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# *Elements of the Philosophy of Right*

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right; rights of every kind can belong only to a person, and seen objectively, a right based on contract is not a right over a person, but only over something external to the person or something which the person can dispose of, i.e. always a thing.

SECTION I  
Property

§ 41

The person must give himself an external *sphere of freedom* in order to have being as Idea. The person is the infinite will, the will which has being in and for itself, in this first and as yet wholly abstract determination. Consequently, this sphere distinct from the will, which may constitute the sphere of its freedom, is likewise determined as *immediately different and separable* from it.

*Addition (H).* The rational aspect of property is to be found not in the satisfaction of needs but in the superseding of mere subjectivity of personality. Not until he has property does the person exist as reason. Even if this first reality of my freedom is in an external thing [*Sache*] and is thus a poor kind of reality, the abstract personality in its very immediacy can have no other existence [*Dasein*] than in the determination of immediacy.

§ 42

What is immediately different from the free spirit is, for the latter and in itself, the external in general – a *thing* [*Sache*], something unfree, impersonal, and without rights.

The word '*thing*' [*Sache*], like the word 'objective', has two opposite meanings. On the one hand, when we say '*that's the thing*', or '*the thing*', not the person, is what matters', it signifies what is *substantial*. On the other hand, when contrasted with the person (as distinct from the particular subject), the thing is the *opposite of the substantial*: it is that which, by definition

[*seiner Bestimmung nach*], is purely external. — What is external for the free spirit (which must be clearly distinguished from mere consciousness) is external in and for itself; and for this reason, the definition [*Begriffsbestimmung*] of the concept of nature is that it is the external in itself.

*Addition* (H). Since a thing [*Sache*] has no subjectivity, it is external not only to the subject, but also to itself. Space and time are external in this way. As an object of the senses, I am myself external, spatial, and temporal. In so far as I have sensuous intuitions, I have them of something which is external to itself. An animal can intuit, but the soul of the animal does not have the soul, or itself, as its object [*Gegenstand*], but something external.

## § 43

As the immediate concept and hence also [as] essentially individual, a person has a natural existence [*Existenz*] partly within himself and partly as something to which he relates as to an external world. — It is only these things [*Sachen*] in their immediate quality, not those determinations they are capable of taking on through the mediation of the will, which are at issue here in connection with personality, which is itself still in its initial immediacy.

Intellectual [*geistige*] accomplishments, sciences, arts, even religious observances (such as sermons, masses, prayers, and blessings at consecrations), inventions, and the like, become objects [*Gegenstände*] of contract; in the way in which they are bought and sold, etc., they are treated as equivalent to acknowledged things. It may be asked whether the artist, scholar, etc. is in legal possession of his art, science, ability to preach a sermon, hold a mass, etc. — that is, whether such objects are things. We hesitate to call such accomplishments, knowledge [*Kenntnisse*], abilities, etc. things; for on the one hand, such possessions are the object of commercial negotiations and agreements, yet on the other, they are of an inward and spiritual nature. Consequently, the understanding may find it difficult to define their legal status, for it thinks only in terms of the alternative that something is either a thing or not a thing (just as it must be either infinite or finite).<sup>1</sup> Knowledge,

sciences, talents, etc. are of course attributes of the free spirit, and are internal rather than external to it; but the spirit is equally capable, through expressing them, of giving them an external existence [*Dasein*] and disposing of them (see below), so that they come under the definition [*Bestimmung*] of things. Thus, they are not primarily immediate in character, but become so only through the mediation of the spirit, which reduces its inner attributes to immediacy and externality. — In accordance with the unjust [*unrechtlichen*] and unethical determination of Roman law, children were, from the father's point of view, things. The father was consequently in legal possession of his children, although he also stood in the ethical relation of love to them (which must, of course, have been greatly weakened by the wrong referred to above). Thus, there was in this case a union — albeit a totally unjust one — of the two determinations of being a thing and not being a thing.

— Abstract right is concerned only with the person as such, and hence also with the particular, which belongs to the existence [*Dasein*] and sphere of the person's freedom. But it is concerned with the particular only in so far as it is separable and immediately different from the person — whether this separation constitutes its essential determination, or whether it receives it only by means of the subjective will. Thus, intellectual accomplishments, sciences, etc. are relevant here only in their character as legal possessions; that possession of body and spirit which is acquired through education, study, habituation, etc. and which constitutes an inner property of the spirit will not be dealt with here. But the transition of such intellectual property into externality, in which it falls within the definition [*Bestimmung*] of legal and rightful property, will be discussed only when we come to the disposal of property.

## § 44

A person has the right to place his will in any thing [*Sache*]. The thing thereby becomes mine and acquires my will as its substantial end (since it has no such end within itself), its determination, and its soul — the absolute right of appropriation which human beings have over all things [*Sachen*].

That so-called philosophy which ascribes reality — in the sense of self-sufficiency and genuine being-for-and-in-itself — to immediate individual things [*Dingen*], to the non-personal realm, as well as that philosophy which assures us that spirit cannot recognize truth or know what the *thing-in-itself* is,<sup>1</sup> is immediately refuted by the attitude of the free will towards these things [*Dinge*]. If so-called *external things* have a semblance of self-sufficiency for consciousness, for intuition and representational thought, the free will, in contrast, is the idealism and truth of such actuality.

*Addition (H)*. All things [*Dinge*] can become the property of human beings, because the human being is free will and, as such, exists in and for himself, whereas that which confronts him does not have this quality. Hence everyone has the right to make his will a thing [*Sache*] or to make the thing his will, or, in other words, to supersede the thing and transform it into his own; for the thing, as externality, has no end in itself, and is not infinite self-reference but something external to itself. A living creature (the animal) is also external in this way and is to that extent itself a thing [*Sache*]. The will alone is infinite, *absolute* in relation to everything else, whereas the other, for its part, is merely *relative*. Thus to appropriate something means basically only to manifest the supremacy of my will in relation to the thing [*Sache*] and to demonstrate that the latter does not have being in and for itself and is not an end in itself. This manifestation occurs through my conferring upon the thing an end other than that which it immediately possessed; I give the living creature, as my property, a soul other than that which it previously had; I give it my soul. The free will is consequently that idealism which does not consider things [*Dinge*], as they are, to be in and for themselves, whereas realism declares them to be absolute, even if they are found only in the form of finitude. Even the animal has gone beyond this realist philosophy, for it consumes things [*Dinge*] and thereby proves that they are not absolutely self-sufficient.<sup>2</sup>

## § 45

To have even external power over something constitutes *possession*, just as the particular circumstance that I make something my own out of natural need, drive, and arbitrary will is the particular interest of possession. But the circumstance that I, as free will, am an object [*gegenständlich*] to myself in what I possess and only become an actual

will by this means constitutes the genuine and rightful element in possession, the determination of *property*.<sup>1</sup>

In relation to needs — if these are taken as primary — the possession of property appears as a means; but the true position is that, from the point of view of freedom, property, as the first existence [*Dasein*] of freedom, is an essential end for itself.

## § 46

Since my will, as personal and hence as the will of an individual [*des Einzelnen*], becomes objective in property, the latter takes on the character of *private property*; and common property, which may by its nature be owned by separate individuals, takes on the determination of an *inherently [an sich] dissolvable* community in which it is in itself [*für sich*] a matter [*Sache*] for the arbitrary will whether or not I retain my share in it.

The utilization of *elementary* objects is, by its nature, incapable of being particularized in the form of private possession. — The *agrarian laws* of Rome embody a conflict between community and private ownership of land; the latter, as the more rational moment, had to retain its supremacy, albeit at the expense of other rights.<sup>1</sup> — *Entailed family property* contains a moment which is opposed to the right of personality and hence of private property.<sup>2</sup> But those determinations which concern private property may have to be subordinated to higher spheres of right, such as a community or the state, as is the case with private property when it becomes the property of a so-called corporate person [*moralische Person*] or property in mortmain. Nevertheless, such exceptions cannot be grounded in contingency, private arbitrariness, or private utility, but only in the rational organism of the state. — The Idea of Plato's republic contains as a universal principle a wrong against the person, inasmuch as the person is forbidden to own private property.<sup>3</sup> The idea [*Vorstellung*] of a pious or friendly or even compulsory brotherhood of men with *communal property* and a ban on the principle of private property may easily suggest itself to that disposition which misjudges the nature of the

freedom of spirit and right and does not comprehend it in its determinate moments. As for the moral or religious dimension, when Epicurus' friends planned to establish such an association with communal property, he prevented them from doing so for the simple reason [*Grund*] that their plan displayed distrust, and that those who distrust one another are not friends (Diogenes Laertius, I.x.6).

*Addition* (H). In property, my will is personal, but the person is a specific entity [*ein Dasein*]; thus, property becomes the personal aspect of this specific will. Since I give my will existence [*Dasein*] through property, property must also have the determination of being this specific entity, of being mine. This is the important doctrine of the necessity of *private property*. Even if exceptions may be made by the state, it is nevertheless the state alone which can make them; but frequently, especially in our own times, private property has been restored by the state. Thus, for example, many states have rightly dissolved [*aufgehoben*] the monasteries, because a community does not ultimately have the same right to property as a person does.

## § 47

As a person, I am myself an *immediate individual* [*Einzelner*]; in its further determination, this means in the first place that I am *alive* in this *organic body*, which is my undivided external existence [*Dasein*], *universal* in content, the real potentiality of all further-determined existence. But as a person, I at the same time possess *my life and body*, like other things [*Sachen*], *only in so far as I so will it*.

The fact that, from the point of view that I exist not as the concept which has being for itself but as the immediate concept, that I am *alive* and have an organic body, depends on the concept of life and on the concept of the spirit as soul — moments which are taken over from the philosophy of nature (*Encyclopaedia of the Philosophical Sciences*, §§ 259ff.; cf. §§ 161, 164, and 298) and from anthropology (*ibid.*, § 318).<sup>1</sup>

I have these limbs and my life only *in so far as I so will it*; the animal cannot mutilate or destroy itself, but the human being can.

*Addition* (G). Animals are indeed in possession of themselves: their soul is

in possession of their body. But they have no right to their life, because they do not will it.

## § 48

In so far as the body is immediate existence [*Dasein*] it is not commensurate with the spirit; before it can be the spirit's willing organ and soul-inspired instrument, it must first be *taken possession of* by the spirit (see § 57). — But *for others*, I am essentially a free entity within my body while I am in immediate possession of it.

It is only because I am alive as a free entity within my body that this living existence [*Dasein*] may not be misused as a beast of burden. In so far as I am alive, my soul (the concept and, on a higher level, the free entity) and my body are not separated; my body is the existence [*Dasein*] of freedom, and I feel through it. It is therefore only a sophistical understanding, devoid of any Idea, which can make a distinction whereby the *thing-in-itself* [*Ding an sich*], the soul, is neither touched nor affected if the *body* is abused and the *existence* [*Existenz*] of the person is subjected to the power of another.<sup>1</sup> I can withdraw into myself from my existence [*Existenz*] and make it external to me — I can keep particular feelings outside myself and be free even if I am in chains. But this is *my will*; *for others*, I am in my body. I am *free for the other* only in so far as I am free in my *existence* [*Dasein*]: this is an identical proposition (see my *Science of Logic*, Vol. 1 [first edition, 1812], pp. 49ff.).<sup>2</sup> Violence done to *my body* by others is violence done to me.

Because I feel, contact with or violence to my body touches me immediately as *actual* and *present*. This constitutes the difference between personal injury and infringement of my external property; for in the latter, my will does not have this immediate presence and actuality.

## § 49

In relation to external things, the *rational* aspect is that I possess property; the *particular* aspect, however, includes subjective ends, needs, arbitrariness, talents, external circumstances, etc. (see § 45). It

is on these that mere possession as such depends, but this particular aspect, in this sphere of abstract personality, is not yet posited as identical with freedom. *What and how much* I possess is therefore purely contingent as far as right is concerned.

