think (compare Remarks to Paragraphs 13 and 21). Thereby its content is reduced to its simplest form and so is given its final determinacy. In becoming law, what is right acquires for the first time not only the form proper to its universality, but also its true determinacy. Hence making a law is not to be represented as merely the expression of a rule of behaviour valid for everyone, though that is one moment in legislation; the more important moment, the inner essence of the matter, is knowledge of the content of the law in its determinate universality.

Since it is only animals which have their law as instinct, while it is man alone who has law as custom, even systems of customary law⁵⁸ contain the moment of being thoughts and being known. Their difference from positive law consists solely in this, that they are known only in a subjective and accidental way, with the result that in themselves they are less determinate and the universality of thought is less clear in them. (And apart from this, knowledge of a system of law either in general or in its details, is the accidental possession of a few.) The supposition that it is customary law, on the strength of its character as custom, which possesses the privilege of having become part of life is a delusion, since the valid laws of a nation do not cease to be its customs by being written and codified—and besides, it is as a rule precisely those versed in the dearest of topics and the dearest of thoughts who talk nowadays of 'life' and of 'becoming part of life'. When a nation begins to acquire even a little culture, its customary law must soon come to be collected and put together. Such a collection is a legal code, but one which, as a mere collection, is markedly formless, indeterminate, and fragmentary. The main difference between it and a code properly so-called is that in the latter the principles of jurisprudence in their universality, and so in their determinacy, have been apprehended in terms of thought and expressed. English national law or municipal law⁵⁹ is contained, as is well known, in statutes (written laws) and in so-called 'unwritten' laws. This unwritten law, however, is as good as written, and knowledge of it may, and indeed must, be acquired simply by reading the numerous quartos which it fills. The monstrous confusion, however, which prevails both in English law and its administration is graphically portrayed by those acquainted with the matter.⁶⁰ In particular, they comment on the fact that, since this unwritten law is contained in court verdicts and judgements, the judges are continually legislators. The authority of precedent is binding on them, since their predecessors have done nothing but give expression to the unwritten law; and yet they are just as much exempt from its authority, because they are themselves

repositories of the unwritten law and so have the right to criticize previous judgements and pronounce whether they accorded with the unwritten law or not.

A similar confusion might have arisen in the legal system of the later Roman Empire owing to the different but authoritative judgements of all the famous jurists. An Emperor⁶¹ met the situation, however, by a sensible expedient when, by what was called the Law of Citations, he set up a kind of College of the jurists who were longest deceased. There was a President, and the majority vote was accepted.*

No greater insult⁶² could be offered to a civilized people or to its lawyers than to deny them ability to codify their law; for such ability cannot be that of constructing a legal system with a novel content, but only that of apprehending, i.e. grasping in thought, the content of existing laws in its determinate universality and then applying them to particular cases. [A.]

212. It is only because of this identity between its implicit and its posited character that positive law has obligatory force in virtue of its rightness. In being posited in positive law, the right acquires determinate existence. Into such existence there may enter the contingency of self-will and other particular circumstances and hence there may be a discrepancy between the content of the law and the principle of rightness.

In positive law, therefore, it is the legal which is the source of our knowledge of what is right, or, more exactly, of our legal rights (*Rechts*). Thus the science of positive law is to that extent an historical science with authority as its guiding principle. Anything over and above this historical study is matter for the Understanding and concerns the collection of laws, their classification on external principles, deductions from them, their application to fresh details, &c. When the Understanding meddles with the nature of the thing itself, its theories, e.g. of criminal law, show what its deductive argumentation can concoct.

The science of positive law has not only the right, but even the inescapable duty, to study given laws, to deduce from its positive data their progress in history, their applications and subdivisions, down to the last detail, and to exhibit their implications. On the other hand, if, after all these deductions have been proved, the further question about the rationality of a specific law is still raised, the question may seem perverse to those who are busied with these pursuits, but their astonishment at it should at least stop short of dismay.

With this Remark, compare what was said in the Remark to Paragraph 3 about 'understanding' the law.

* Hugo: *Lehrbuch der Geschichte des römischen Rechts*, § 354 [§ 385 in the 7th edn.].

213. Right becomes determinate in the first place when it has the form of being posited as positive law; it also becomes determinate in content by being applied both to the material of civil society (i.e. to the endlessly growing complexity and subdivision of social ties and the different species of property and contract within the society) and also to ethical ties based on the heart, on love and trust, though only in so far as these involve abstract right as one of their aspects (see Paragraph 159). Morality and moral commands concern the will on its most private, subjective, and particular side, and so cannot be a matter for positive legislation. Further material for the determinate content of law is provided by the rights and duties which have their source in the administration of justice itself, in the state, and so forth. [A.]

214. But apart from being applied to particular instances, right by being embodied in positive law becomes applicable to the single case. Hence it enters the sphere where quantity, not the concept, is the principle of determination. This is the sphere of the quantitative as such, of the quantitative as that which determines the relative value in exchange of *qualia*. In this sphere, the concept merely lays down a general limit, within which vacillation is still allowed. This vacillation must be terminated, however, in the interest of getting something done, and for this reason there is a place within that limit for contingent and arbitrary decisions.

The purely positive side of law lies chiefly in this focusing of the universal not merely on a particular instance, but on an isolated case, i.e. in its *direct* application. Reason cannot determine, nor can the concept provide any principle whose application could decide whether justice requires for an offence (i) a corporal punishment of forty lashes or thirty-nine, or (ii) a fine of five dollars or four dollars ninety-three, four, &c., cents, or (iii) imprisonment of a year or three hundred and sixty-four, three, &c., days, or a year and one, two, or three days. And yet injustice is done at once if there is one lash too many, or one dollar or one cent, one week in prison or one day, too many or too few.

Reason itself requires us to recognize that contingency, contradiction, and show have a sphere and a right of their own, restricted though it be, and it is irrational to strive to resolve and rectify contradictions within that sphere. Here the only interest present is that something be actually done, that the matter be settled and decided somehow, no matter how (within a certain limit). This decision pertains to abstract subjectivity, to formal self-certainty, which may decide either by simply holding to its power (within that limit) of settling the matter by merely terminating deliberation and thereby dismissing it out of hand, or else by adopting

some reason for decision such as keeping to round numbers or always adopting, say thirty-nine.⁶³

It is true that the law does not settle these ultimate decisions required by actual life; it leaves them instead to the judge's discretion, merely limiting him by a maximum and minimum. But this does not affect the point at issue, because the maximum and minimum are themselves in every instance only round numbers once more. To fix them, therefore, does not exempt the judge from making a finite, purely positive, decision, since on the contrary such a decision is still left to him by the necessities of the case. [A.]

(b) Law determinately existent

215. If laws are to have a binding force, it follows that, in view of the right of self-consciousness (see Paragraph 132 and the Remark thereto) they must be made universally known.

To hang the laws so high that no citizen could read them (as Dionysius⁶⁴ the Tyrant did) is injustice of one and the same kind as to bury them in row upon row of learned tomes, collections of dissenting judgements and opinions, records of customs, &c., and in a dead language too, so that knowledge of the law of the land is accessible only to those who have made it their professional study. Rulers who have given a national law to their peoples in the form of a well-arranged and clear-cut legal code—or even a mere formless collection of laws, like Justinian's⁶⁵—have been the greatest benefactors of their peoples and have received thanks and praise for their beneficence. But the truth is that their work was at the same time a great act of justice. [A.]

216. For a public legal code, simple general laws are required, and yet the nature of the *finite* material to which law is applied leads to the further determining of general laws *ad infinitum*. On the one hand, the law ought to be a comprehensive whole, closed and complete; and yet, on the other hand, the need for further determinations is continual. But since this antinomy arises only when universal principles, which remain fixed and unchanged, are applied to particular types of case, the right to a complete legal code remains unimpaired, like the right that these simple general principles should be capable of being laid down and understood apart and in distinction from their application to such particular types.

A fruitful source of complexity in legislation is the gradual intrusion of reason, of what is inherently and actually right, into primitive institutions which have something wrong at their roots and so are purely historical survivals. This occurred in Roman law, as was remarked

above (see Remark to Paragraph 180), in medieval feudal law, &c. It is essential to notice, however, that the very nature of the finite material to which law is applied necessarily entails an infinite progress in the application to it of principles universal in themselves and inherently and actually rational.

It is misunderstanding which has given rise alike to the demand—a morbid craving of German scholars chiefly—that a legal code should be something absolutely complete, incapable of any fresh determination in detail, and also to the argument that because a code is incapable of such completion, therefore we ought not to produce something 'incomplete', i.e. we ought not to produce a code at all. The misunderstanding rests in both cases on a misconception of the nature of a finite subject-matter like private law, whose so-called 'completeness' is a perennial approximation to completeness, on a misconception of the difference⁶⁶ between the universal of reason and the universal of the Understanding, and also on the application of the latter to the material of finitude and atomicity which goes on for ever.—*Le plus grand ennemi du Bien, c'est le Meilleur*⁶⁷ is the utterance of true common sense⁶⁸ against the common sense of idle argumentation and abstract reflection. [A.]

217. The principle of rightness passes over in civil society into law. My individual right, whose embodiment has hitherto been immediate and abstract, now similarly becomes embodied in the existent will and knowledge of everyone, in the sense that it becomes recognized. Hence property acquisitions and transfers must now be undertaken and concluded only in the form which that embodiment gives to them. In civil society, property rests on contract and on the formalities which make ownership capable of proof and valid in law.

Original, i.e. direct, titles and means of acquisition (see Paragraphs 54 ff.) are simply discarded in civil society and appear only as isolated accidents or as subordinated factors of property transactions. It is either feeling, refusing to move beyond the subjective, or reflection, clinging to its abstract essences, which casts formalities aside, while the dry-as-dust Understanding may for its part cling to formalities instead of the real thing and multiply them indefinitely.