If we may speak here of *more than one* person where no such distinction has yet been made, we may say that, in terms of personality, these persons are equal. But this is an empty and tautological proposition; for the person, as an abstraction, is precisely that which has not yet been particularized and posited in a determinate distinction. — *Equality* is the abstract identity of the understanding; it is the first thing which occurs to reflective thought, and hence to mediocrity of spirit in general, when it comes across the relation [*Beziehung*] of unity to a difference. Equality, in this case, can only be the equality of abstract persons as such, which thus *excludes* everything to do with possessions, this *basis of inequality!* — The demand is sometimes made for *equality* in the distribution of land or even of other available resources. The understanding which makes this demand is all the more vacuous and superficial in that this particularity encompasses not only the external contingency of nature, but also the whole extent of spiritual nature in its infinite particularity and differentiation and in its organically developed reason. — One cannot speak of an *injustice of nature* in the unequal distribution of possessions and resources, for nature is not free and is therefore neither just nor unjust. That all human beings should have their livelihood [*Auskommen*] to meet their needs is, on the one hand, a moral wish; and when it is expressed in this indeterminate manner, it is indeed well intentioned, but like everything that is merely well intentioned, it has no objective being. On the other hand, a livelihood is something other than *possession* and belongs to another sphere, that of civil society.

*Addition (H).* The equality which one might wish to introduce, for example, with reference to the distribution of goods would in any case be destroyed again within a short time, because all resources are dependent on diligence. But if something is impracticable, it ought not to be put into practice either. For while human beings are certainly equal, they are equal only as persons, that is, in relation to the source of their posses-

sions. Accordingly, everyone ought to have property.<sup>2</sup> If we therefore wish to speak of equality, it is this equality which we should consider. But this equality is distinct from the determination of particularity, from the question of how much I possess. In this context, it is false to maintain that justice requires everyone's property to be equal; for it requires only that everyone should have property. Particularity, in fact, is the very condition to which inequality is appropriate and in which equality would be contrary to right. It is perfectly correct that human beings often covet the goods of others; but this is precisely what is contrary to right, for right is that which remains indifferent to particularity.

## § 50

That a thing [*Sache*] belongs to the person who *happens to be the first* to take possession of it' is an immediately self-evident and superfluous determination, because a second party cannot take possession of what is already the property of someone else.

*Addition (H).* The above determinations have chiefly concerned the proposition that the personality must have existence [*Dasein*] in property. That the first person who takes possession of something is also its owner is, then, a consequence of what has been said. The first is not the rightful owner because he is the first, but because he is a free will, for it is only the fact that another comes after him which makes him the first.

## § 51

*My inner idea* [*Vorstellung*] and will that something should be *mine* is not enough to constitute property, which is the *existence* [*Dasein*] of personality; on the contrary, this requires that I should *take possession* of it. The *existence* which my willing thereby attains includes its ability to be recognized by others. — That a thing of which I can take possession should be *ownerless* is (see § 50) a self-evident negative condition; or rather, it refers to the anticipated relation to others.

*Addition (H,G).* The concept of property requires that a person should place his will in a thing [*Sache*], and the next stage is precisely the realization of this concept. My inner act of will which says that something is mine must also become recognizable by others. If I make a thing mine, I give it this predicate which must appear in it in an external form, and must not simply remain in my inner will. It often happens that children emphasize their prior volition when they oppose the appropriation of

something by others; but for adults, this volition is not sufficient, for the form of subjectivity must be removed and must work its way out to objectivity.

## § 52

Taking possession of a thing [*Sache*] makes its *matter* my property, since matter in itself [*für sich*] does not own itself.

Matter offers resistance to me (and it consists solely in offering resistance to me). That is, it shows its abstract being-for-itself to me only in my quality as abstract spirit, namely as *sensuous* spirit. (Sensuous representation [*Vorstellen*] wrongly regards the sensuous being of the spirit as concrete and its rational being as abstract.) But in relation [*Beziehung*] to the will and to property, this being-for-itself of matter has no truth. Taking possession of something, as an *external activity* whereby the universal right to appropriate natural objects [*Naturdinge*] is actualized, falls under the conditions of physical strength, cunning, and skill — all of those means whereby we acquire physical ownership of things. Given the qualitative differences between natural objects, there are infinitely varied senses in which one can take control and possession of them, and doing so is subject to equally varied kinds of limitation and contingency. In any case, the generic and elemental aspects of something are not as such the *object* [*Gegenstand*] of *personal individuality* [*Einzelheit*]; in order to become such an object and be taken possession of, they must first be individualized (e.g. as a breath of air or a drink of water). With regard to the impossibility of taking possession of an external genus as such, or of the elemental, the ultimate consideration is not the external physical impossibility of doing so, but the fact that the person, as will, determines himself as an individual [*Einzelheit*] and, as a person, is at the same time immediate individuality; hence he is also related, as a person, to the external world as to individual things [*Einzelheiten*] (see my Remarks to § 13; also § 43). — The control and external possession [of things] thus becomes, in infinite ways, more or less indeterminate and incomplete. Matter, however, is never without an essential form, and it is only by virtue of this form

that it is something. The more I appropriate this form, the more I come into *actual* possession of the thing [*Sache*]. The consumption of foodstuffs is a penetration and alteration of their qualitative nature by virtue of which they were what they were before they were consumed. The training [*Ausbildung*] of my organic body in various skills, like the education of my spirit, is likewise a more or less complete penetration and taking possession thereof; the spirit is what I can appropriate most completely. But this *actuality of taking possession* is different from property as such, which is completed by the free will. In face of the free will, the thing does not retain any distinct property for itself, even if possession, as an external relationship, still retains an external aspect. The empty abstraction of a matter without attributes which, in the case of property, is supposed to remain external to me and the property of the thing itself, is something which thought must get the better of.

*Addition (G)*. Fichte has raised the question of whether the matter also belongs to me if I give it form. From what he says, it follows that, if I have made a cup out of gold, anyone else is at liberty to take the gold provided that he does not thereby damage my handiwork. However separable the two may be in terms of representation [*Vorstellung*], this distinction is in fact an empty piece of hair-splitting; for if I take possession of a field and cultivate it, not only the furrow is my property, but the rest as well, the earth which belongs to it. For I wish to take possession of this matter as a whole: it therefore does not remain ownerless or its own property. For even if the matter remains external to the form which I have given to the object [*Gegenstand*], the form itself is a sign that the thing is to be mine; the thing therefore does not remain external to my will or outside what I have willed. Thus, there is nothing there which could be taken possession of by someone else.

## § 53

The more precise determinations of property are to be found in the will's relationship to the thing [*Sache*]. This relationship is ( $\alpha$ ) in an immediate sense *taking possession*, in so far as the will has its existence [*Dasein*] in the thing as something *positive*; ( $\beta$ ) in so far as the thing is negative in relation to the will, the will has its existence in it as in something to be negated — *use*; ( $\gamma$ ) the reflection of the will from the

thing back into itself — alienation; — positive, negative, and infinite judgements of the will upon the thing.<sup>1</sup>

### A. Taking Possession

#### § 54

Taking possession consists partly in the immediate *physical seizure* of something, partly in giving it form, and partly in merely *designating* its ownership.

*Addition (G).* These modes of taking possession contain the progression from the determination of individuality [*Einzelheit*] to that of universality. Physical seizure can occur only in the case of an individual thing [*Sache*], whereas the designation of ownership means taking possession in terms of representational thought [*Vorstellung*]. In the latter case, I have a representation of the thing and consider that the thing in its totality is mine, and not merely the part of which I can take possession physically.

#### § 55

(α) From the point of view of the senses, *physical seizure* is the most complete mode of taking possession, because I am immediately present in this possession and my will is thus also discernible in it. But this mode in general is merely subjective, temporary, and extremely limited in scope, as well as by the qualitative nature of the objects [*Gegenstände*]. — The scope of this mode can be somewhat extended by other means — e.g. by the connection which I can establish between something and things [*Sachen*] which otherwise belong to me, or by a connection which may come about by chance.

Mechanical forces, weapons, and instruments extend the range of my power. Connections between my property and something which abuts upon it may make it more easily *possible* for me than for another owner, or even exclusively so for me, to take possession of something or to make use of it; or the addition to my property may be regarded as a non-self-sufficient *accident of the thing* to which it has been added.<sup>1</sup> Such connections may include the fact that my land is beside

### Abstract Right

the sea or a river, that my fixed property borders on land suitable for hunting, pasture, or other uses, that stone or other mineral resources underlie my fields, that there may be treasure in or under the land which I own, and so on; or the connections may arise only in the course of time and as a result of chance, as with some so-called natural accessions, such as alluvial deposits and the like or items washed ashore. (The procreation of animals [*Fortura*] is indeed also an accession to my resources; but as it is an organic relationship, no external thing is added to another thing which I already possess, so that this instance is quite different in kind from other accessions.)<sup>2</sup> All of these are *external* associations whose bond of union is neither the concept nor a living force [*Lebendigkeit*]. It is therefore the task of the understanding to adduce and weigh the reasons for and against them, and of positive legislation to reach a decision according to whether the relations [*Beziehungen*] between the things in question are more or less essential or inessential.

*Addition (G).* Taking possession is always incomplete in character. I take possession of no more than I can touch with my body, but it follows immediately that external objects [*Dinge*] extend further than I can grasp. Thus, when I have a specific thing in my possession, something else will be connected with it. I take possession of things with my hand, but its reach can be extended. The hand is a great organ which no animal possesses, and what I grasp with it can itself become a means of reaching out further. When I possess something, the understanding at once concludes that it is not just what I possess immediately that is mine, but also what is connected with it. Here, positive right must pronounce judgment, for nothing further can be deduced from the concept.

#### § 56

(β) When I *give form* to something, its determinate character as mine receives an *independently [für sich] existing [bestehende]* externality and ceases to be limited to my presence in *this* time and space and to my present knowledge and volition.

To give form to something is the mode of taking possession most in keeping with the Idea, inasmuch as it combines the subjective and the objective. Otherwise, it varies infinitely

according to the qualitative nature of the objects [*Gegenstände*] and the variety of subjective ends. — We must also include here the giving of form to the organic. The effects which I have on the latter do not remain merely external, but are assimilated by it, as in the tilling of the soil, the cultivation of plants, and the domestication, feeding, and conservation of animals; further examples are the measures we employ in order to utilize raw materials or the forces of nature, or the influence which we cause one substance [*Stoff*] to exert upon another, and so on.

*Addition (H).* In empirical contexts, this giving of form may assume the most varied shapes. The field which I cultivate is thereby given form. As far as the inorganic realm is concerned, I do not always give it form directly. If, for example, I build a windmill, I have not given form to the air, but I have constructed a form in order to utilize the air, which cannot be taken away from me just because I have not myself formed it [i.e. the air]. Even the fact that I conserve game may be regarded as a way of imparting form, for it is a mode of conduct calculated to preserve the object in question. The training of animals is, of course, a more direct way of giving them form, and I play a greater role in this process.

## § 57

The human being, in his *immediate* existence [*Existenz*] in himself, is a natural entity, external to his concept; it is only through the *development* [*Ausbildung*] of his own body and spirit, *essentially* by means of his *self-consciousness comprehending itself as free*, that he takes possession of himself and becomes his own property as distinct from that of others. Or to put it the other way round, this taking possession of oneself consists also in translating into *actuality* what one is in terms of one's concept (as *possibility*, capacity [*Vermögen*], or predisposition). By this means, what one is in concept is posited for the first time as one's own, and also as an object [*Gegenstand*] distinct from simple self-consciousness, and it thereby becomes capable of taking on the *form of the thing* [*Sache*] (cf. Remarks to § 43).

The alleged justification of *slavery* (with all its more specific explanations in terms of physical force, capture in time of war, the saving and preservation of life, sustenance, education [*Erziehung*], acts of benevolence, the slave's own

acquiescence, etc.), as well as the justification of the *master's status* as simple lordship in general, and all *historical* views on the right of slavery and lordship, depend on regarding the human being simply as a *natural being* [*Naturreisen*] whose *existence* [*Existenz*] (of which the arbitrary will is also a part) is not in conformity with his concept. Conversely, the claim that slavery is absolutely contrary to right is firmly tied to the *concept* of the human being as spirit, as something free *in itself*, and is one-sided inasmuch as it regards the human being as *by nature* free, or (and this amounts to the same thing) takes the concept as such in its immediacy, not the Idea, as the truth. This *autonomy*, like all antinomies, is based on formal thinking, which fixes upon and asserts the two moments of an Idea in separation from each other, so that both are lacking in truth and do not conform to the Idea.<sup>1</sup> The free spirit consists precisely in not having its being as mere concept or *in itself* (see § 21), but in overcoming [*aufheben*] this formal phase of its being and hence also its immediate natural existence, and in giving itself an existence which is purely its own and free. That side of the antinomy which asserts the concept of freedom thus has the advantage that it contains the absolute *starting point* — though only the starting point — on the way to truth, whereas the other side, which goes no further than conceptless existence, does not contain the point of view of rationality and right at all. The point of view of the free will, with which right and the science of right begin, is already beyond that false [*unwahren*] point of view whereby the human being exists as a natural being and as a concept which has being only in itself, and is therefore capable of enslavement. This earlier and false appearance<sup>2</sup> [*Ercheinung*] is associated with the spirit which has not yet gone beyond the point of view of its consciousness; the dialectic of the concept and of the as yet only immediate consciousness of freedom gives rise at this stage to the *struggle for recognition* and the relationship of *lordship and servitude* (see *Phenomenology of Spirit*, pp. 115ff. and *Encyclopaedia of the Philosophical Sciences*, §§ 325ff.).<sup>3</sup> But that the objective spirit, the content of right, should no longer be apprehended merely in its subjective concept, and consequently that the ineligibility of the human being in and for

himself for slavery should no longer be apprehended merely as something which *ought* to be [*als ein bloßes Sollen*], is an insight which comes only when we recognize that the Idea of freedom is truly present only as *the state*.

*Addition (H)*. If we hold firmly to the view that the human being in and for himself is free, we thereby condemn slavery. But if someone is a slave, his own will is responsible, just as the responsibility lies with the will of a people if that people is subjugated. Thus the wrong of slavery is the fault not only of those who enslave or subjugate people, but of the slaves and the subjugated themselves. Slavery occurs in the transitional phase between natural human existence and the truly ethical condition; it occurs in a world where a wrong is still right. Here, the wrong is *valid*, so that the position it occupies is a necessary one.

### § 58

(γ) That mode of taking possession which is not actual in itself but merely *represents* my will occurs when I mark a thing [*Sache*] with a *sign* to indicate that I have placed my will in it. This mode of taking possession is highly indeterminate in its objective [*gegenständlichen*] scope and significance.

*Addition (H)*. Taking possession by designation is the most complete mode of all, for the effect of the *sign* is more or less implicit [*an sich*] in the other ways of taking possession, too. If I seize a thing or give form to it, the ultimate significance is likewise a sign, a sign given to others in order to exclude them and to show that I have placed my will in the thing. For the concept of the sign is that the thing does not count as what it is, but as what it is meant to signify. A cockade, for example, signifies citizenship within a state, although the colour has no connection with the nation and represents not itself but the nation. It is precisely through the ability to make a sign and by so doing to acquire things [*Dinge*] that human beings display their mastery over the latter.

### B. Use of the Thing [*Sache*]

#### § 59

Through my taking possession of it, the thing [*Sache*] acquires the predicate of being *mine*, and the will has a *positive* relationship [*Bezie-*

*hung*] to it. Within this identity, the thing is equally posited as something *negative*, and my will in this determination is a *particular* will, need, preference, etc. But my need, as the particularity of *one* will, is the positive factor which finds satisfaction, and the thing, as negative in itself, exists only for my need and serves it. — Use is the realization of my need through the alteration, destruction, or consumption of the thing, whose selfless nature is thereby revealed and which thus fulfils its destiny [*Bestimmung*].

That use is the *real* aspect and actuality of property is what representational thought [*Vorstellung*] has in mind when it regards disused property as dead and ownerless, and justifies its unlawful appropriation of it on the grounds that the owner did not use it. — But the will of the owner, in accordance with which a thing is his, is the primary substantial basis of property, and the further determination of use is merely the [outward] appearance and particular mode of this universal basis to which it is subordinate.

*Addition (H, G)*. While I take complete possession of a thing in a universal way by designating it as mine, its use embodies an even more universal relation, because the thing is not then recognized in its particularity, but is negated by me. The thing is reduced to a means of satisfying my need. When I and the thing come together, one of the two must lose its [distinct] quality in order that we may become identical. But I am alive, a willing and truly affirmative agent; the thing, on the other hand, is a natural entity.<sup>6</sup> It must accordingly perish, and I survive, which is in general the prerogative and rationale [*Vernunft*] of the organic.

<sup>6</sup> *Translator's note: ist das Natürliche*, in Griesheim's notes, from which Gans derived this sentence, the phrase reads *ist das Negative* ('is the negative'); see VPR IV, 214.

### § 60

The use [*Benutzung*] of a thing [*Sache*] by immediate seizure is in itself an *individual* act of taking possession. But in so far as the use is based on a continuing need and entails the repeated use of a self-renewing product — perhaps even limiting itself with a view to safeguarding that renewal — these and other circumstances turn that immediate and individual seizure into a *sign* to indicate a universal act of taking possession, and hence that I take possession of the elemental or

organic basis of such products or of any other conditions to which they are subject.

## § 61

Since the substance of the thing [*Sache*] for itself, which is my property, is its externality, i.e. its non-substantiality – for in relation to me, it is not an end in itself (see § 42) – and since this realized externality is the use or employment to which I subject it, it follows that *the whole use* or employment of it is *the using in its entirety*. Thus, if I have the whole use of the thing, I am its owner; and beyond the whole extent of its use, nothing remains of the thing which could be the property of someone else.

*Addition (G).* The relation of use to property is the same as that of substance to accident, inner to outer, or force to its manifestation. A force exists only in so far as it manifests itself; the field is a field only in so far as it produces a crop.<sup>1</sup> Thus, he who has the use of a field is the owner of the whole, and it is an empty abstraction to recognize any further property in the object [*Gegenstand*] itself.<sup>2</sup>

## § 62

Only my entitlement to a *partial* or *temporary use* of something or to *partial* or *temporary possession* of it (a possession in the shape of the partial or temporary possibility of using it) is therefore to be distinguished from the *ownership* of the thing [*Sache*] itself. If the whole extent of the use of a thing were mine, but the abstract ownership were supposed to be someone else's, the thing as mine would be wholly penetrated by my will (see the previous paragraph and § 52), while it would at the same time contain something impenetrable by me, i.e. the will, in fact the empty will, of someone else. As positive will, I would thus be at the same time objective and not objective to myself in the thing – a relation of absolute contradiction. – Ownership is therefore essentially *free and complete ownership*.<sup>3</sup>

The distinction between the right to the *whole extent of the use* of a thing and *abstract ownership* is a product of the empty understanding, for which the Idea – here as the unity of ownership, or even of the personal will in general and its

*reality* – is not the truth, but for which these two moments in their separation from one another count as something true. This distinction, therefore, as an actual relation, is one of an empty proprietorship which might be called a madness of personality (if the term 'madness' were used not just of a direct contradiction within a person between his merely subjective idea [*Vorstellung*] and his actuality), because the term 'mine', as applied to a *single* object, would have to mean both my exclusive individual will and another exclusive individual will, with no mediation between them.<sup>2</sup> – In the *Institutes*, Book II, Chapter 4, we are told: 'Ususfructus est ius *alienis* rebus utendi fructu salva rerum *substantia*.' And it is further stated: 'ne tamen in universum *inuitiles* essent proprietates *semper* abscedente usufructu, *placuit*, certis modis extingui usufructum et ad proprietatem reverti.'<sup>3</sup> 'The law has decided' – as if an initial preference or decision were needed to make sense of that empty distinction by a determination of this kind! A property which suffered 'the permanent cessation of usufruct' would not only be 'useless' but no longer a 'property' at all. – This is not the place to discuss other distinctions within property itself, such as those between *res mancipi* and *res mancipi*, *dominium Quiritium* and *Bonitarianum*, and the like, since they are unconnected with any conceptual determination of property and are merely historical niceties associated with this [department of] right.<sup>3</sup> But on the one hand, the distinction discussed above is contained in the relations of *dominium directum* and *dominium utile*, in the *emphyteutic* contract and the further relations encountered in estates held in fief with their hereditary rents and other taxes, payments, feudal tributes, etc. in all their various determinations, where such burdens cannot be redeemed.<sup>4</sup> On the other hand, this distinction is not present in so far as *dominium utile* is associated with burdens as a result of which *dominium directum* becomes at the same time a *dominium utile*. If such

<sup>1</sup>Translator's note: 'Usufruct is the right to use and enjoy the fruits of another's property provided that its substance is conserved . . . But in order that properties should not become useless through the permanent cessation of usufruct, the law has decided that, under certain circumstances, the right of usufruct should be annulled and the use should revert to the proprietor.'

relations contained nothing other than the above distinction in its strict abstraction, they would in fact imply not two *lords* (*domini*), but an *owner* on the one hand and a *lord* over nothing on the other. But on account of the burdens [on the property], what we have are *two owners* in a mutual relationship. Nevertheless, their relationship is not one of *common* ownership, although the transition from it to common ownership is very easy to make. This transition has already begun when, under *dominium directum*, the yield of the property is calculated and treated as its *essential aspect*, so that the incalculable aspect of proprietorship, which has perhaps been thought to lend it *nobility*, is subordinated to its *useful [utile]* aspect, which in this case is the rational element.

It must be nearly one and a half millennia since the *freedom of personality* began to flourish under Christianity and became a universal principle for part – if only a small part – of the human race.<sup>5</sup> But it is only since yesterday, so to speak, that the *freedom of property* has been recognized here and there as a principle – an example from world history of the length of time which the spirit requires in order to progress in its self-consciousness, and a caution against the impatience of opinion.

## § 63

A thing [*Sache*] in use is an individual thing, determined in quantity and quality and related to a specific need. But its specific utility, as *quantitatively* determined, is at the same time *comparable* with other things of the same utility, just as the specific need which it serves is at the same time *need in general* and thus likewise comparable in its particularity with other needs. Consequently, the thing is also comparable with things which serve other needs. This *universality*, whose simple determinacy arises out of the thing's particularity [*Partikularität*] in such a way that it is at the same time abstracted from this specific quality, is the thing's *value*, in which its true substantiality is *determined* and becomes an object [*Gegenstand*] of consciousness. As the full owner of the thing, I am the owner both of its *value* and of its use.

The property of the feudal tenant is distinguished by the fact that the tenant is the owner only of the thing's *use*, not of its *value*.