Apart from this, however, the march of mental development is the long and hard struggle to free a content from its sensuous and immediate form, endow it with its appropriate form of thought, and thereby give it simple and adequate expression. It is because this is the case that when the development of law is just beginning, ceremonies and formalities are more circumstantial and count rather as the thing itself than as its symbol. Thus even in Roman law, a number of forms and especially phrases were retained from old-fashioned ceremonial usages, instead of

being replaced by intelligible forms and phrases adequately expressing them.⁶⁹ [A.]

218. Since property and personality have legal recognition and validity in civil society, wrongdoing now becomes an infringement, not merely of what is subjectively infinite, but of the universal thing which is existent with inherent stability and strength. Hence a new attitude arises: the action is seen as a danger to society and thereby the magnitude of the wrongdoing is increased.⁷⁰ On the other hand, however, the fact that society has become strong and sure of itself diminishes the external importance of the injury and so leads to a mitigation of its punishment.

The fact that an injury to one member of society is an injury to all others does not alter the conception of wrongdoing, but it does alter it in respect of its outward existence as an injury done, an injury which now affects the mind and consciousness of civil society as a whole, not merely the external embodiment of the person directly injured. In heroic times, as we see in the tragedy of the ancients,⁷¹ the citizens did not feel themselves injured by wrongs which members of the royal houses did to one another.

Implicitly, crime is an infinite⁷² injury; but as an existent fact it must be measured in quantity and quality (see Paragraph 96), and since its field of existence here has the essential character of affecting an idea and consciousness of the validity of the laws, its danger to civil society is a determinant of the magnitude of a crime, or even *one* of its qualitative characteristics.

Now this quality or magnitude varies with the state of civil society; and this is the justification for sometimes attaching the penalty of death to a theft of a few pence or a turnip, and at other times a light penalty to a theft of a hundred or more times that amount.⁷³ If we consider its danger to society, this seems at first sight to aggravate the crime; but in fact it is just this which has been the prime cause of the mitigation of its punishment. A penal code, then, is primarily the child of its age and the state of civil society at the time. [A.]

(c) The Court of Justice

219. By taking the form of law, right steps into a determinate mode of being. It is then something on its own account, and in contrast with particular willing and opining of the right, it is self-subsistent and has to vindicate itself as something universal. This is achieved by recognizing it and making it actual in a particular case without the subjective feeling of private interest; and this is the business of a public authority—the court of justice.

The historical origin of the judge and his court may have had the form of a patriarch's gift to his people or of force or free choice; but this makes no difference to the concept of the thing. To regard the introduction of a legal system as no more than an optional act of grace or favour on the part of monarchs and governments (as Herr von Haller⁷⁴ does in his *Restauration der Staatswissenschaft*) is a piece of the mere thoughtlessness which has no inkling of the point at issue in a discussion of law and the state. The point is that legal and political institutions are rational in principle and therefore absolutely necessary, and the question of the form in which they arose or were introduced is entirely irrelevant to a consideration of their rational basis.

At the other extreme from Herr von Haller's point of view is the barbarous notion that the administration of justice is now, as it was in the days when might was right, an improper exercise of force, a suppression of freedom, and a despotism. The administration of justice must be regarded as the fulfilment of a duty by the public authority, no less than as the exercise of a right; and so far as it is a right, it does not depend upon an optional delegation to one authority by the individual members of society.

220. When the right against crime has the form of revenge (see Paragraph 102), it is only right implicit, not right in the form of right, i.e. no *act* of revenge is justified. Instead of the injured party, the injured *universal* now comes on the scene, and this has its proper actuality in the court of law. It takes over the pursuit and the avenging of crime, and this pursuit consequently ceases to be the subjective and contingent retribution of revenge and is transformed into the genuine reconciliation of right with itself, i.e. into punishment. Objectively, this is the reconciliation of the law with itself; by the annulment of the crime, the law is restored and its authority is thereby actualized. Subjectively, it is the reconciliation of the criminal with himself, i.e. with the law known by him as his own and as valid for him and his protection; when this law is executed upon him, he himself finds in this process the satisfaction of justice and nothing save his own act.

221. A member of civil society has the right *in judicio stare*⁷⁵ and, correspondingly, the duty of acknowledging the jurisdiction of the court and accepting its decision as final when his own rights are in dispute. [A.]

222. In court the specific character which rightness acquires is that it must be demonstrable. When parties go to law, they are put in the position of having to make good their evidence and their

claims and to make the judge acquainted with the facts. These steps in a legal process are themselves rights, and their course must therefore be fixed by law. They also constitute an essential part of jurisprudence. [A.]

223. These steps in a legal process are subdivided continually within no fixed limits into more and more actions, each being distinct in itself and a right. Hence a legal process, in itself in any case a means, now begins to be something external to its end and contrasted with it. This long course of formalities is a right of the parties at law and they have the right to traverse it from beginning to end. Still, it may be turned into an evil, and even an instrument of wrong, and for this reason it is by law made the duty of the parties to submit themselves to the simple process of arbitration (before a tribunal of arbitrators)⁷⁶ and to the attempt to reconcile their differences out of court, in order that they—and right itself, as the substance of the thing and so the thing really at issue—may be protected against legal processes and their misuse.

Equity involves a departure from formal rights owing to moral or other considerations and is concerned primarily with the content of the lawsuit. A court of equity, however, comes to mean a court which decides in a single case without insisting on the formalities of a legal process or, in particular, on the objective evidence which the letter of the law may require. Further, it decides on the merits of the single case as a unique one, not with a view to disposing of it in such a way as to create a binding legal precedent for the future.

224. Amongst the rights of the subjective consciousness are not only the publication of the laws (see Paragraph 215) but also the possibility of ascertaining the actualization of the law in a particular case (the course of the proceedings, the legal argument, &c.)—i.e. the publicity of judicial proceedings. The reason for this is that a trial is implicitly an event of universal validity, and although the particular content of the action affects the interests of the parties alone, its universal content, i.e. the right at issue and the judgement thereon, affects the interests of everybody.

If the members of the bench deliberate amongst themselves about the judgement which they are to deliver, such deliberations express opinions and views still personal and so naturally are not public. [A.]

225. By the judgement of the court, the law is applied to a single case, and the work of judgement has two distinct aspects: first, ascertainment of the nature of the case as a unique, single,

occurrence (e.g. whether a contract, &c., &c., has been made, whether a trespass has been committed, and if so by whom) and, in criminal cases, reflection to determine the essential, criminal, character of the deed (see Remark to Paragraph 119); secondly, the subsumption of the case under the law that right must be restored. Punishment in criminal cases is a conception falling under this law. Decisions on these two different aspects are given by different functionaries.⁷⁷

In the Roman judicial system, this distinction of functions appeared in that the Praetor pronounced judgement on the assumption that the facts were so and so, and then appointed a special *judex* to inquire into the facts.⁷⁸

In English law, it is left to the insight or option of the prosecutor to determine the precise character of a criminal act (e.g. whether it is murder or manslaughter) and the court is powerless to alter the indictment if it finds the prosecutor's choice wrong.⁷⁹

226. First, the conduct of the entire process of inquiry, secondly, the detailed stages of the action between the parties (these stages themselves being rights—see Paragraph 222), and then also the second of the aspects of the work of judgement mentioned in the previous Paragraph, are all a task which properly belongs to the judge at law. He is the organ of the law, and the case must be prepared for him in such a way as to make possible its subsumption under some principle; that is to say, it must be stripped of its apparent, empirical, character and exalted into a recognized fact of a general type.

227. The first aspect of the work of judgement, i.e. the knowledge of the facts of the case as a unique, single, occurrence, and the description of its general character, involves in itself no pronouncement on points of law. This is knowledge attainable by any educated man. In settling the character of an action, the subjective moment, i.e. the agent's insight and intention (see the Second Part⁸⁰), is the essential thing; and apart from this, the proof depends not on objects of reason or abstractions of the Understanding, but only on single details and circumstances, objects of sensuous intuition and subjective certainty, and therefore does not contain in itself any absolute, objective, probative factor. It follows that judgement on the facts lies in the last resort with subjective conviction and conscience (*animi sententia*⁸¹), while the proof, resting as it does on the statements and affidavits of others, receives its final though purely subjective verification from the oath.

In this matter it is of the first importance to fix our eyes on the type of proof here in question and to distinguish it from knowledge and proof of another sort. To establish by proof a rational category, like the concept of right itself, means to apprehend its necessity, and so demands a method other than that requisite for the proof of a geometrical theorem. Further, in this latter case, the figure is determined by the Understanding and made abstract in advance according to a rule. But in the case of something empirical in content, like a fact, the material of knowledge is a given sensuous intuition and subjective sense-certainty, and statements and affidavits about such material. It is then a question of drawing conclusions and putting two and two together out of depositions of that kind, attestations and other details, &c. The objective truth which emerges from material of this kind and the method appropriate to it leads, when attempts are made to determine it rigidly and objectively, to half-proofs and then, by further sincere deductions from these—deductions which at the same time involve formal illogicality—to extraordinary punishments.⁸² But such objective truth means something quite different from the truth of a rational category or a proposition whose content the Understanding has determined for itself abstractly in advance. To show that, since the strictly legal character of a court covers competence to ascertain this sort of truth about empirical events, it thereby properly qualifies a court for this task and so gives it an inherent exclusive right to perform it and lays on it the necessity of performing it—that is the best approach to settling the question of how far decisions on points of fact, as well as on points of law, should be ascribed to courts as strictly juristic bodies. [A.]