*Addition (H).* The qualitative disappears here in the form of the quantitative. For if I speak of 'need', this is a term which can encompass the most diverse things [*Dinge*], and it is their common quality which makes them commensurable.<sup>7</sup> Thus, the progression of thought here is from the specific quality of the thing [*Sache*] to a stage at which this determinate quality is indifferent, i.e. that of quantity. A similar situation arises in mathematics. If, for example, I define a circle, an ellipse, or a parabola, it can be seen that they are specifically different. Nevertheless, the distinction between these different curves is defined purely quantitatively, that is, in such a way that the only relevant factor is a quantitative distinction which relates to their coefficients alone, to their purely empirical dimensions. In the case of property, the quantitative determination which emerges from the qualitative is *value*. Here, the qualitative supplies the quantum for the quantity, and is, as such, both preserved and superseded. If one considers the concept of value, the thing [*Sache*] itself is regarded merely as a sign, and it counts not as itself but as what it is worth. A bill of exchange, for example, does not represent its quality as paper, but is merely a sign representing another universal, namely value. The value of a thing can vary greatly in relation [*Beziehung*] to need; but if one wishes to express not the specific nature of its value but its value in the abstract, this is expressed as *money*. Money can represent anything [*alle Dinge*], but since it does not depict the need itself but is only a sign in place of it, it is itself governed in turn by the specific value which it merely expresses in the abstract. It is indeed possible to be the owner of a thing [*Sache*] without at the same time being the owner of its value. A family which cannot sell or mortgage its estate is not the proprietor of its value. But since this form of property is out of keeping with the concept of property, such limitations [of ownership] (feudal tenancies and entails) are now for the most part disappearing.

## § 64

Without the subjective presence of the will, which alone constitutes their significance and value, the form given to property and the sign which denotes it are themselves mere externals. This presence, however, which is use, employment, or some other expression of the will, is located in *time*, in respect of which the *objective* factor is the *continuance* of this expression. Without this, the thing [*Sache*] becomes

ownerless, because the actuality of will and possession has abandoned it. Consequently, I can gain or lose property by prescription.<sup>1</sup>

Prescription, therefore, has not been introduced into right merely because of an external consideration at variance with right in its strict sense — that is, in order to terminate the disputes and confusions with which old claims would threaten the security of property, etc. On the contrary, prescription is based on the determination of the *reality* of property, of the will's need to express itself in order to possess something. —

*Public memorials* are national property, or more precisely — like works of art in general without regard to their *use* [*Benutzung*] — it is their indwelling soul of remembrance and honour which gives them their validity as living and self-sufficient ends; but if this soul abandons them, they are then in this respect ownerless as far as the nation is concerned and become contingent private possessions, as, for example, the Greek and Egyptian works of art in Turkey. — The *right of private property* which an *author's* family has to his productions is subject to prescription for similar reasons; they become ownerless in the sense that, like public monuments (but in an opposite way), they become universal property and, according to the particular use that is made of the thing in question, contingent private possessions. — Mere *land*, consecrated as a place of burial or even dedicated in its own right [*für sich*] to perpetual *disuse*, embodies an empty and absent arbitrary will. An injury [*Verletzung*] to this will is not an injury to anything actual, and it cannot therefore be guaranteed that it will be respected.

*Addition* (H). Prescription is based on the assumption that I have ceased to regard the thing as mine. For if something is to remain mine, continuity of my will is required, and this is displayed in the use [*Gebrauch*] or conservation of the thing in question. — The loss of value which public memorials may suffer was often demonstrated at the time of the Reformation in the case of endowed Masses. The spirit of the old faith, that is, of the endowed Masses, had departed, and they could consequently be taken possession of as property.<sup>2</sup>

C. The Alienation<sup>a</sup> of Property

## § 65

It is possible for me to *alienate* my property, for it is mine only in so far as I embody my will in it. Thus, I may abandon (*derelinquiere*) as ownerless anything belonging to me or make it over to the will of someone else as his possession — but only in so far as the thing [*Sache*] is *external in nature*.<sup>1</sup>

*Addition* (H). While prescription is an alienation of property without a direct declaration on the part of the will, true alienation is a declaration by the will that I no longer wish to regard the thing as mine. The whole issue can also be viewed in such a way that alienation is regarded as a true mode of taking possession. The first moment in property is to take possession of something immediately; use is a further means of acquiring property; and the third moment is the unity of the first two, namely taking possession of something by alienating it.

## § 66

Those goods, or rather substantial determinations, which constitute my own distinct personality and the universal essence of my self-consciousness are therefore *inalienable*, and my right to them is *imprescriptible*. They include my personality in general, my universal freedom of will, ethical life, and religion.

The idea that what spirit is in accordance with its concept or *in itself* should also have existence [*Dasein*] and being-for-itself (and hence that it should be a person, be capable of owning property, and have an ethical life and religion) — this idea is itself the concept of spirit. (As *causa sui*, i.e. as a free

*Translator's note:* Hegel's term *Entäußerung* and its synonym *Veräußerung* ('disposal' or 'alienation') are impossible to translate satisfactorily, as are the related forms *veräußern* and *sich entäußern* ('to dispose of' or 'to alienate'), *veräußert* ('disposable' or 'alienable') and *unveräußertlich* ('inalienable'). For the basic and original meaning of *entäußern* is 'to externalize', and Hegel, throughout the following section (§§ 65-71), repeatedly exploits this meaning by associating the terms in question with etymologically related words such as *äußerlich* ('external') and *Äußerung* ('expression' or 'utterance'). It is, of course, impossible to reproduce the resulting network of etymological associations in translation. Since the context is one of legal transactions, I have wherever possible used the English legal expression 'alienation' and its derivatives.

cause, spirit is that 'cuius natura non potest concipi nisi existens'<sup>a</sup> — Spinoza, *Ethics*, I, 1).<sup>1</sup> In this very concept of spirit as that which is what it is *only through itself* and as *infinite return into itself* from the natural immediacy of its existence<sup>2</sup> lies the possibility of an opposition, in that what the spirit is only *in itself* may differ from what it is *for itself* (see § 57), or conversely, what it is only *for itself* — as with evil in the case of the will — may differ from what it is *in itself*. Herein lies the *possibility of the alienation of personality*<sup>3</sup> and its substantial being, whether this alienation takes place in an unconscious or an explicit manner. — Examples of the alienation of personality include slavery, serfdom, disqualification from owning property, restrictions on freedom of ownership, etc. The alienation of intelligent rationality, of morality, ethical life, and religion is encountered in superstition, when power and authority are granted to others to determine and prescribe what actions I should perform (as when someone enters into an express agreement to commit robbery, murder, etc. or incurs the possibility of committing crimes) or how I should interpret the dictates of conscience, religious truth, etc. — The right to such inalienable things is imprescriptible, for the act whereby I take possession of my personality and substantial essence and make myself a responsible being with moral and religious values and capable of holding rights removes these determinations from that very externality which alone made them capable of becoming the possessions of someone else. When their externality is superseded in this way, the determination of time and all other reasons [*Gründe*] which can be derived from my previous consent or acceptance lose their validity. This return on my part into myself, whereby I make myself existent as Idea, as a person with rights and morality, supersedes the previous relationship and the wrong which I and the other party have done to my concept and reason [*Vernunft*] in treating the infinite existence [*Existenz*] of the self-consciousness as something external, and in allowing it to be so treated. — This return into myself reveals the contradiction inherent in handing over to others my capacity

<sup>a</sup>Translator's note: 'whose nature cannot be conceived other than as existing.'

for rights, my ethical life and religiosity; for I did not myself possess these things, and as soon as I do possess them, they exist essentially only as mine, and not as something external.

*Addition (H)*. It is in the nature of the case [*Sache*] that the slave has an absolute right to free himself, and that, if someone has agreed to devote his ethical life to robbery and murder, this is null and void in and for itself, and anyone is entitled to revoke such a contract. The same applies if I put my religiosity at the disposal of a priest who is my confessor, for a human being must decide such inward matters entirely within himself. A religiosity which is in part controlled by someone else is not a genuine religiosity, for the spirit is only One and ought to dwell within me; the unification of being-in-and-for-itself is something which ought to belong to me.

## § 67

I can alienate individual products of my particular physical and mental [*geistigen*] skills and active capabilities to someone else<sup>a</sup> and allow him to use them for a limited period, because, provided they are subject to this limitation, they acquire an external relationship to my totality and universality. By alienating the whole of my time, as made concrete through work, and the totality of my production, I would be making the substantial quality of the latter, i.e. my universal activity and actuality or my personality itself, into someone else's property.

It is the same relation as that discussed above (§ 61) between the substance of the thing [*Sache*] and its use [*Benutzung*]; just as use is distinct from substance only in so far as it is limited, so too does the use [*Gebrauch*] of my powers differ from the powers themselves — and hence also from me — only in so far as it is quantitatively limited; a power is the totality of its manifestations, just as substance is the totality of its accidents and the universal the totality of its particularizations.

*Addition (H)*. The distinction discussed here is that between a slave and a modern servant or hired labourer. The Athenian slave perhaps had easier tasks and more intellectual [*geistiger*] work to perform than our servants

<sup>a</sup>Translator's note. I have chosen the reading 'an einem andern' ('to someone else'), as in Hegel's main text (VPR II, 278), in preference to 'von einem anderen' ('of someone else'), as in the first edition and the Suhrkamp edition (*Werke* VII, 144).

normally do, but he was nevertheless a slave, because the entire scope of his activity had been alienated to his master.

## § 68

The distinctive<sup>a</sup> quality of intellectual [*geistigen*] production may, by virtue of the way in which it is expressed, be immediately transformed into the external quality of a thing [*Sache*], which may then in turn be produced by others. In acquiring it, the new owner may thus appropriate the thoughts which it communicates or the technical invention which it embodies, and it is this possibility which at times (as with literary works) constitutes the sole purpose [*Bestimmung*] of such things and their value as acquisitions; in addition, the new owner at the same time comes into possession of the *universal ways and means* of so expressing himself and of producing a multiplicity of such things.

In the case of works of art, the form which tangibly represents the thought in an external medium is, as an object [*Ding*], so distinctive a product of the individual artist that any copy of it is essentially the product of the intellectual [*geistigen*] and technical skill of the copyist. In the case of a literary work, the form which makes it an external thing [*Sache*], as with the invention of a technical device, is of a *mechanical kind*. For with a literary work, the thought is represented not in concrete depiction but only by a series of discrete and abstract signs, and with a technical device, the thought has a completely mechanical content; and the ways and means of producing such things [*Sachen*], *qua* things, belong to the category of ordinary skills. — Between the extremes of the work of art and the product of manual craftsmanship there are also transitional stages which share the character of one or other extreme to a greater or lesser extent.

<sup>a</sup>Translator's note. Hegel uses the adjective *eigenentlich* ('distinctive', 'peculiar'), exploiting its close relationship with the noun *Eigentum* ('property', 'ownership') as on several other occasions in his discussion of property (§§ 41-71). It is not possible to preserve this formal association in English, since the only words which would adequately reflect it (the adjectives 'proper' and 'own') are rarely suitable as translations of *eigenentlich*.

## § 69

Since the person who acquires such a product possesses its entire use and value if he owns a *single* copy of it, he is the complete and free owner of it as an individual item. But the author of the book or the inventor of the technical device remains the owner of the *universal* ways and means of reproducing such products and things [*Sachen*], for he has not immediately alienated these universal ways and means as such but may reserve them for himself as his distinctive mode of expression.

The substance of an author's or inventor's right does not primarily consist in his arbitrarily imposing the *condition*, on alienating a single copy of his work, that the power which the other person thereby acquires to manufacture such products on his own account as things should not become the other's property, but should remain that of the inventor. The first question is whether such a separation between the ownership of the thing and the power which this confers to produce such things in turn is an admissible part of the concept, or whether it does not cancel [*aufheben*] full and free ownership (see § 62) — so that it depends solely on the arbitrary will of the intellectual [*geistigen*] originator whether he retains the power to reproduce the things in question, or alienates this power as something of value, or places no value on it for his own part and relinquishes it along with the individual thing. For this power has the peculiar character of being that aspect of a thing which makes it not merely a possession but a *resource* (see below, §§ 170ff.), so that the latter quality lies in the particular kind of external use to which the thing is put, and is distinct and separable from the use to which the thing was immediately destined. (The use in question is not what is known as an *accessio naturalis* like the procreation of animals [*foeturae*].) Since, then, this distinction arises within that which is by nature divisible (that is, within external use), to retain one part of the use while alienating the other part is not to reserve a proprietorship without utility [*utile*]. — The purely negative, but most basic, means of furthering the sciences and arts is to protect those who work in them against *theft* and to

provide them with security for their property, just as the earliest and most important means of furthering commerce and industry was to protect them against highway robbery. -- Besides, the destiny [*Bestimmung*] of a product of the intellect [*Geistesprodukt*] is to be apprehended by other individuals and appropriated by their representational thinking, memory, thought, etc. Hence the mode of expression whereby these individuals in turn make *what they have learned* (for learning means not just memorizing or learning words by heart -- the thoughts of others can be apprehended only by thinking, and this rethinking is also a kind of learning) into an *alienable thing* will always tend to have some distinctive *form*, so that they can regard the resources which flow from it as their property, and may assert their right to reproduce it. The propagation of the sciences in general, and the specific business of teaching in particular, in accordance with its determination and the duty associated with it (most specifically in the case of the positive sciences, Church doctrine, jurisprudence, etc.), consist in the *repetition* of established thoughts, all of which have already been expressed and acquired from external sources; the same is true of writings designed for teaching purposes and for the propagation and dissemination of the sciences. As for the extent to which the existing store of knowledge, and in particular the thoughts of other people who retain external ownership of their intellectual products, become, by virtue of the new *form* which they acquire through repeated expression, a special intellectual [*geistiges*] property of the individual who reproduces them and thereby give him (or fail to give him) the right to make them his external property in turn -- the extent to which this is so cannot be precisely determined, nor therefore defined in terms of right and the law. The same is true of the extent to which such repetition in a written publication constitutes *plagiarism*. Plagiarism ought therefore to be a matter [*Sache*] of *honour*, and honour should deter people from committing it. -- Thus laws against *breach of copyright* do attain their end of protecting the property rights of authors and publishers to the (albeit very limited) extent specified.<sup>2</sup> The case with which one can deliberately alter the form of something or invent an insignificant modification to a major science or to a

comprehensive theory which someone else has created, or even the impossibility of sticking to the words of the original author when expounding what one has learned -- not to mention the particular ends which necessitate such repetition -- in itself [*für sich*] introduces that endless multiplicity of alterations which give the property of others the more or less superficial imprint of being *one's own*. For example, the hundreds upon hundreds of compendia, excerpts, anthologies, etc., arithmetic books, geometries, devotional writings, etc., show how every new idea [*Einfall*] which appears in critical journals, poetry almanacs, encyclopaedias, etc. can also be immediately reported under the same or a different title, yet put forward as the writer's own property. This can easily have the effect that the profit which the author or inventive entrepreneur expected from his work or new idea is eliminated, reduced for both parties, or ruined for everyone.<sup>3</sup> -- But as for the effect of *honour* in preventing plagiarism, it is remarkable that the expression 'plagiarism', or indeed 'literary theft', is no longer to be heard these days. This may be because honour has had its effect in suppressing plagiarism, or because plagiarism has ceased to be dishonourable and the revulsion against it has disappeared, or because an insignificant new idea and a change in outward form are rated so highly as originality and as the product of independent thought that it never occurs to anyone to suspect plagiarism.

<sup>2</sup>Translator's note. The Suhrkamp edition (*Werke* VII, 149) here reads *allein* ('alone'), which is undoubtedly an error. The correct reading is *allen* ('for everyone'), as in VPR II, 388 and other editions.

## § 70

The *comprehensive* totality of external activity, i.e. *life*, is not something external to personality, which is itself *this* personality and *immediate*. The disposal [*Entäußerung*] or sacrifice of life is, on the contrary, the opposite of the existence [*Dasein*] of *this* personality. I have therefore no right whatsoever to dispose of my life, and only an ethical Idea as something in which *this immediately* individual personality in itself has been submerged, and which is the *actual* power behind the latter, has

such a right. Thus, just as life as such is *immediate*, so also is death at the same time its *immediate* negativity; death must consequently come from outside, either as a natural event [*Natursache*] or, in the service of the Idea, by the hand of an outsider [*von fremder Hand*].

*Addition* (H). It is certainly the case that the individual [*einzelne*] person is a subordinate entity who must dedicate himself to the ethical whole. Consequently, if the state demands his life, the individual [*Individuum*] must surrender it. But may a human being take his own life? One may regard suicide in the first instance as an act of bravery, albeit an inferior bravery of tailors and maidservants. On the other hand, it can also be seen as a misfortune, since it is the product of inner derangement. But the main question is: have I a right to commit suicide? The answer will be that, as *this* individual, I am not master of my life, for the comprehensive totality of activity, i.e. life, is not something external to personality, which is itself immediately *this*. Thus, it is a contradiction to speak of a person's right over his life, for this would mean that a person had a right over himself. But he has no such right, for he does not stand above himself and cannot pass judgement on himself. When Hercules burned himself to death or Brutus fell on his sword, this was a hero's behaviour in relation to his own personality; but if it is a question of a simple right to kill oneself, such a right may be denied even to heroes.

#### TRANSITION FROM PROPERTY TO CONTRACT

##### § 71

Existence [*das Dasein*], as determinate being, is essentially being for another (see above, Remarks to § 48). Property, in view of its existence as an external thing [*Sache*], exists for other external things and within the context of their necessity and contingency. But as the existence of the *will*, its existence for another can only be *for the will* of another person. This relation [*Beziehung*] of will to will is the true distinctive ground in which freedom has its *existence*. This mediation whereby I no longer own property merely by means of a thing and my subjective will, but also by means of another will, and hence within the context of a common will, constitutes the sphere of *contract*.

Reason makes it just as necessary that human beings should enter into contractual relationships – giving, exchanging, trad-

ing, etc. – as that they should possess property (see Remarks to § 45). As far as their own consciousness is concerned, it is need in general – benevolence, utility, etc. – which leads them to make contracts; but implicitly [*an sich*], they are led by reason, that is, by the Idea of the real existence of free personhood ('real' in the sense of 'present only within the will'). Contract presupposes that the contracting parties *recognize* each other as persons and owners of property; and since it is a relationship of objective spirit, the moment of recognition is already contained and presupposed within it (cf. § 35 and Remarks to § 57).

*Addition* (H). In a contract, I have property by virtue of a common will: for it is the interest of reason that the subjective will should become more universal and raise itself to this actualization. Thus, my will retains its determination as *this* will in a contract, but in community with another will. The universal will, on the other hand, appears here as yet only in the form and shape of community.

## § 74

This relationship is therefore the mediation of an identical will within the absolute distinction between owners of property who have being for themselves. It contains the implication that each party, in accordance with his own and the other party's will, ceases to be an owner of property, *remains* one, and *becomes* one. This is the mediation of the will to give up a property (an individual property) and the will to accept such a property (and hence the property of someone else). The context of this mediation is one of identity, in that the one volition comes to a decision only in so far as the other volition is present.

## § 75

Since the two contracting parties relate to each other as *immediate* self-sufficient persons, it follows that (α) the contract is the product of the *arbitrary will*; (β) the identical will which comes into existence [Dasein] through the contract is only a *will posited by the contracting parties*, hence only a *common will*,<sup>1</sup> not a will which is universal in and for itself; (γ) the object [Gegenstand] of the contract is an *individual external thing* [Sache], for only things of this kind are subject to the purely arbitrary will of the contracting parties to alienate them (see §§ 65ff.).

*Marriage* cannot therefore be subsumed under the concept of contract; this subsumption – which can only be described as disgraceful – is proposed in Kant's *Metaphysical Elements of the Theory of Right* [Metaphysische Anfangsgründe der Rechtslehre], pp. 106ff.<sup>2</sup> – The nature of the *state* has just as little to do with the relationship of contract, whether it is assumed that the state is a contract of all with all, or a contract of all with the sovereign and the government.<sup>3</sup> – The intrusion of this relationship, and of relationships concerning private property in general, into political relationships has created the greatest confusion in constitutional law [Staatsrecht] and in actuality. Just as in earlier times political rights and duties were regarded as, and declared to be, the immediate private property of particular individuals in opposition to the right of the sovereign and the state, so also in more recent times have the

## SECTION 2

## Contract

## § 72

That [kind of] property of which the *aspect* of existence [Dasein] or *externality* is no longer merely a thing [Sache] but contains the moment of a will (and hence the will of another person) comes into being through *contract*. This is the process in which the following contradiction is represented and mediated: I *am* and *remain* an owner of property, having being for myself and excluding the will of another, only in so far as, in identifying my will with that of another, I *cease* to be an owner of property.

## § 73

It is not only *possible* for me to dispose of an item of property as an external thing [Sache] (see § 65) – I am also *compelled* by the concept to dispose of it as property in order that *my* will, as *existent*, may become objective [gegenständlich] to me. But according to this moment, my will, as externalized,<sup>4</sup> is at the same time *another* will. Hence this moment, in which this necessity of the concept is real, is *the unity* of different wills, which therefore relinquish their difference and distinctiveness. Yet it is also implicit (at this stage) in this identity of different wills that each of them is and remains a will distinctive for itself and *not identical* with the other.

<sup>1</sup>Translator's note. The term Hegel uses is *einigüßert* ('disposed of' or 'alienated'). Here, its original meaning of 'externalized' seems more appropriate (cf. translator's note to p. 95 above).

rights of the sovereign and the state been regarded as objects of contract and based on a contract, as the result merely of a common will and proceeding from the arbitrary will of those who have combined to form a state. — However different these two points of view may be in one respect, they do have this in common: they have transferred the determinations of private property to a sphere of a totally different and higher nature. (See below, 'Ethical Life' and 'The State'.)

*Addition (H).* In recent times, it has become very popular to regard the state as a contract of all with all. Everyone, we are told, makes a contract with the sovereign, and he in turn with the subjects. This view is the result of superficial thinking, which envisages only a single unity of different wills. But in a contract, there are two identical wills, both of which are persons and wish to remain owners of property; the contract accordingly originates in the arbitrary will of the person — an origin which marriage also has in common with contract.<sup>1</sup> But in the case of the state, this is different from the outset, for the arbitrary will of individuals [*individuen*] is not in a position to break away from the state, because the individual is already by nature a citizen of it. It is the rational destiny [*Bestimmung*] of human beings to live within a state, and even if no state is yet present, reason requires that one be established. The state itself must give permission for individuals [*Einzelne*] to enter or leave it, so that this does not depend on the arbitrary will of the individuals concerned; consequently, the state is not based on contract, which presupposes an arbitrary will. It is false to say that the arbitrary will of everyone is capable of founding a state: on the contrary, it is absolutely necessary for each individual to live within the state. The great advance made by the state in modern times is that it remains an end in and for itself, and that each individual may no longer base his relationship [*Beziehung*] to it on his own private stipulation, as was the case in the Middle Ages.

## § 76

A contract is *formal* in so far as the two acts of consent whereby the common will comes into being — the negative moment of the alienation of a thing [*Sache*] and the positive moment of its acceptance — are performed separately by the two contracting parties: this is a *contract of gift*. — But a contract may be called *real* in so far as *each* of the two contracting wills is the totality of these mediating moments, and

thereby both becomes and remains an owner of property in concluding it: this is a *contract of exchange*.

*Addition (H).* A contract requires two acts of consent in relation to two things: for I seek both to acquire property and to relinquish it. The contract is real when each party performs the entire action, both relinquishing and acquiring property and remaining an owner of property while relinquishing it; and it is formal when only one party acquires property or relinquishes it.