228. When judgement is pronounced—so far as the function of judgement is the subsumption under the law of the case whose nature has been settled—the right due to the parties on the score of their self-consciousness is preserved in relation to the *law* because the law is known and so is the law of the parties themselves, and in relation to the *subsumption*, because the trial is public. But when a verdict is given on the particular, subjective, and external facts of the case (knowledge of which falls under the first of the aspects described in Paragraph 225), this right is satisfied by the confidence which the parties feel in the subjectivity of those who give the verdict. This confidence is based primarily on the similarity between them and the parties in respect of their particularity, i.e. their social position, &c.

The right of self-consciousness, the moment of subjective freedom, may be regarded as the fundamental thing to keep before us in considering the necessity for publicity in legal proceedings and for the so-called jury-courts, and this in the last resort is the essence of whatever may be

advanced in favour of these institutions on the score of their utility. Other points of view and reasoning about their several advantages and disadvantages may give rise to an argumentative exchange, but reasoning of this kind, like all deductive reasoning, is either secondary and inconclusive, or else drawn from other and perhaps higher spheres than that of advantage. It may be the case that if the administration of justice were entirely in the hands of professional lawyers, and there were no lay institutions like juries, it would in theory be managed just as well, if not better. It may be so, but even if this possibility rises by general consent to probability, or even certainty, it still does not matter, for on the other side there is always the right of self-consciousness, insisting on its claims and dissatisfied if laymen play no part.

Owing to the character of the entire body of the laws, knowledge both of what is right and also of the course of legal proceedings may become, together with the capacity to prosecute an action at law, the property of a class which makes itself an exclusive clique by the use of a terminology like a foreign tongue to those whose rights are at issue. If this happens, the members of civil society, who depend for their livelihood on their industry, on their own knowledge and will, are kept strangers to the law, not only to those parts of it affecting their most personal and intimate affairs, but also to its substantive and rational basis, the right itself, and the result is that they become the wards, or even in a sense the bondsmen, of the legal profession. They may indeed have the right to appear in court in person and to 'stand' there (*in judicio stare*), but their bodily presence is a trifle if their minds are not to be there also, if they are not to follow the proceedings with their own knowledge, and if the justice they receive remains in their eyes a doom pronounced *ab extra*.

229. In civil society, the Idea is lost in particularity and has fallen asunder with the separation of inward and outward. In the administration of justice, however, civil society returns to its concept, to the unity of the implicit universal with the subjective particular, although here the latter is only that present in single cases and the universality in question is that of *abstract* right. The actualization of this unity through its extension to the whole ambit of particularity is (i) the specific function of the Police, though the unification which it effects is only relative; (ii) it is the Corporation which actualizes the unity completely, though only in a whole which, while concrete, is restricted.⁸³ [A.]

C. The Police and the Corporation

230. In the system of needs, the livelihood and welfare of every single person is a possibility whose actual attainment is just as much

conditioned by his caprices and particular endowment as by the objective system of needs. Through the administration of justice, offences against property or personality are annulled. But the right actually present in the particular requires, first, that accidental hindrances to one aim or another be removed, and undisturbed safety of person and property be attained; and secondly, that the securing of every single person's livelihood and welfare be treated and actualized as a right, i.e. that particular welfare as such be so treated.

(a) Police [or the public authority]

231. Inasmuch as it is still the particular will which governs the choice of this or that end, the universal authority by which security is ensured remains in the first instance, (a) restricted to the sphere of contingencies, and (b) an external organization.

232. Crime is contingency as subjective willing of evil, and this is what the universal authority must prevent or bring to justice. But, crime apart, the subjective willing which is permissible in actions lawful *per se* and in the private use of property, also comes into external relation with other single persons, as well as with public institutions, other than law-courts, established for realizing a common end. This universal aspect makes private actions a matter of contingency which escapes the agent's control and which either does or may injure others and wrong them.

233. There is here only a possibility of injury; but the actual non-occurrence of injury is at this stage not just another contingency. The point is that the actions of individuals may always be wrongful, and this is the ultimate reason for police control and penal justice.

234. The relations between external existents fall into the infinite of the Understanding; there is, therefore, no inherent line of distinction between what is and what is not injurious, even where crime is concerned, or between what is and what is not suspicious, or between what is to be forbidden or subjected to supervision and what is to be exempt from prohibition, from surveillance and suspicion, from inquiry and the demand to render an account of itself. These details are determined by custom, the spirit of the rest of the constitution, contemporary conditions, the crisis of the hour, and so forth. [A.]

235. In the indefinite multiplication and interconnexion of day-to-day needs, (a) the acquisition and exchange of the means to their satisfaction—a satisfaction which everyone confidently expects to be possible of attainment without hindrance, and (b) the endeavours made and the transactions carried out in order to shorten the process of attainment as much as possible, give rise to factors which are a common interest, and when one man occupies himself with these his work is at the same time done for all. The situation is productive too of contrivances and organizations⁸⁴ which may be of use to the community as a whole. These universal activities and organizations of general utility call for the oversight and care of the public authority.

236. The differing interests of producers and consumers may come into collision with each other; and although a fair balance between them on the whole may be brought about automatically, still their adjustment also requires a control which stands above both and is consciously undertaken. The right to the exercise of such control in a single case (e.g. in the fixing of the prices of the commonest necessities of life) depends on the fact that, by being publicly exposed for sale,⁸⁵ goods in absolutely universal daily demand are offered not so much to an individual as such but rather to a universal purchaser, the public; and thus both the defence of the public's right not to be defrauded, and also the management of goods inspection, may lie, as a common concern, with a public authority. But public care and direction are most of all necessary in the case of the larger branches of industry, because these are dependent on conditions abroad and on combinations of distant circumstances which cannot be grasped as a whole by the individuals tied to these industries for their living.

At the other extreme to freedom of trade and commerce in civil society is public organization to provide for everything and determine everyone's labour—take for example in ancient times the labour on the pyramids and the other huge monuments in Egypt and Asia which were constructed for public ends, and the worker's task was not mediated through his private choice and particular interest. This interest invokes freedom of trade and commerce against control from above; but the more blindly it sinks into self-seeking aims, the more it requires such control to bring it back to the universal. Control is also necessary to diminish the danger of upheavals arising from clashing interests and to abbreviate the period in which their tension should be

eased through the working of a necessity of which they themselves know nothing. [A.]

237. Now while the possibility of sharing in the general wealth is open to individuals and is assured to them by the public authority, still it is subject to contingencies on the subjective side (quite apart from the fact that this assurance must remain incomplete), and the more it presupposes skill, health, capital, and so forth as its conditions, the more is it so subject.

238. Originally the family is the substantive whole whose function it is to provide for the individual on his particular side by giving him either the means and the skill necessary to enable him to earn his living out of the resources of society, or else subsistence and maintenance in the event of his suffering a disability. But civil society tears the individual from his family ties, estranges the members of the family from one another, and recognizes them as self-subsistent persons. Further, for the paternal soil and the external inorganic resources of nature from which the individual formerly derived his livelihood, it substitutes its own soil and subjects the permanent existence of even the entire family to dependence on itself and to contingency. Thus the individual becomes a son of civil society which has as many claims upon him as he has rights against it. [A.]

239. In its character as a universal family, civil society has the right and duty of superintending and influencing education, inasmuch as education bears upon the child's capacity to become a member of society. Society's right here is paramount over the arbitrary and contingent preferences of parents, particularly in cases where education is to be completed not by the parents but by others. To the same end, society must provide public educational facilities so far as is practicable. [A.]

240. Similarly, society has the right and duty of acting as trustee to those whose extravagance destroys the security of their own subsistence or their families'. It must substitute for extravagance the pursuit of the ends of society and the individuals concerned. [A.]

241. Not only caprice, however, but also contingencies, physical conditions, and factors grounded in external circumstances (see Paragraph 200) may reduce men to poverty. The poor still have the needs common to civil society, and yet since society has

withdrawn from them the natural means of acquisition (see Paragraph 217) and broken the bond of the family—in the wider sense of the clan (see Paragraph 181)—their poverty leaves them more or less deprived of all the advantages of society, of the opportunity of acquiring skill or education of any kind, as well as of the administration of justice, the public health services, and often even of the consolations of religion, and so forth. The public authority takes the place of the family where the poor are concerned in respect not only of their immediate want but also of laziness of disposition, malignity, and the other vices which arise out of their plight and their sense of wrong.

242. Poverty and, in general, the distress of every kind to which every individual is exposed from the start in the cycle of his natural life has a subjective side which demands similarly subjective aid, arising both from the special circumstances of a particular case and also from love and sympathy. This is the place where morality finds plenty to do despite all public organization. Subjective aid, however, both in itself and in its operation, is dependent on contingency and consequently society struggles to make it less necessary, by discovering the general causes of penury and general means of its relief, and by organizing relief accordingly.

Casual almsgiving and casual endowments, e.g. for the burning of lamps before holy images, &c., are supplemented by public almshouses, hospitals, street-lighting,⁸⁶ and so forth. There is still quite enough left over and above these things for charity to do on its own account. A false view is implied both when charity insists on having this poor relief reserved solely to private sympathy and the accidental occurrence of knowledge and a charitable disposition, and also when it feels injured or mortified by universal regulations and ordinances which are *obligatory*. Public social conditions are on the contrary to be regarded as all the more perfect the less (in comparison with what is arranged publicly) is left for an individual to do by himself as his private inclination directs.

243. When civil society is in a state of unimpeded activity, it is engaged in expanding internally⁸⁷ in population and industry. The amassing of wealth is intensified by generalizing (a) the linkage of men by their needs, and (b) the methods of preparing and distributing the means to satisfy these needs, because it is from this double process of generalization that the largest profits are derived. That is one side of the picture. The other side is the subdivision and restriction of particular jobs. This results in the dependence

and distress of the class tied to work of that sort, and these again entail inability to feel and enjoy the broader freedoms and especially the intellectual benefits of civil society.