## § 77

Since each party, in a real contract, retains *the same* property with which he enters the contract and which he simultaneously relinquishes, that property which remains *identical* as having being *in itself* within the contract is distinct from the external things [*Sachen*] which change owners in the course of the transaction. The former is the *value*, in respect of which the objects of the contract [*Vertragsgegenstände*] are equal to each other, whatever qualitative external differences there may be between the things exchanged; it is their *universal* aspect (see § 63).

The determination that *laesio enormis*<sup>1</sup> cancels [*aufhebe*] the contractual obligation consequently has its source in the concept of contract, and specifically in that moment whereby the contracting party, by alienating his property, *remains an owner of property* and, more precisely, remains quantitatively the same as he was before. But the damage is not just excessive (as it is considered to be if it exceeds one *half* of the value) but *infinite*, if a contract or stipulation of any kind has been entered into to alienate *inalienable* goods (see § 66). — Furthermore, a *stipulation*<sup>2</sup> differs from a contract first through its content, since it refers to a single part or moment of the whole contract, and secondly, since it is the *formal* settlement of the contract (of which more will be said later).<sup>3</sup> In respect of its content, the stipulation contains only the formal determination of the contract, the consent of one party to deliver something and the consent of the other to accept it; it has therefore been classed among so-called *unilateral* contracts. The distinction between unilateral and

<sup>1</sup>Translator's note: 'excessive damage'.

bilateral contracts,<sup>4</sup> and other classifications of contracts in Roman law, are in part superficial groupings based on a single and often external aspect such as the kind of formalities they are associated with; and in part they confuse (among other things) determinations which concern the nature of contract itself with others which concern only the administration of justice (*actiones*) and the legal [*rechtlichen*] consequences of positive law, and which often derive from wholly external circumstances and contravene the concept of right.

## § 78

The distinction between property and possession, the substantial and external aspects [of ownership] (see § 45), becomes, in contract, the distinction between the common will as *agreement* and its actualization through *performance*. An agreement which has been reached, considered by itself [*für sich*] without reference to its performance, is an idea of representational thought [*ein Vorgestelltes*], to which a particular existence [*Dasein*] must therefore be given in accordance with the distinctive manner in which *representational thoughts* [*Vorstellungen*] have their *existence in signs* (see *Encyclopaedia of the Philosophical Sciences*, §§ 379f.).<sup>1</sup> This is achieved by expressing the stipulation through formal *gestures* and other symbolic actions, and particularly by a specific declaration in *language*, the most appropriate medium [*Element*] of intellectual representation [*der geistigen Vorstellung*].

According to this definition [*Bestimmung*], a stipulation is indeed the form through which the content of a contract, i.e. what is *concluded* in it, has its existence as something as yet *only represented*. But this representation is merely a form, and it does not mean that the content is still subjective in character, as something to be wished for or willed in such and such a way. On the contrary, the content is the decision which the will finally reaches on such matters.

*Addition* (H). Just as, in the theory [*Lehre*] of property, we had the distinction between property and possession, between the substantial and the merely external, so do we have in contract the difference [*Differenz*] between the common will as agreement and the particular will as performance. It lies in the nature of contract that both the common will and

the particular will should be expressed, for a contract is a relationship between one will and another. The agreement, which manifests itself by means of a sign, and the performance are therefore kept separate among civilized [*gebildeten*] peoples, whereas they may coincide among the uncivilized. In the forests of Ceylon there is a nation of traders who lay out their property and peacefully wait until others come and put theirs down beside it; in this case, there is no difference between the mute declaration of will and its performance.

## § 79

The stipulation contains the aspect of will, and hence the *substantial* element of right in a contract. In contrast to this, the possession which remains in force so long as the contract is unfulfilled is in itself [*für sich*] merely the external aspect, which has its determination in the will alone. Through the stipulation, I have relinquished an item of property and my arbitrary will over it, and it has *already become the property of the other party*. In terms of right, I am thus immediately bound by the stipulation to *perform* what has been agreed.

The difference between a mere promise and a contract lies in the fact that, in a promise, whatever I intend to give, do, or perform is expressed as *something in the future*, and it still remains a *subjective* determination of my will, which I can therefore subsequently alter. The stipulation in a contract, on the other hand, is itself already the *existence* [*Dasein*] of my will's decision, in the sense that I have thereby alienated the thing [*Sache*] I own, that it has *now* ceased to be my property, and that I already recognize it as the property of the other party. The Roman distinction between *pactum* and *contractus* is a bad one.<sup>1</sup> — Fichte once maintained that my obligation to *observe* a contract *commences* only when the other party *begins* to perform [his side of the agreement], for until he does so, I do not know whether his original utterance was *seriously meant*; the obligation before the performance could therefore only be of a *moral* nature, rather than based on right.<sup>2</sup> But the utterance of a stipulation is not just an utterance in general; on the contrary, it embodies the *common will* which has come into being, and which has superseded the arbitrariness of [individual] *disposition* and its liability to change. It is not

therefore a question of whether the other party's attitude may have differed *inwardly*, or subsequently become different, but of whether he has any right to such different attitudes. Even if the other party begins to perform [his side of the agreement], I likewise retain the arbitrary will which enables me to do wrong. The nullity of Fichte's view is at once apparent from the fact that it would base contractual rights on the false infinite,<sup>3</sup> on an infinite regress, on the infinite divisibility of time, matter, action, etc. The *existence* which the *will* has in the formality of gesture or in language which is determinate for itself is already the complete existence of the will, as intellectual [*intellektuellen*] will, and the performance [of the agreement] is merely its selfless consequence. — The fact that there are also, in positive right, so-called *real contracts* as distinct from so-called *consensual contracts* — in the sense that the former are considered as fully valid only after the consent has been followed by the actual performance (*res, traditio rei*) — is of no consequence here.<sup>4</sup> For on the one hand, the former are particular cases where it is only this transfer [of goods] which enables me to perform my side [of the agreement], and where my obligation to perform it refers to the thing in question only in so far as it has come into my hands, as with loans, contracts of lease, and deposits (and as may be the case with other contracts, too) — a circumstance which concerns not the nature of the relationship between stipulation and performance, but the manner of performance itself. And on the other hand, the arbitrary will is always at liberty to stipulate in a contract that the obligation of the one party to perform [his side of the agreement] should not lie in the contract itself as such, but should depend on the other party performing his side first.

## § 80

The classification of contracts and a judicious analysis, in the light of this classification, of their various kinds, should not be based on external circumstances but on distinctions inherent in the nature of contract itself. — These distinctions are those between formal contract and real contract, between ownership and possession and use, and

between value and the specific thing [*Sache*]. They accordingly give rise to the following kinds of contract (the classification given here coincides on the whole with that of Kant's *Metaphysical Elements of the Theory of Right* [*Metaphysische Anfangsgründe der Rechtslehre*], pp. 120ff.,<sup>1</sup> and one might have expected that the old humdrum classification of contracts as real and consensual, named and unnamed, etc. would long since have been abandoned in favour of a rational classification):

## A. Contract of gift, comprising

1. Gift of a thing; so-called *gift* in the proper sense.
2. Loan of a thing, i.e. the giving away of *part* of it or of the *limited enjoyment and use* of it; the lender here remains the *owner* of the thing (*mutuum* and *commodatum* without payment of interest).<sup>2</sup> The thing in this case is either a *specific* thing, or it may, even if it is a *specific* thing, nevertheless be regarded as universal, or it counts (like money) as a thing universal in itself [*für sich*].
3. Gift of a *service* of any kind, e.g. the mere safe-keeping of an item of property (*depositum*).<sup>3</sup> *Testamentary* disposition, i.e. the gift of a thing with the particular condition that the other party should not become the owner until the *time of the donor's death* (at which time the latter in any case ceases to be the owner), has no place in the concept of contract, but presupposes civil society and a positive legislation.

## B. Contract of exchange

1. Exchange as such:
  - (α) of a thing of any kind, i.e. of a *specific* thing for another of the same kind.
  - (β) *purchase or sale* (*emptio, venditio*);<sup>4</sup> exchange of a *specific* thing for one designated [*bestimmte*] as universal and which counts only as *value*, without the other specific determination of utility — i.e. for *money*.
2. *Letting or hiring* (*locatio, conductio*); alienation of the *temporary use* of a property in exchange for *rent*, viz.
  - (α) of a *specific* thing, letting in the proper sense, or
  - (β) of a *universal thing*, so that the lender remains only the owner of this universal, or in other words of the *value* — *loan* (*mutuum*, or *commodatum*, if a rent is payable).<sup>5</sup> The further empirical characteristics of the thing (whether it be a stick,

implement, house, etc., *res fungibilis* or *non fungibilis*,<sup>6</sup> give rise to other particular determinations (as in A.2. above, loan as gift), but these are of no importance.<sup>a</sup>

3. *Wages contract (locatio operae)*;<sup>7</sup> alienation of my output [*Produsserens*] or services (i.e. in so far as these are alienable) for a limited time or with some other limiting condition (see § 67).

Akin to this are *mandates* and other contracts whose performance depends on character and trust or on superior talents, and where an *incommensurability* arises between the performance and its external value (which in this case is not described as *wages*, but as an *honorarium*).

### C. Completion of a contract (*cautio*) by giving a pledge

In those contracts whereby I alienate the use [*Benutzung*] of a thing, I am no longer in possession of it but am still its owner (as when I rent something out). Furthermore, in contracts of exchange, sale, and gift, I may have become the owner of something without yet being in possession of it, and the same disjunction arises with regard to any performance which does not follow *step by step*. Now the effect of the *pledge*<sup>8</sup> is that in the one case I remain, and in the other case I come into, actual *possession of the value* as that which is still, or has already become, my property, without being in possession of the *specific thing* which I am handing over or which I am to receive. The pledge is a specific thing, but it is my property only to the extent of the *value* of the property which I have handed over into someone else's possession or which is due to me. But as far as its specific character and any excess value it may have are concerned, it remains the property of the person giving the pledge. Consequently, giving a pledge is not itself a contract but only a stipulation (see § 77), i.e. the moment which completes a contract with regard to the possession of a property. -- *Mortgage* and *surety* are particular forms of pledge.

*Addition (H)*. In the case of contract, we made the following distinction: while I become the owner of an item of property through the agreement (stipulation), I do not yet have possession of it but gain possession only through the performance. Now if I already have full ownership of the

<sup>a</sup>*Translator's note*: Hegel's manuscript note adds the gloss 'i.e. of no importance for the universal determinations'.

thing, the purpose of the pledge is that I should at the same time gain possession of the value of the property, and that the performance should thereby be guaranteed within the agreement itself. Surety is a particular kind of pledge whereby someone tenders his promise or his credit as a guarantee of my performance. Here, a person assumes the role which, in the case of a pledge, is fulfilled by a mere thing.

## § 81

In any relationship of immediate persons to one another, their wills are not only *identical in themselves* and, in a contract, posited by them as *common*, but also *particular*. Since they are *immediate* persons, it is purely contingent whether their *particular* wills are in conformity with the will *which has being in itself*, and which has its existence [*Existenz*] solely through the former. If the particular will *for itself* is *different* from the universal, its attitude and volition are characterized by arbitrariness and contingency, and it enters into opposition to that which is right *in itself*, this is *wrong*.

The transition to wrong is made by the logical higher necessity that the moments of the concept -- here, that of right *in itself* or the will as *universal*, and that of right in its *existence*, which is simply the *particularity* of will -- should be posited as *different for themselves*; this belongs to the *abstract reality* of the concept. -- But this particularity of the will for itself is arbitrariness and contingency, and in contract, I have relinquished these only as arbitrariness in relation to an *individual thing* [*Sache*], not as the arbitrariness and contingency of the will itself.