244. When the standard of living of a large mass of people falls below a certain subsistence level—a level regulated automatically as the one necessary for a member of the society—and when there is a consequent loss of the sense of right and wrong, of honesty and the self-respect which makes a man insist on maintaining himself by his own work and effort, the result is the creation of a rabble⁸⁸ of paupers. At the same time this brings with it, at the other end of the social scale, conditions which greatly facilitate the concentration of disproportionate wealth in a few hands. [A.]

245. When the masses begin to decline into poverty, (a) the burden of maintaining them at their ordinary standard of living might be directly laid on the wealthier classes, or they might receive the means of livelihood directly from other public sources of wealth (e.g. from the endowments of rich hospitals, monasteries, and other foundations). In either case, however, the needy would receive subsistence directly, not by means of their work, and this would violate the principle of civil society and the feeling of individual independence and self-respect in its individual members. (b) As an alternative, they might be given subsistence indirectly through being given work, i.e. the opportunity to work. In this event the volume of production would be increased, but the evil consists precisely in an excess of production and in the lack of a proportionate number of consumers who are themselves also producers, and thus it is simply intensified by both of the methods (a) and (b) by which it is sought to alleviate it. It hence becomes apparent that despite an excess of wealth civil society is not rich enough, i.e. its own resources are insufficient to check excessive poverty and the creation of a penurious rabble.

In the example of England we may study these phenomena on a large scale and also in particular the results of poor-rates, immense foundations, unlimited private beneficence, and above all the abolition of the Guild Corporations. In Britain, particularly in Scotland, the most direct measure against poverty and especially against the loss of shame and self-respect—the subjective bases of society—as well as against laziness and extravagance, &c., the begetters of the rabble, has turned out to be to leave the poor to their fate and instruct them to beg in the streets.⁸⁹

246. This inner dialectic of civil society thus drives it—or at any rate drives a specific civil society—to push beyond its own limits and seek markets, and so its necessary means of subsistence, in other lands which are either deficient in the goods it has over-produced, or else generally backward in industry, &c.

247. The principle of family life is dependence on the soil, on land, *terra firma*. Similarly, the natural element for industry, animating its outward movement, is the sea. Since the passion for gain involves risk, industry though bent on gain yet lifts itself above it; instead of remaining rooted to the soil and the limited circle of civil life with its pleasures and desires, it embraces the element of flux, danger, and destruction. Further, the sea is the greatest means of communication,⁹⁰ and trade by sea creates commercial connexions between distant countries and so relations involving contractual rights. At the same time, commerce of this kind is the most potent instrument of culture, and through it trade acquires its significance in the history of the world.

Rivers are not natural boundaries of separation, which is what they have been accounted to be in modern times. On the contrary, it is truer to say that they, and the sea likewise, link men together. Horace is wrong when he says:

*deus abscondit
prudens Oceano dissociabili
 terras.**

The proof of this lies not merely in the fact that the basins of rivers are inhabited by a single clan or tribe, but also, for example, in the ancient bonds between Greece, Ionia, and Magna Graecia, between Brittany and Britain, between Denmark and Norway, Sweden, Finland, Livonia, &c., bonds, further, which are especially striking in contrast with the comparatively slight intercourse between the inhabitants of the littoral and those of the hinterland. To realize what an instrument of culture lies in the link with the sea, consider countries where industry flourishes and contrast their relation to the sea with that of countries which have eschewed sea-faring and which, like Egypt and India, have become stagnant and sunk in the most frightful and scandalous superstition. Notice also how all great progressive peoples press onward to the sea.

248. This far-flung connecting link affords the means for the colonizing activity—sporadic or systematic—to which the mature civil society is driven and by which it supplies to a part of its

* *Odes*, I. iii [ll. 21–3, 'God of set purpose has sundered the lands by the estranging sea'].

population a return to life on the family basis in a new land and so also supplies itself with a new demand and field for its industry. [A.]

249. While the public authority must also undertake the higher directive function of providing for the interests which lead beyond the borders of its society (see Paragraph 246), its primary purpose is to actualize and maintain the universal contained within the particularity of civil society, and its control takes the form of an external system and organization for the protection and security of particular ends and interests *en masse*, inasmuch as these interests subsist only in this universal. This universal is immanent in the interests of particularity itself and, in accordance with the Idea, particularity makes it the end and object of its own willing and activity. In this way ethical principles circle back and appear in civil society as a factor immanent in it; this constitutes the specific character of the Corporation.

(b) The Corporation

250. In virtue of the substantiality of its natural and family life, the agricultural class has directly within itself the concrete universal in which it lives. The class of civil servants is universal in character and so has the universal explicitly as its ground and as the aim of its activity. The class between them, the business class, is essentially concentrated on the particular, and hence it is to it that Corporations are specially appropriate.

251. The labour organization of civil society is split, in accordance with the nature of its particulars, into different branches. The implicit likeness of such particulars to one another becomes really existent in an association, as something common to its members.⁹¹ Hence a selfish purpose, directed towards its particular self-interest, apprehends and evinces itself at the same time as universal; and a member of civil society is in virtue of his own particular skill a member of a Corporation, whose universal purpose is thus wholly concrete⁹² and no wider in scope than the purpose involved in business, its proper task and interest.

252. In accordance with this definition of its functions, a Corporation has the right, under the surveillance of the public authority, (a) to look after its own interests within its own sphere, (b) to co-opt members, qualified objectively by the requisite skill and rectitude,

to a number fixed by the general structure of society, (c) to protect its members against particular contingencies, (d) to provide the education requisite to fit others to become members. In short, its right is to come on the scene like a second family for its members, while civil society can only be an indeterminate sort of family because it comprises everyone and so is farther removed from individuals and their special exigencies.

The Corporation member is to be distinguished from a day labourer or from a man who is prepared to undertake casual employment on a single occasion. The former who is, or will become, master of his craft, is a member of the association not for casual gain on single occasions but for the whole range, the universality, of his personal livelihood.

Privileges, in the sense of the rights of a branch of civil society organized into a Corporation, are distinct in meaning from privileges proper in the etymological sense.⁹³ The latter are casual exceptions to universal rules; the former, however, are only the crystallization, as regulations, of characteristics inherent in an essential branch of society itself owing to its nature as particular.

253. In the Corporation, the family has its stable basis in the sense that its livelihood is assured there, conditionally upon capability, i.e. it has a stable capital (see Paragraph 170). In addition, this nexus of capability and livelihood is a *recognized* fact, with the result that the Corporation member needs no external marks beyond his own membership as evidence of his skill and his regular income and subsistence, i.e. as evidence that he is a somebody.⁹⁴ It is also recognized that he belongs to a whole which is itself an organ of the entire society, and that he is actively concerned in promoting the comparatively disinterested end of this whole. Thus he commands the respect due to one in his social position.

The institution of Corporations corresponds, on account of its assurance of capital, to the introduction of agriculture and private property in another sphere (see Remark to Paragraph 203).

When complaints are made about the luxury of the business classes and their passion for extravagance—which have as their concomitant the creation of a rabble of paupers (see Paragraph 244)—we must not forget that besides its other causes (e.g. increasing mechanization of labour) this phenomenon has an ethical ground, as was indicated above.⁹⁵ Unless he is a member of an authorized Corporation (and it is only by being authorized that an association becomes a Corporation), an individual is without rank or dignity, his isolation reduces his business to mere self-seeking, and his livelihood and satisfaction become insecure. Consequently, he has to try to gain recognition for himself by giving

external proofs of success in his business, and to these proofs no limits can be set. He cannot live in the manner of his class, for no class really exists for him, since in civil society it is only something common to particular persons which really exists, i.e. something legally constituted and recognized. Hence he cannot achieve for himself a way of life proper to his class and less idiosyncratic.

Within the Corporation the help which poverty receives loses its accidental character and the humiliation wrongfully associated with it. The wealthy perform their duties to their fellow associates and thus riches cease to inspire either pride or envy, pride in their owners, envy in others. In these conditions rectitude obtains its proper recognition and respect.

254. The so-called 'natural' right of exercising one's skill and thereby earning what there is to be earned is restricted within the Corporation only in so far as it is therein made rational instead of natural. That is to say, it becomes freed from personal opinion and contingency, saved from endangering either the individual workman or others, recognized, guaranteed, and at the same time elevated to conscious effort for a common end.

255. As the family was the first, so the Corporation is the second ethical root of the state, the one planted in civil society. The former contains the moments of subjective particularity and objective universality in a substantial unity. But these moments are sundered in civil society to begin with; on the one side there is the particularity of need and satisfaction, reflected into itself, and on the other side the universality of abstract rights. In the Corporation these moments are united in an inward fashion, so that in this union particular welfare is present as a right and is actualized.

The sanctity of marriage and the dignity of Corporation membership are the two fixed points⁹⁶ round which the unorganized atoms of civil society revolve. [A.]

256. The end of the Corporation is restricted and finite, while the public authority was an external organization involving a separation and a merely relative identity of controller and controlled. The end of the former and the externality and relative identity of the latter find their truth in the absolutely universal end and its absolute actuality. Hence the sphere of civil society passes over into the state.

The town is the seat of the civil life of business. There reflection arises, turns in upon itself, and pursues its atomizing task;⁹⁷ each man maintains himself in and through his relation to others who, like himself,

are persons possessed of rights. The country, on the other hand, is the seat of an ethical life resting on nature and the family. Town and country thus constitute the two moments, still ideal⁹⁸ moments, whose true ground is the state, although it is from them that the state springs.

The philosophic proof of the concept of the state is this development of ethical life from its immediate phase through civil society, the phase of division, to the state, which then reveals itself as the true ground of these phases. A proof in philosophic science can only be a development of this kind.