*Addition (H)*. In contract, we had the relationship of two wills as a common will. This identical will, however, is only relatively universal -- a posited universal will -- and is thereby still in opposition to the particular will. The contract or agreement nevertheless contains the right to require its performance; but this again is a matter [*Sache*] for the particular will, which may, as such, act in contravention of that right which has being in itself. Thus, there appears at this point the negation which was already present at an earlier stage in the will which has being in itself, and this negation is quite simply *wrong*. The overall progression is that the will is purged of its immediacy so that, from the common will, that particularity

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is evoked which then appears in opposition to it. In a contract, the consenting parties will retain their particular wills; thus, contract has not yet progressed beyond the stage of arbitrariness, and it therefore remains susceptible to wrong.

[*Einzelheiten*], all aptitudes, and all accidents of birth and fortune are liberated, and where the waves of all passions surge forth, governed only by the reason which shines through them. Particularity, limited by universality, is the only standard by which each particular [person] promotes his welfare.

## § 183

The selfish end in its actualization, conditioned in this way by universality, establishes a system of all-round interdependence, so that the subsistence [*Subsistenz*] and welfare of the individual [*des Einzelnen*] and his rightful existence [*Dasein*] are interwoven with, and grounded on, the subsistence, welfare, and rights of all, and have actuality and security only in this context. — One may regard this system in the first instance as the *external state*, the *state of necessity*<sup>1</sup> and of the *understanding*.

## § 184

When it is divided in this way, the Idea gives a *distinct existence* [*Dasein*] to its *moments* — to *particularity* it gives the right to develop and express itself in all directions, and to universality the right to prove itself both as the ground and necessary form of particularity, and as the power behind it and its ultimate end. — It is the system of ethical life, lost in its extremes, which constitutes the abstract moment of the *reality* of the Idea, which is present here only as the *relative totality* and *inner necessity* of this external *appearance*.

*Addition* (H). Here, the ethical is lost in its extremes, and the immediate unity of the family has disintegrated into a plurality. Reality here is externality, the dissolution of the concept, the self-sufficiency of its liberated and existent moments. Although particularity and universality have become separated in civil society, they are nevertheless bound up with and conditioned by each other. Although each appears to do precisely the opposite of the other and imagines that it can exist only by keeping the other at a distance, each nevertheless has the other as its condition. Thus, most people regard the payment of taxes, for example, as an infringement of their particularity, as a hostile element prejudicial to their own ends; but however true this may *appear*, the particularity of their own ends cannot be satisfied without the universal,<sup>2</sup> and a country in

<sup>1</sup>*Translator's note:* The remainder of this sentence has no counterpart in the section of Hobbes's notes (VPR III, 570-574) on which this Addition is based.

## SECTION 2

## Civil Society

## § 182

The concrete person who, as a *particular* person, as a totality of needs and a mixture of natural necessity and arbitrariness, is his own end, is *one principle* of civil society. But this particular person stands essentially in *relation* [*Beziehung*] to other similar particulars, and their relation is such that each asserts itself and gains satisfaction through the others, and thus at the same time through the exclusive *mediation* of the form of *universality*, which is the *second principle*.

*Addition* (H, G). Civil society is the [stage of] difference [*Differenz*] which intervenes between the family and the state, even if its full development [*Ausbildung*] occurs later than that of the state; for as difference, it presupposes the state, which it must have before it as a self-sufficient entity in order to subsist [*bestehen*] itself. Besides, the creation of civil society belongs to the modern world, which for the first time allows all determinations of the Idea to attain their rights. If the state is represented as a unity of different persons, as a unity which is merely a community [of interests], this applies only to the determination of civil society. Many modern exponents of constitutional law have been unable to offer any view of the state but this. In civil society, each individual is his own end, and all else means nothing to him. But he cannot accomplish the full extent of his ends without reference to others; these others are therefore means to the end of the particular [person]. But through its reference to others, the particular end takes on the form of universality, and gains satisfaction by simultaneously satisfying the welfare of others. Since particularity is tied to the condition of universality, the whole [of civil society] is the sphere [*Boden*] of mediation in which all individual characteristics

overtaken Greek ethical life in his time, except by setting up his purely substantial state in opposition to it and completely excluding it [from this state], from its very beginnings in *private property* (see Remarks to § 46)' and the *family*<sup>2</sup> to its subsequent development [*Ausbildung*] as the arbitrary will of individuals and their choice of social position [*des Standes*], etc.<sup>3</sup> This deficiency also explains why the great *substantial* truth of his *Republic* is imperfectly understood, and why it is usually regarded as a dream of abstract thought, as what is indeed often called an *ideal*. The principle of the *self-sufficient and inherently infinite personality* of the individual [*des Einzelnen*], the principle of subjective freedom, which arose in an inward form in the *Christian* religion and in an external form (which was therefore linked with abstract universality) in the *Roman* world, is denied its right in that merely substantial form of the actual spirit [in Plato's *Republic*]. This principle is historically later than the Greek world, and the philosophical reflection which can fathom these depths is likewise later than the substantial idea of Greek philosophy.

*Addition* (H). Particularity in itself [*für sich*] is boundless [*maßlos*] extravagance, and the forms of this extravagance are themselves boundless. Through their representations [*Vorstellungen*] and reflections, human beings expand their desires, which do not form a closed circle like animal instinct, and extend them to false [*schlechte*] infinity. But on the other hand, deprivation and want are likewise boundless, and this confused situation can be restored to harmony only through the forcible intervention of the state. Although Plato's state sought to exclude particularity, this is of no help, because such help would contradict the infinite right of the Idea to allow particularity its freedom. It was primarily in the Christian religion that the right of subjectivity arose, along with the infinity of being-for-itself; and in this situation, the totality must also be endowed with sufficient strength to bring particularity into harmony with the ethical unity.

§ 186

But in the very act of developing itself independently [*für sich*] to totality, the principle of particularity passes over into *universality*, and only in the latter does it have its truth and its right to positive actuality. This unity is not that of ethical identity, because at this level of

which no taxes were paid could scarcely distinguish itself in strengthening its particular interests [*Besonderheit*]. It might likewise appear that the universal would do better to absorb the strength of the particular, as described, for example, in Plato's *Republic*; but this again is only apparent, for the two exist solely through and for one another and are transformed into one another. In furthering my end, I further the universal, and this in turn furthers my end.<sup>7</sup>

§ 185

Particularity in itself [*für sich*], on the one hand indulging itself in all directions as it satisfies its needs, contingent arbitrariness, and subjective caprice, destroys itself and its substantial concept in the act of enjoyment; on the other hand, as infinitely agitated and continually dependent on external contingency and arbitrariness and at the same time limited by the power of universality, the satisfaction of both necessary and contingent needs is itself contingent. In these opposites and their complexity, civil society affords a spectacle of extravagance and misery as well as of the physical and ethical corruption common to both.

The self-sufficient development of particularity (cf. Remarks to § 124) is the moment which appears in the states of the ancient world as an influx of ethical corruption and as the ultimate reason [*Grund*] for their downfall. These states, some of which were based on the patriarchal and religious principle and others on the principle of a more spiritual, though simpler, ethical life, but all of which were based on *original* natural intuition, could not withstand the division which arose within the latter as self-consciousness became infinitely reflected into itself. As this reflection began to emerge, first as a disposition and then in actuality, they succumbed to it, because the simple principle on which they were still based lacked the truly infinite power which resides solely in that unity which allows the *opposition* within reason [*Vernunft*] to *develop to its full strength*, and has overcome it so as to preserve itself within it and *wholly contain it within itself*. — Plato, in his *Republic*, presents the substance of ethical life in its ideal *beauty* and *truth*; but he cannot come to terms with the principle of self-sufficient particularity, which had suddenly

division (see § 184), the two principles are self-sufficient; and for the same reason, it is present not as *freedom*, but as the *necessity* whereby the *particular* must rise to the *form of universality* and seek and find its subsistence in this form.

## § 187

Individuals, as citizens of this state, are *private persons* who have their own interest as their end. Since this end is mediated through the universal, which thus *appears* to the individuals as a *means*, they can attain their end only in so far as they themselves determine their knowledge, volition, and action in a universal way and make themselves *links* in the chain of this *continuum* [*Zusammenhang*]. In this situation, the interest of the Idea, which is not present in the consciousness of these members of civil society as such, is the *process* whereby their individuality [*Einzelheit*] and naturalness are raised, both by natural necessity and by their arbitrary needs, to *formal freedom* and formal *universality of knowledge and volition*, and subjectivity is *educated* in its particularity.

The ideas [*Vorstellungen*] of the *innocence* of the state of nature and of the ethical simplicity of uncultured [*ungebildeter*] peoples imply that *education* [*Bildung*] will be regarded as something purely *external* and associated with corruption.<sup>1</sup> On the other hand, if one believes that needs, their satisfaction, the pleasures and comforts of individual [*partikularen*] life, etc. are *absolute* ends, education will be regarded as merely a *means* to these ends. Both of these views show a lack of familiarity with the nature of spirit and with the end of reason. Spirit attains its actuality only through internal division, by imposing this limitation and finitude upon itself in [the shape of] natural needs and the continuum [*Zusammenhang*] of this external necessity, and, *in the very process of adapting itself to these limitations*,<sup>2</sup> by overcoming them and gaining its *objective* existence [*Dasein*] within them. The end of reason is consequently

<sup>1</sup>Translator's note: *eben damit, daß er sich in sie hineinbildet*. In this section, Hegel plays repeatedly on various forms of the verb *bilden* (to educate, shape, or cultivate) in order to underline their semantic affinities. He exploits various forms of the verb *schleimen* (to appear) to similar effect in § 181.

neither the natural ethical simplicity referred to above, nor, as particularly develops, the pleasures as such which are attained through education. Its end is rather to work to eliminate *natural simplicity*, whether as passive selflessness or as barbarism of knowledge and volition – i.e. to eliminate the *immediacy* and *individuality* [*Einzelheit*] in which spirit is immersed, so that this externality may take on the rationality of which it is *capable*, namely the *form of universality or of the understanding*. Only in this way is the spirit *at home* and *with itself* in this *externality* as such. Its freedom thus has an existence [*Dasein*] within the latter; and, in this element which, *in itself*, is alien to its determination of freedom, the spirit becomes *for itself*, and has to do only with what it has impressed its seal upon and *produced* itself. – By this very means, the *form of universality* comes into existence [*Existenz*] for itself in thought, the only form which is a worthy element for the existence [*Existenz*] of the Idea. *Education*, in its absolute determination, is therefore *liberation* and *work* towards a higher liberation; it is the absolute transition to the infinitely subjective substantiality of ethical life, which is no longer immediate and natural, but spiritual and at the same time raised to the shape of universality. Within the subject, this liberation is the *hard work* of opposing mere subjectivity of conduct, of opposing the immediacy of desire as well as of subjective vanity of feeling [*Empfindung*] and the arbitrariness of caprice. The fact that it is such hard work accounts for some of the disfavour which it incurs. But it is through this work of education that the subjective will attains *objectivity* even within itself, that objectivity in which alone it is for its part worthy and capable of being the *actuality* of the Idea. – Furthermore, this form of universality to which particularity has worked its way upwards and cultivated [*heraufgebildet*] itself, i.e. the form of the understanding, ensures at the same time that particularity *becomes* the genuine *being-for-itself* of individuality [*Einzelheit*]; and, since it is from particularity that universality receives both the content which fills it and its infinite self-determination, particularity is itself present in ethical life as free subjectivity which has infinite being-for-

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itself. This is the level at which it becomes plain that education is an immanent moment of the absolute, and that it has infinite value.

*Addition (H).* By educated people, we may understand in the first place those who do everything as others do it<sup>a</sup> and who do not flaunt their particular characteristics [*Partikularität*], whereas it is precisely these characteristics which the uneducated display, since their behaviour is not guided by the universal aspects of its object [*Gegenstand*]. Similarly, in his relations with others, the uneducated man can easily cause offence, for he simply lets himself go and does not reflect on the feelings [*Empfindungen*] of others. He does not wish to hurt others, but his conduct is not in harmony with his will. Thus, education irons out particularity to make it act in accordance with the nature of the thing [*Sache*]. True originality, by which the [universal]<sup>b</sup> thing is produced, requires true education, whereas false originality assumes tasteless forms which occur only to the uneducated.