Since the state appears as a result in the advance of the philosophic concept through displaying itself as the true ground [of the earlier phases], that show of mediation is now cancelled and the state has become directly present before us. Actually, therefore, the state as such is not so much the result as the beginning. It is within the state that the family is first developed into civil society, and it is the Idea of the state itself which disrupts itself into these two moments. Through the development of civil society, the substance of ethical life acquires its infinite form, which contains in itself these two moments: (1) infinite self-consciousness, and (2) the form of universality involved in education, the form of thought whereby mind is objective and actual to itself as an organic totality in laws and institutions which are its will in terms of thought.

SUB-SECTION 3

THE STATE

257. The state is the actuality of the ethical Idea. It is ethical mind *qua* the substantial will manifest and revealed to itself, knowing and thinking itself, accomplishing what it knows and in so far as it knows it. The state exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity, while self-consciousness in virtue of its sentiment towards the state finds in the state, as its essence and the end and product of its activity, its substantive freedom.

The *Penates* are inward gods, gods of the underworld; the mind of a nation¹ (Athene for instance) is the divine, knowing and willing itself. Family piety is feeling, ethical behaviour directed by feeling; political virtue is the willing of the absolute end in terms of thought.

258. The state is absolutely rational inasmuch as it is the actuality of the substantial will which it possesses in the particular self-consciousness once that consciousness has been raised to con-

sciousness of its universality. This substantial unity is an absolute unmoved end in itself, in which freedom comes into its supreme right. On the other hand this final end has supreme right against the individual, whose supreme duty is to be a member of the state.

If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of the individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state's relation to the individual is quite different from this. Since the state is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality, and an ethical life. Unification pure and simple is the true content and aim of the individual, and the individual's destiny is the living of a universal life. His further particular satisfaction, activity, and mode of conduct have this substantive and universally valid life as their starting point and their result.

Rationality, taken generally and in the abstract, consists in the thorough-going unity of the universal and the single. Rationality, concrete in the state, consists (a) so far as its content is concerned, in the unity of objective freedom (i.e. freedom of the universal or substantial will) and subjective freedom (i.e. freedom of everyone in his knowing and in his volition of particular ends); and consequently, (b) so far as its form is concerned, in self-determining action on laws and principles which are thoughts and so universal. This Idea is the absolutely eternal and necessary being of mind.²

But if we ask what is or has been the historical origin of the state in general, still more if we ask about the origin of any particular state, of its rights and institutions, or again if we inquire whether the state originally arose out of patriarchal conditions or out of fear or trust, or out of Corporations, &c., or finally if we ask in what light the basis of the state's rights has been conceived and consciously established, whether this basis has been supposed to be positive divine right, or contract, custom, &c.—all these questions are no concern of the Idea of the state. We are here dealing exclusively with the philosophic science of the state, and from that point of view all these things are mere appearance and therefore matters for history. So far as the authority of any existing state has anything to do with reasons, these reasons are culled from the forms of the law authoritative within it.

The philosophical treatment of these topics is concerned only with their inward side, with the thought of their concept. The merit of Rousseau's³ contribution to the search for this concept is that, by adducing the will as the principle of the state, he is adducing a principle which has thought both for its form and its content, a principle indeed which is thinking itself, not a principle, like gregarious instinct, for

instance, or divine authority, which has thought as its form only. Unfortunately, however, as Fichte⁴ did later, he takes the will only in a determinate form as the individual will, and he regards the universal will not as the absolutely rational element in the will, but only as a 'general' will which proceeds out of this individual will as out of a conscious will. The result is that he reduces the union of individuals in the state to a contract and therefore to something based on their arbitrary wills, their opinion, and their capriciously given express consent; and abstract reasoning proceeds to draw the logical inferences which destroy the absolutely divine principle of the state, together with its majesty and absolute authority. For this reason, when these abstract conclusions came into power, they afforded for the first time in human history the prodigious spectacle of the overthrow of the constitution of a great actual state and its complete reconstruction *ab initio* on the basis of pure thought alone, after the destruction of all existing and given material. The will of its re-founders was to give it what they alleged was a purely rational basis, but it was only abstractions that were being used; the Idea was lacking; and the experiment ended in the maximum of frightfulness and terror.⁵

Confronted with the claims made for the individual will, we must remember the fundamental conception that the objective will is rationality implicit or in conception, whether it be recognized or not by individuals, whether their whims be deliberately for it or not. We must remember that its opposite, i.e. knowing and willing, or subjective freedom (the *only* thing contained in the principle of the individual will) comprises only one moment, and therefore a one-sided moment, of the Idea of the rational will, i.e. of the will which is rational solely because what it is implicitly, that it also is explicitly.

The opposite to thinking of the state as something to be known and apprehended as explicitly rational is taking external appearances—i.e. contingencies such as distress, need for protection, force, riches, &c.—not as moments in the state's historical development, but as its substance. Here again what constitutes the guiding thread of discovery is the individual in isolation—not, however, even so much as the *thought* of this individuality, but instead only empirical individuals, with attention focused on their accidental characteristics, their strength and weakness, riches and poverty, &c. This ingenious idea of ignoring the absolute infinity and rationality in the state and excluding thought from apprehension of its inward nature has assuredly never been put forward in such an unadulterated form as in Herr von Haller's *Restauration der Staatswissenschaft*.⁶ I say 'unadulterated', because in all other attempts to grasp the essence of the state, no matter on what one-sided or superficial principles, this very intention of comprehending the state rationally has brought with it thoughts, i.e. universal determinations. Herr von Haller, however, with his eyes open, has not merely renounced the

rational material of which the state consists, as well as the form of thought, but he has even gone on with passionate fervour to inveigh against the form and the material so set aside. Part of what Herr von Haller assures us is the 'wide-spread' effect of his principles, this *Restauration* undoubtedly owes to the fact that, in his exposition, he has deliberately dispensed with thought altogether, and has deliberately kept his whole book all of a piece with its lack of thought. For in this way he has eliminated the confusion and disorder which lessen the force of an exposition where the accidental is treated along with hints of the substantial, where the purely empirical and external are mixed with a reminiscence of the universal and rational, and where in the midst of wretched inanities the reader is now and again reminded of the loftier sphere of the infinite. For the same reason again his exposition is consistent. He takes as the essence of the state, not what is substantive but the sphere of accident, and consistency in dealing with a sphere of that kind amounts to the complete inconsistency of utter thoughtlessness which jogs along without looking behind, and is just as much at home now with the exact opposite of what it approved a moment ago.* [A.]

* I have described the book sufficiently to show that it is of an original kind. There might be something noble in the author's indignation by itself, since it was kindled by the false theories, mentioned above, emanating principally from Rousseau, and especially by the attempt to realize them in practice. But to save himself from these theories, Herr von Haller has gone to the other extreme by dispensing with thought altogether and consequently it cannot be said that there is anything of intrinsic value in his virulent hatred of all laws and legislation, of all expressly and legally determinate rights. The hatred of law, of right made determinate in law, is the shibboleth whereby fanaticism, flabby-mindedness, and the hypocrisy of good intentions are clearly and infallibly recognized for what they are, disguise themselves as they may.

Originality like Herr von Haller's is always a curious phenomenon, and for those of my readers who are not yet acquainted with his book I will quote a few specimen passages. This is how he lays down (vol. i, pp. 342 ff. [pp. 361 ff.]) his most important basic proposition: 'Just as, in the inorganic world, the greater dislodges the less and the mighty the weak . . . so in the animal kingdom, and then amongst human beings, the same law appears in nobler' (often, too, surely in ignobler?) 'forms', and [p. 375] 'this, therefore, is the eternal, unalterable, ordinance of God, that the mightier rules, must rule, and will always rule'. It is clear enough from this, let alone from what follows, in what sense 'might' is taken here. It is not the might of justice and ethics, but only the irrational power of brute force. Herr von Haller then goes on (ibid., pp. 365 ff. [pp. 380 ff.]) to support this doctrine on various grounds, amongst them that 'nature with amazing wisdom has so ordered it that the mere sense of personal superiority irresistibly ennoble the character and encourages the development of just those virtues which are most necessary for dealing with subordinates'. He asks with a great elaboration of undergraduate rhetoric [ibid.] 'whether it is the strong or the weak in the kingdom of science who more misuse their trust and their authority in order to achieve their petty selfish ends and the ruin of the credulous; whether to be a past master in legal learning is not to be a pettifogger, a *leguleius*; one who cheats the hopes of unsuspecting clients, who makes white black and black white, who misapplies the law and makes it a vehicle for wrongdoing, who

brings to beggary those who need his assistance and rends them as the hungry vulture rends the innocent lamb', &c., &c. Herr von Haller forgets here that the point of this rhetoric is to support his proposition that the rule of the mightier is an everlasting ordinance of God; so presumably it is by the same ordinance that the vulture rends the innocent lamb, and that hence the mighty are quite right to treat their unsuspecting clients as the weak and to make use of knowledge of the law to empty their pockets. It would be too much, however, to ask that two thoughts should be put together where there is really not a single one.

It goes without saying that Herr von Haller is an enemy of codes of law. In his view, the laws of the land, are on the one hand, in principle 'unnecessary, because they spring self-explanatory from the laws of nature'. If men had remained satisfied with 'self-explanatory' as the basis of their thinking, then they would have been spared the endless labour devoted, since ever there were states, to legislation and legal codes, and which is still devoted thereto and to the study of positive law. 'On the other hand, laws are not exactly promulgated for private individuals, but as instructions to pious judges, acquainting them with the will of the high court' [vol. ii, part i, chap. 32]. Apart from that, the provision of law-courts is (vol. i, p. 297 [pp. 309 ff.], vol. ii, part i, p. 254 [pp. 264-9] and all over the place) not a state duty, but a favour, help rendered by the authorities, and 'quite supererogatory'; it is not the most perfect method of guaranteeing men's rights; on the contrary, it is an insecure and uncertain method, 'the only one left to us by our modern lawyers. They have reft us of the other three methods, of just those which lead most swiftly and surely to the goal, those which, unlike law-courts, friendly nature has given to man for the safeguarding of his rightful freedom'. And these three methods are—what do you suppose?—(1) Personal acceptance and inculcation of the law of nature; (2) Resistance to wrong; (3) Flight, when there is no other remedy'. Lawyers are unfriendly indeed, it appears, in comparison with the friendliness of nature! 'But' (vol. i, p. 292 [p. 305]) 'the natural, divine, law, given to everyone by nature the all-bountiful, is: Honour everyone as thine equal' (on the author's principles this should read 'Honour not the man who is thine equal, but the one who is mightier'); 'hurt no man who hurts thee not; demand from him nothing but what he owes' (but what does he owe?); 'nay more, love thy neighbour and serve him when thou canst'. The 'implanting of this law' is to make a legislator and a constitution superfluous. It would be curious to see how Herr von Haller makes it intelligible why legislators and constitutions have appeared in the world despite this 'implanting'.

In vol. iii, pp. 362 [361] ff., the author comes to the 'so-called national liberties', by which he means the laws and constitutions of nation states. Every legally constituted right is in this wide sense of the word a 'liberty'. Of these laws he says, *inter alia*, that 'their content is usually very insignificant, although in books a high value may be placed on documentary liberties of that kind'. When we then realize that the author is speaking here of the national liberties of the German Estates, of the English people (e.g. Magna Carta [p. 367] 'which is little read, and on account of its archaic phraseology still less understood', the Bill of Rights, and so forth), of the people of Hungary, &c., we are surprised to find that these possessions, formerly so highly prized, are only insignificant; and no less surprised to learn that it is only in books that these nations place a value on laws whose co-operation has entered into every coat that is worn and every crust that is eaten, and still enters into every day and hour of the lives of everyone.

To carry quotation further, Herr von Haller speaks particularly ill (vol. i, pp. 185 ff. [pp. 192-3]) of the Prussian General Legal Code, because of the 'incredible' influence on it of the errors of false philosophy (though in this instance at any rate the fault cannot be ascribed to Kant's philosophy, a topic on which Herr von Haller is at his angriest), especially where it speaks of the state, the resources

259. The Idea of the state

- (a) has immediate actuality and is the individual state as a self-dependent organism—the *Constitution* or *Constitutional Law*;
- (b) passes over into the relation of one state to other states—*International Law*;
- (c) is the universal Idea as a genus and as an absolute power over individual states—the mind which gives itself its actuality in the process of *World-History*. [A.]

A. *Constitutional Law*

260. The state is the actuality of concrete freedom. But concrete freedom consists in this, that personal individuality and its particular interests not only achieve their complete development and gain explicit recognition for their right (as they do in the sphere of the family and civil society) but, for one thing, they also pass over of their own accord into the interest of the universal, and, for another thing, they know and will the universal; they even recognize it as their own substantive mind; they take it as their end and aim and are active in its pursuit. The result is that the universal does not prevail or achieve completion except along with particular interests and through the co-operation of particular knowing and

of the state, the end of the state, the head of the state, his duties, and those of civil servants, and so forth. Herr von Haller finds particularly mischievous [vol. i, pp. 198–9] 'the right of defraying the expenses of the state by levying taxes on the private wealth of individuals, on their businesses, on goods produced or consumed. Under those circumstances, neither the king himself (since the resources of the state belong to the state and are not the private property of the king), nor the Prussian citizens can call anything their own, neither their person nor their property; and all subjects are bondslaves to the law, since they may not withdraw themselves from the service of the state.'

In this welter of incredible crudity, what is perhaps most comical of all is the emotion with which Herr von Haller describes his unspeakable pleasure in his discoveries (vol. i, Preface [pp. xxv–xxvii])—'a joy such as only the friend of truth can feel when after honest search he has become confident that he has found as it were' (yes indeed! 'as it were' is right!) 'the voice of nature, the very word of God'. (The truth is that the word of God very clearly distinguishes its revelations from the voices of nature and unregenerate man.) 'The author could have sunk to the ground in open amazement, a stream of joyful tears burst from his eyes, and living religious feeling sprang up in him there and then.' Herr von Haller might have discovered by his 'religious feeling' that he should rather bewail his condition as the hardest chastisement of God. For the hardest thing which man can experience is to be so far excluded from thought and reason, from respect for the laws, and from knowing how infinitely important and divine it is that the duties of the state and the rights of the citizens, as well as the rights of the state and the duties of the citizens, should be defined by law—to be so far excluded from all this that absurdity can foist itself upon him as the word of God

willing; and individuals likewise do not live as private persons for their own ends alone, but in the very act of willing these they will the universal in the light of the universal, and their activity is consciously aimed at none but the universal end. The principle of modern states has prodigious strength and depth because it allows the principle of subjectivity to progress to its culmination in the extreme of self-subsistent personal particularity, and yet at the same time brings it back to the substantive unity and so maintains this unity in the principle of subjectivity itself. [A.]

261. In contrast with the spheres of private rights and private welfare (the family and civil society), the state is from one point of view an external necessity and their higher authority; its nature is such that their laws and interests are subordinate to it and dependent on it. On the other hand, however, it is the end immanent within them, and its strength lies in the unity of its own universal end and aim with the particular interest of individuals, in the fact that individuals have duties to the state in proportion as they have rights against it (see Paragraph 155).

In the Remark to Paragraph 3 above, reference was made to the fact that it was Montesquieu above all who, in his famous work *L'Esprit des Lois*, kept in sight and tried to work out in detail both the thought of the dependence of laws—in particular, laws concerning the rights of persons—on the specific character of the state, and also the philosophic notion of always treating the part in its relation to the whole.

Duty is primarily a relation to something which from my point of view is substantive, absolutely universal. A right, on the other hand, is simply the embodiment of this substance and thus is the particular aspect of it and enshrines my particular freedom. Hence at abstract levels, right and duty appear parcelled out on different sides or in different persons. In the state, as something ethical, as the inter-penetration of the substantive and the particular, my obligation to what is substantive is at the same time the embodiment of my particular freedom. This means that in the state duty and right are united in one and the same relation. But further, since none the less the distinct moments acquire in the state the shape and reality peculiar to each, and since therefore the distinction between right and duty enters here once again, it follows that while implicitly, i.e. in form, identical, they at the same time differ in content. In the spheres of personal rights and morality, the necessary bearing of right and duty on one another falls short of actualization; and hence there is at that point only an abstract similarity of content between them, i.e. in those abstract spheres, what is one man's right ought also to be another's, and what is one man's duty ought also to be another's. The

absolute identity of right and duty in the state is present in these spheres not as a genuine identity but only as a similarity of content, because in them this content is determined as quite general and is simply the fundamental principle of both right and duty, i.e. the principle that men, as persons, are free. Slaves, therefore, have no duties because they have no rights, and vice versa. (Religious duties are not here in point.⁸)

In the course of the inward development of the concrete Idea, however, its moments become distinguished and their specific determinacy becomes at the same time a difference of content. In the family, the content of a son's duties to his father differs from the content of his rights against him; the content of the rights of a member of civil society is not the same as the content of his duties to his prince and government.

This concept of the union of duty and right is a point of vital importance and in it the inner strength of states is contained.

Duty on its abstract side goes no farther than the persistent neglect and proscription of a man's particular interest, on the ground that it is the inessential, even the discreditable, moment in his life. Duty, taken concretely as Idea, reveals the moment of particularity as itself essential and so regards its satisfaction as indisputably necessary. In whatever way an individual may fulfil his duty, he must at the same time find his account therein and attain his personal interest and satisfaction. Out of his position in the state, a right must accrue to him whereby public affairs shall be his own particular affair. Particular interests should in fact not be set aside or completely suppressed; instead, they should be put in correspondence with the universal, and thereby both they and the universal are upheld. The *isolated* individual, so far as his duties are concerned, is in subjection; but as a member of *civil society* he finds in fulfilling his duties to it protection of his person and property, regard for his private welfare, the satisfaction of the depths of his being, the consciousness and feeling of himself as a member of the whole; and, in so far as he completely fulfils his duties by performing tasks and services for the *state*, he is upheld and preserved. Take duty abstractly, and the universal's interest would consist simply in the completion as duties of the tasks and services which it exacts. [A.]

262. The actual Idea is mind, which, sundering itself into the two ideal spheres of its concept, family and civil society, enters upon its finite phase, but it does so only in order to rise above its ideality and become explicit as infinite actual mind. It is therefore to these ideal spheres that the actual Idea assigns the material of this its finite actuality, viz. human beings as a mass, in such a way that the function assigned to any given individual is visibly mediated by circumstances, his caprice and his personal choice of his station in life (see Paragraph 185 and the Remark thereto). [A.]

263. In these spheres in which its moments, particularity and individuality, have their immediate and reflected reality, mind is present as their objective universality glimmering in them as the power of reason in necessity (see Paragraph 184), i.e. as the institutions considered above. [A.]

264. Mind is the nature of human beings *en masse* and their nature is therefore twofold: (i) at one extreme, explicit individuality of consciousness and will, and (ii) at the other extreme, universality which knows and wills what is substantive. Hence they attain their right in both these respects only in so far as both their private personality and its substantive basis are actualized. Now in the family and civil society they acquire their right in the first of these respects directly and in the second indirectly, in that (i) they find their substantive self-consciousness in social institutions which are the universal implicit in their particular interests, and (ii) the Corporation supplies them with an occupation and an activity directed on a universal end.

265. These institutions are the components of the constitution (i.e. of rationality developed and actualized) in the sphere of particularity. They are, therefore, the firm foundation not only of the state but also of the citizen's trust in it and sentiment towards it. They are the pillars of public freedom since in them particular freedom is realized and rational, and therefore there is *implicitly* present even in them the union of freedom and necessity. [A.]

266. But mind is objective and actual to itself not merely as this necessity and as a realm of appearance, but also as the ideality and the heart of this necessity. Only in this way is this substantive universality *aware* of itself as its own object and end, with the result that the necessity appears to itself in the shape of freedom as well.

267. This necessity in ideality is the inner self-development of the Idea. As the substance of the individual subject, it is his political sentiment [patriotism]; in distinction therefrom, as the substance of the objective world, it is the organism of the state, i.e. it is the strictly political state⁹ and its constitution. [A.]

268. The political sentiment, patriotism pure and simple, is assured conviction with truth as its basis—mere subjective assurance is not the outcome of truth but is only opinion—and a volition which has become habitual. In this sense it is simply a product of

the institutions subsisting in the state, since rationality is *actually* present in the state, while action in conformity with these institutions gives rationality its practical proof. This sentiment is, in general, trust (which may pass over into a greater or lesser degree of educated insight), or the consciousness that my interest, both substantive and particular, is contained and preserved in another's (i.e. in the state's) interest and end, i.e. in the other's relation to me as an individual. In this way, this very other is immediately not an other in my eyes, and in being conscious of this fact, I am free.

Patriotism is often understood to mean only a readiness for exceptional sacrifices and actions. Essentially, however, it is the sentiment which, in the relationships of our daily life and under ordinary conditions, habitually recognizes that the community is one's substantive groundwork and end. It is out of this consciousness, which during life's daily round stands the test in all circumstances, that there subsequently also arises the readiness for extraordinary exertions. But since men would often rather be magnanimous than law-abiding, they readily persuade themselves that they possess this exceptional patriotism in order to be sparing in the expression of a genuine patriotic sentiment or to excuse their lack of it. If again this genuine patriotism is looked upon as that which may begin of itself and arise from subjective ideas and thoughts, it is being confused with opinion, because so regarded patriotism is deprived of its true ground, objective reality. [A.]

269. The patriotic sentiment acquires its specifically determined content from the various members of the organism of the state. This organism is the development of the Idea to its differences and their objective actuality. Hence these different members are the various powers of the state with their functions and spheres of action, by means of which the universal continually engenders itself, and engenders itself in a necessary way because their specific character is fixed by the nature of the concept. Throughout this process the universal maintains its identity, since it is itself the presupposition of its own production. This organism is the constitution of the state. [A.]

270. (1) The abstract actuality or the substantiality of the state consists in the fact that its end is the universal interest as such and the conservation therein of particular interests since the universal interest is the substance of these. (2) But this substantiality of the state is also its *necessity*, since its substantiality is divided into the distinct spheres of its activity which correspond to the moments of its concept, and these spheres, owing to this substantiality, are

thus actually fixed determinate characteristics of the state, i.e. its *powers*. (3) But this very substantiality of the state is mind knowing and willing itself after passing through the forming process of education.¹⁰ The state, therefore, knows what it wills and knows it in its universality, i.e. as something thought. Hence it works and acts by reference to consciously adopted ends, known principles, and laws which are not merely implicit but are actually present to consciousness; and further, it acts with precise knowledge of existing conditions and circumstances, inasmuch as its actions have a bearing on these.

This is the place to allude to the relation of the state to religion, because it is often reiterated nowadays¹¹ that religion is the basis of the state, and because those who make this assertion even have the impertinence to suggest that, once it is made, political science has said its last word. No doctrine is more fitted to produce so much confusion, more fitted indeed to exalt confusion itself to be the constitution of the state and the proper form of knowledge.

In the first place, it may seem suspicious that religion is principally sought and recommended for times of public calamity, disorder, and oppression, and that people are referred to it as a solace in face of wrong or as a hope in compensation for loss. Then further, while the state is mind on earth (*der Geist der in der Welt steht*), religion may sometimes be looked upon as commanding downright indifference to earthly interests, the march of events, and current affairs, and so to turn men's attention to religion does not seem to be the way to exalt the interest and business of the state into the fundamental and serious aim of life. On the contrary, this suggestion seems to assert that politics is wholly a matter of caprice and indifference, either because this way of talking merely amounts to saying that it is only the aims of passion and lawless force, &c., which bear sway in the state, or because this recommendation of religion is supposed to be of self-sufficient validity, and religion is to claim to decide the law and administer it. While it might seem a bitter jest to stifle all animus against tyranny by asserting that the oppressed find their consolation in religion, it still must not be forgotten that religion may take a form leading to the harshest bondage in the fetters of superstition and man's degraded subservience to animals. (The Egyptians and the Hindus, for instance, revere animals as beings higher than themselves.) This phenomenon may at least make it evident that we ought not to speak of religion at all in general terms and that we really need a power to protect us from it in some of its forms and to espouse against them the rights of reason and self-consciousness.

The essence of the relation between religion and the state can be determined, however, only if we recall the concept of religion. The

content of religion is absolute truth, and consequently the religious is the most sublime of all dispositions.¹² As intuition, feeling, representative knowledge, its task is concentrated upon God as the unrestricted principle and cause on which everything hangs. It thus involves the demand that everything else shall be seen in this light and depend on it for corroboration, justification, and verification. It is in being thus related to religion that state, laws, and duties all alike acquire for consciousness their supreme confirmation and their supreme obligatoriness, because even the state, laws, and duties are in their actuality something determinate which passes over into a higher sphere and so into that on which it is grounded.* It is for this reason that in religion there lies the place where man is always assured of finding a consciousness of the unchangeable, of the highest freedom and satisfaction, even within all the mutability of the world and despite the frustration of his aims and the loss of his interests and possessions.† Now if religion is in this way the groundwork which includes the ethical realm in general, and the state's fundamental nature—the divine will—in particular, it is at the same time only a groundwork; and it is at this point that state and religion begin to diverge. The state is the divine will, in the sense that it is mind present on earth, unfolding itself to be the actual shape and organization of a world. Those who insist on stopping at the form of *religion*, as opposed to the state, are acting like those logicians who think they are right if they continually stop at the essence and refuse to advance beyond that abstraction to existence, or like those moralists (see Remark to Paragraph 140) who will only good in the abstract and leave it to caprice to decide what is good. Religion is a relation to the Absolute, a relation which takes the form of feeling, representative thinking, faith; and, brought within its all-embracing circumference, everything becomes only accidental and transient. Now if, in relation to the state, we cling to this form of experience and make it the authority for the state and its essential determinant, the state must become a prey to weakness, insecurity, and disorder, because it is an organism in which firmly fixed distinct powers, laws, and institutions have been developed. In contrast with the form of religion, a form which draws a veil over everything

* See *Enc.* [1st edn.], § 453 [3rd edn. § 553].

† Religion, knowledge, and science have as their principle a form peculiar to each and different from that of the state. They therefore enter the state partly as *means*—means to education and [a higher] mentality—partly in so far as they are in essence *ends* in themselves, for the reason that they are embodied in existent institutions. In both these respects the principles of the state have, in their application, a bearing on them. A comprehensive, concrete treatise on the state would also have to deal with those spheres of life as well as with art and such things as mere geographical matters, and to consider their place in the state and their bearing on it. In this book, however, it is the principle of the state in its own special sphere which is being fully expounded in accordance with the Idea, and it is only in passing that reference can be made to the principles of religion, &c., and to the application of the right of the state to them.

determinate, and so comes to be purely subjective, the objective and universal element in the state, i.e. the laws, acquires a negative instead of a stable and authoritative character, and the result is the production of maxims of conduct like the following: 'To the righteous man no law is given; only be pious, and for the rest, practise what thou wilt; yield to thine own caprice and passion, and if thereby others suffer wrong, commend them to the consolations and hopes of religion, or better still, call them irreligious and condemn them to perdition.' This negative attitude, however, may not confine itself to an inner disposition and attitude of mind; it may turn instead to the outside world and assert its authority there, and then there is an outbreak of the religious fanaticism which, like fanaticism in politics, discards all government and legal order as barriers cramping the inner life of the heart and incompatible with its infinity, and at the same time proscribes private property, marriage, the ties and work involved in civil society, &c., &c., as degrading to love and the freedom of feeling. But since even then decisions must somehow be made for everyday life and practice, the same doctrine which we had before (see Remark to Paragraph 140, where we dealt generally with the subjectivity of the will which knows itself to be absolute) turns up again here, namely that subjective ideas, i.e. opinion and capricious inclination, are to do the deciding.

In contrast with the truth thus veiled behind subjective ideas and feelings, the genuine truth is the prodigious transfer of the inner into the outer, the building of reason into the real world, and this has been the task of the world during the whole course of its history. It is by working at this task that civilized man has actually given reason an embodiment in law and government and achieved consciousness of the fact. Those who 'seek guidance from the Lord' and are assured that the whole truth is directly present in their unschooled opinions, fail to apply themselves to the task of exalting their subjectivity to consciousness of the truth and to knowledge of duty and objective right. The only possible fruits of their attitude are folly, abomination, and the demolition of the whole ethical order, and these fruits must inevitably be reaped if the religious disposition holds firmly and exclusively to its intuitive form and so turns against the real world and the truth present in it in the form of the universal, i.e. of the laws. Still, there is no necessity for this disposition to turn outward and actualize itself in this way. With its negative standpoint, it is of course also open to it to remain something inward, to accommodate itself to government and law, and to acquiesce in these with sneers and idle longings, or with a sigh of resignation. It is not strength but weakness which has turned religious feeling nowadays into piety of a polemical kind, whether the polemic be connected with some genuine need or simply with unsatisfied vanity. Instead of subduing one's opinions by the labour of study, and subjecting one's will to discipline and so elevating it to free obedience,

the line of least resistance is to renounce knowledge of objective truth. Along this line we may preserve a feeling of abject humility and so also of self-conceit, and claim to have ready to hand in godliness everything requisite for seeing into the heart of law and government, for passing sentence on them, and laying down what their character should and must be; and of course if we take this line, the source of our claims is a pious heart, and they are therefore infallible and unimpeachable, and the upshot is that since we make religion the basis of our intentions and assertions, they cannot be criticized on the score of their shallowness or their immorality.

But if religion be religion of a genuine kind, it does not run counter to the state in a negative or polemical way like the kind just described. It rather recognizes the state and upholds it, and furthermore it has a position and an external organization of its own. The practice of its worship consists in ritual and doctrinal instruction, and for this purpose possessions and property are required, as well as individuals dedicated to the service of the flock. There thus arises a relation between the state and the church. To determine this relation is a simple matter. In the nature of the case, the state discharges a duty by affording every assistance and protection to the church in the furtherance of its religious ends; and, in addition, since religion is an integrating factor in the state, implanting a sense of unity in the depths of men's minds, the state should even require all its citizens to belong to a church—a church is all that can be said, because since the content of a man's faith depends on his private ideas, the state cannot interfere with it. A state which is strong because its organization is mature may be all the more liberal in this matter; it may entirely overlook details of religious practice which affect it, and may even tolerate a sect (though, of course, all depends on its numbers) which on religious grounds declines to recognize even its direct duties to the state. The reason for the state's liberal attitude here is that it makes over the members of such sects to civil society and its laws, and is content if they fulfil their direct duties to the state passively, for instance by such means as commutation or the performance of a different service.*

* Quakers, Anabaptists, &c., may be said to be active members only of civil society, and they may be regarded as private persons standing in merely private relations to others. Even when this position has been allowed them, they have been exempted from taking the oath. They fulfil their direct duties to the state in a passive way; one of the most important of these duties, the defence of the state against its enemies, they refuse outright to fulfil, and their refusal may perhaps be admitted provided they perform some other service instead. To sects of this kind, the state's attitude is toleration in the strict sense of the word,¹³ because since they decline to recognize their duty to the state, they may not claim the rights of citizenship. On one occasion when the abolition of the slave-trade¹⁴ was being pressed with great vigour in the American Congress, a member from one of the Southern States made the striking retort: 'Give us our slaves, and you may keep your Quakers.' Only if the state is otherwise strong can it overlook and

But since the church owns property and carries on besides the practice of worship, and since therefore it must have people in its service, it forsakes the inner for the worldly life and therefore enters the domain of the state, and *eo ipso* comes under its laws. The oath and ethical ties generally, like the marriage bond, entail that inner permeation and elevation of *sentiment* which acquires its deepest confirmation through religion. But¹⁵ since ethical ties are in essence ties within the actual *rational* order, the first thing is to affirm within that order the rights which it involves. Confirmation of these rights by the church is secondary and is only the inward, comparatively abstract, side of the matter.

As for the other ways in which an ecclesiastical communion gives expression to itself, so far as doctrine is concerned the inward preponderates over the outward to a greater extent than is the case with acts of worship and other lines of conduct connected with these, in which the legal side at least seems at once to be a matter for the state. (It is true, of course, that churches have managed to exempt their ministers and property from the power and jurisdiction of the state, and they have even arrogated to themselves jurisdiction over laymen as well in matters in which religion co-operates, such as divorce and the taking of the oath, &c.) Public control of actions of this kind is indeterminate in extent, but this is due to the nature of public control itself and obtains similarly in purely civil transactions (see Paragraph 234). When individuals, holding religious views in common, form themselves into a church, a Corporation, they fall under the general control and oversight of the higher state officials. Doctrine as such, however, has its domain in conscience and falls within the right of the subjective freedom of

suffer such anomalies, because it can then rely principally on the strength of custom and the inner rationality of its institutions to diminish and close the gap between the existence of anomalies and the full assertion of its own strict rights. Thus technically it may have been right to refuse a grant of even civil rights to the Jews on the ground that they should be regarded as belonging not merely to a religious sect but to a foreign race. But the fierce outcry raised against the Jews, from that point of view and others, ignores the fact that they are, above all, *men*; and manhood, so far from being a mere superficial, abstract quality (see Remark to Paragraph 209), is on the contrary itself the basis of the fact that what civil rights rouse in their possessors is the feeling of oneself as counting in civil society as a person with rights, and this feeling of self-hood, infinite and free from all restrictions, is the root from which the desired similarity in disposition and ways of thinking comes into being. To exclude the Jews from civil rights, on the other hand, would rather be to confirm the isolation with which they have been reproached—a result for which the state refusing them rights would be blamable and reproachable, because by so refusing, it would have misunderstood its own basic principle, its nature as an objective and powerful institution (compare the end of the Remark to Paragraph 268). The exclusion of the Jews from civil rights may be supposed to be a right of the highest kind and may be demanded on that ground; but experience has shown that so to exclude them is the silliest folly, and the way in which governments now treat them has proved itself to be both prudent and dignified.

self-consciousness, the sphere of the inner life, which as such is not the domain of the state. Yet the state, too, has a doctrine, since its organization and whatever rights and constitution are authoritative within it exist essentially in the form of thought as law. And since the state is not a mechanism but the rational life of self-conscious freedom, the system of the ethical world, it follows that an essential moment in the actual state is the mental attitude of the citizens, and so their consciousness of the *principles* which this attitude implies. On the other hand, the doctrine of the church is not purely and simply an inward concern of conscience. As doctrine it is rather the expression of something, in fact the expression of a subject-matter which is most closely linked, or even directly concerned, with ethical principles and the law of the land. Hence at this point the paths of church and state either coincide or diverge at right angles. The difference of their two domains may be pushed by the church into sheer antagonism since, by regarding itself as enshrining the content of religion—a content which is absolute—it may claim as its portion mind¹⁶ in general and so the whole ethical sphere, and conceive the state as a mere mechanical scaffolding for the attainment of external, non-mental, ends. It may take itself to be the Kingdom of God, or at least as the road to it or its vestibule, while it regards the state as the kingdom of this world, i.e. of the transient and the finite. In a word, it may think that it is an end in itself, while the state is a mere means. These claims produce the demand, in connexion with doctrinal instruction, that the state should not only allow the church to do as it likes with complete freedom, but that it should pay unconditional respect to the church's doctrines as doctrines, whatever their character, because their determination is supposed to be the task of the church alone. The church bases this claim on the wide ground that the whole domain of mind (*Geist*) is its property. But science and all types of knowledge also have a footing in that domain and, like a church, they build themselves into a whole with a guiding principle of its own, and, with even better justification, may regard themselves as occupying the position which the church claims. Hence science also may in the same way demand to be independent of the state, which is then supposed to be a mere means with the task of providing for science as though science were an end in itself.

Further, for determining the relation between church and state, it makes no difference whether the leaders of congregations or individuals ordained to the service of the church feel impelled to withdraw from the state and lead a sort of secluded life of their own, so that only the other church members are subject to the state's control, or whether they remain within the state except in their capacity as ecclesiastics, a capacity which they take to be but one side of their life. The most striking thing about such a conception of the church's relation to the state is that it implies the idea that the state's specific function

consists in protecting and securing everyone's life, property, and caprice, in so far as these do not encroach upon the life, property, and caprice of others.¹⁷ The state from this point of view is treated simply as an organization to satisfy men's necessities. In this way the element of absolute truth, of mind in its higher development, is placed, as subjective religious feeling or theoretical science, beyond the reach of the state. The state, as the laity pure and simple, is confined to paying its respects to this element and so is entirely deprived of any strictly ethical character. Now it is, of course, a matter of history that in times and under conditions of barbarism, all higher forms of intellectual life had their seat only in the church, while the state was a mere mundane rule of force, caprice, and passion. At such times it was the abstract opposition of state and church which was the main underlying principle of history (see Paragraph 359).¹⁸ But it is far too blind and shallow a proceeding to declare that this situation is the one which truly corresponds with the Idea. The development of this Idea has proved this rather to be the truth, that mind, as free and rational, is implicitly ethical, while the Idea in its truth is rationality actualized; and this it is which exists as the state. Further, this Idea has made it no less clearly evident that the ethical truth in it is present to conscious thought as a content worked up into the form of universality, i.e. as law—in short, that the state *knows* its aims, apprehends and gives practical proof of them with a clear-cut consciousness and in accordance with principles. Now, as I said earlier, religion has the truth as its universal subject-matter, but it possesses it only as a *given* content which has not been apprehended in its fundamental characteristics as a result of thinking and the use of concepts. Similarly, the relation of the individual to this subject-matter is an obligation grounded on authority, while the 'witness of his own spirit and heart', i.e. that wherein the moment of freedom resides, is faith and feeling. It is philosophic insight which sees that while church and state differ in form, they do not stand opposed in content, for truth and rationality are the content of both. Thus when the church begins to teach doctrines (though there are and have been some churches with a ritual only, and others in which ritual is the chief thing, while doctrine and a more educated consciousness are only secondary), and when these doctrines touch on objective principles, on thoughts of the ethical and the rational, then their expression *eo ipso* brings the church into the domain of the state. In contrast with the church's faith and authority in matters affecting ethical principles, rightness, laws, institutions, in contrast with the church's subjective conviction, the state is that which knows. Its principle is such that its content is in essence no longer clothed with the form of feeling and faith but is determinate thought.

If the content of absolute truth appears in the form of religion as a particular content, i.e. as the doctrines peculiar to the church as a