<sup>a</sup> *Translator's note:* The text, as extracted by Gans from Hoho's notes, reads *soldie . . . die alles machen können, was andere tun* ('those who can do everything that others do'). Hoho's notes in fact read *dass sie alles machen w[ir]te* *Anderer* ('that they do everything as others do it'; VPR III, 582). I have adopted the latter reading as more authentic and as giving a better sense, and have modified it to fit the structure of Gans's sentence.

<sup>b</sup> *Translator's note:* In Hoho's notes, on which this *Addition* is based, the term *Sache* is here defined as 'the universal in every form' (VPR III, 583). I have accordingly added 'universal' in brackets.

§ 188

Civil society contains the following three moments:

- A. The mediation of need and the satisfaction of the individual [*des Einzelnen*] through his work and through the work and satisfaction of the needs of all the others – the system of needs.
- B. The actuality of the universal of freedom contained therein, the protection of property through the administration of justice.
- C. Provisions against the contingency which remains present in the above systems, and care for the particular interest as a common interest, by means of the police and the corporation.

A. The System of Needs

§ 189

Particularity, in its primary determination as that which is opposed to the universal of the will in general (see § 60),<sup>a</sup> is subjective need, which attains its objectivity, i.e. its satisfaction, by means of (α) external things [*Dinge*], which are likewise the property and product of the needs and wills of others and of (β) activity and work, as the mediation between the two aspects. The end of subjective need is the satisfaction of subjective particularity, but in the relation [*Beziehung*] between this and the needs and free arbitrary will of others, universality asserts itself, and the resultant manifestation [*Scheitern*] of rationality in the sphere of finitude is the understanding. This is the chief aspect which must be considered here, and which itself constitutes the conciliatory element within this sphere.

*Political economy* is the science which begins with the above viewpoints but must go on to explain mass relationships and mass movements in their qualitative and quantitative determinacy and complexity. – This is one of the sciences which have originated in the modern age as their element [*Boden*]. The development of science is of interest in showing how thought extracts from the endless multitude of details with which it is initially confronted the simple principles of the thing [*Sache*], the understanding which works within it and controls it (see Smith, Say, and Ricardo).! – To recognize, in the sphere of needs, this manifestation [*Scheitern*] of rationality which is present in the thing [*Sache*] and active within it has, on the one hand, a conciliatory effect; but conversely, this is also the field in which the understanding, with its subjective ends and moral opinions, gives vent to its discontent and moral irritation.

*Addition (H,G).* There are certain universal needs, such as food, drink, clothing, etc., and how these are satisfied depends entirely on contingent circumstances. The soil is more or less fertile in different places, the years

<sup>a</sup> *Translator's note:* The first edition, and the Suhrkamp edition, refer to § 60, but Hing's edition refers to § 6, which makes much better sense (VPR II, 640). T. M. Knox's suggestion of § 59 (Knox, p. 126) is less plausible.

are more or less productive, one man is industrious and the other lazy. But this proliferation of arbitrariness generates universal determinations from within itself, and this apparently scattered and thoughtless activity is subject to a necessity which arises of its own accord. To discover the necessity at work here is the object [*Gegenstand*] of political economy, a science which does credit to thought because it finds the laws underlying a mass of contingent occurrences. It is an interesting spectacle to observe here how all the interconnections have repercussions on others, how the particular spheres fall into groups, influence others, and are helped or hindered by these. This interaction, which is at first sight incredible since everything seems to depend on the arbitrary will of the individual [*des Einzelnen*], is particularly worthy of note; it bears a resemblance to the planetary system, which presents only irregular movements to the eye, yet whose laws can nevertheless be recognized.

#### a. The Nature of Needs and their Satisfaction

### § 190

The ways and means by which the *animal* can satisfy its needs are limited in scope, and its needs are likewise limited. Though sharing this dependence, the *human being* is at the same time able to transcend it and to show his universality, first by *multiplying* his needs and means [of satisfying them], and secondly by *dividing* and *differentiating* the concrete need into individual parts and aspects which then become different needs, *particularized* and hence *more abstract*.

In right, the object [*Gegenstand*] is the *person*; at the level of morality, it is the *subject*, in the family, the *family-member*, and in civil society in general, the *citizen* (in the sense of *bourgeois*). Here, at the level of needs (cf. Remarks to § 123), it is that concretum of *representational thought* which we call the *human being*; this is the first, and in fact the only occasion on which we shall refer to the *human being* in this sense.

*Addition* (F). The animal is a particular entity [*ein Partikuläres*] which has its instinct and the means of satisfying it, means whose bounds cannot be exceeded. There are insects which are tied to a specific plant, and other animals whose sphere is wider and which can live in different climates; but there is always a limiting factor in comparison with the sphere which is open to the human being. The need for food and clothing, the necessity

of renouncing raw food and of making it fit to eat and destroying its natural immediacy, means that the human being's life is less comfortable than that of the animal – as indeed it ought to be, since man is a spiritual being. The understanding, which can grasp distinctions, brings multiplicity into these needs; and since taste and utility become criteria of judgment, the needs themselves are also affected by them. In the end, it is no longer need but opinion which has to be satisfied, and it is a distinctive feature of education that it resolves the concrete into its particulars. The very multiplication of needs has a restraining influence on desire, for if people make use of many things, the pressure to obtain any one of these which they might need is less strong, and this is a sign that necessity [*die Not*] in general is less powerful.

### § 191

In the same way, the *means* employed by particularized needs, and in general the ways in which these are satisfied, are *divided* and *multiplicated* so that they in turn become relative ends and abstract needs. It is an infinite process of multiplication which is in equal measure a *differentiation* of these determinations and a *judgement* on the suitability of the means to their ends – i.e. [a process of] *refinement*.

*Addition* (H). What the English call 'comfortable' is something utterly inexhaustible; its ramifications are infinite, for every comfort in turn reveals its less comfortable side, and the resulting inventions are endless. A need is therefore created not so much by those who experience it directly as by those who seek to profit from its emergence.

*Translator's note:* Hotho, on whose notes this Addition is based, cites this word in the French form *confortable*, and makes no reference to the English (VPR III, 593).

### § 192

Needs and means, as existing in reality [*als reelles Dasein*], become a *being* [*Sein*] for *others* by whose needs and work their satisfaction is mutually conditioned. That abstraction which becomes a quality of both needs and means (see § 191) also becomes a determination of the mutual relations [*Beziehung*] between individuals. This universality, as the *quality of being recognized*, is the moment which makes isolated and abstract needs, means, and modes of satisfaction into *concrete*, i.e. *social* ones.

*Addition (H)*. The fact that I have to fit in with other people brings the form of universality into play at this point. I acquire my means of satisfaction from others and must accordingly accept their opinions. But at the same time, I am compelled to produce means whereby others can be satisfied. Thus, the one plays into the hands of the other and is connected with it. To this extent, everything particular [*alles Partikuläre*] takes on a social character; in the manner of dress and times of meals, there are certain conventions which one must accept, for in such matters, it is not worth the trouble to seek to display one's own insight, and it is wisest to act as others do. 7

## § 193

This moment thus becomes a particular end-determinant for the means themselves and their ownership, and also for the way in which needs are satisfied. In addition, it immediately involves the requirement of *equality* in this respect with others. On the one hand, the need for this equality, together with *imitation* as the process whereby people make themselves like others, and on the other hand the need of *particularity* (which is likewise present here) to assert itself through some distinctive quality, themselves become an actual source of the multiplication and expansion of needs.

## § 194

Within social needs, as a combination of immediate or natural needs and the spiritual needs of *representational thought* [*Vorstellung*], the spiritual needs, as the universal, predominate. This social moment accordingly contains the aspect of *liberation*, because the strict natural necessity of need is concealed and man's relation is to *his own opinion*, which is universal, and to a necessity imposed by himself alone, instead of simply to an external necessity, to inner contingency, and to *arbitrariness*.

The notion [*Vorstellung*] that, in relation to his needs, man lived in *freedom* in a so-called state of nature in which he had only so-called natural needs of a simple kind and in which, to satisfy these, he employed only those means with which a contingent nature immediately provided him' — this notion, even if we disregard the moment of liberation which is present

in work (and which will be discussed below), is mistaken. For a condition in which natural needs as such were immediately satisfied would merely be one in which spirituality was immersed in nature, and hence a condition of savagery and unfreedom; whereas freedom consists solely in the reflection of the spiritual into itself, its distinction from the natural, and its reflection upon the latter.

## § 195

This liberation is *formal*, because the particularity of the ends remains the basic content. The tendency of the social condition towards an indeterminate multiplication and specification of needs, means, and pleasures — i.e. *luxury* — a tendency which, like the distinction between natural and educated<sup>4</sup> needs, has no limits [*Grenzen*], involves an equally infinite increase in dependence and want. These are confronted with a material which offers infinite resistance, i.e. with external means whose particular character is that they are the property of the free will [of others] and are therefore absolutely unyielding.

*Addition (H)*. Diogenes, in his whole character as a Cynic,<sup>5</sup> is in fact merely a product of the social life of Athens, and what determined him was the opinion against which his entire way of life reacted. His way of life was therefore not independent, but merely a consequence of these social conditions, and itself an unprepossessing product of luxury. Where, on the one hand, luxury is at its height, want and depravity are equally great on the other, and Cynicism is then evoked by the opposite extreme of refinement.

<sup>4</sup>*Translator's note*: The first edition, and the Suhrkamp edition, read *ungebildetem* ('uneducated'). I follow Illing's edition (VPR II, 644), whose reading *gebildetem* ('educated') makes better sense.

## b. The Nature of Work

## § 196

The mediation whereby appropriate and *particularized* needs are acquired and prepared for similarly *particularized* needs is *work*. By the most diverse processes, work specifically applies to these numerous ends the material which is immediately provided by nature.

This process of formation gives the means their value and appropriateness, so that man, as a consumer, is chiefly concerned with *human* products, and it is human effort which he consumes.

*Addition (H).* There are few immediate materials which do not need to be processed: even air has to be earned – inasmuch as it has to be heated – and perhaps water is unique in that it can be drunk as it is found. It is by the sweat and labour of human beings that man obtains the means to satisfy his needs.

### § 197

The variety of determinations and objects [*Gegenstände*] which are worthy of interest is the basis from which *theoretical education* develops. This involves not only a variety of representations [*Vorstellungen*] and items of knowledge [*Kenntnissen*], but also an ability to form such representations [*des Vorstellens*] and pass from one to the other in a rapid and versatile manner, to grasp complex and general relations [*Beziehungen*], etc. – it is the education of the understanding in general, and therefore also includes language. – *Practical education* through work consists in the self-perpetuating need and *habit of being occupied* in one way or another, in the *limitation of one's activity* to suit both the nature of the material in question and, in particular, the arbitrary will of others, and in a habit, acquired through this discipline, of *objective activity* and *universally applicable skills*.

*Addition (H).* The barbarian is lazy and differs from the educated man in his dull and solitary brooding, for practical education consists precisely in the need and habit of being occupied. The clumsy man always produces something other than what he intended, because he is not in control of his own actions. But a worker can be described as skilled if he produces the thing [*Sache*] as it ought to be, and if, in his subjective actions, he encounters no resistance to the end he is pursuing.

### § 198

The universal and objective aspect of work consists, however, in that [process of] *abstraction* which confers a specific character on means and needs and hence also on production, so giving rise to the *division of labour*. Through this division, the work of the individual [*des Einzelnen*] becomes *simpler*, so that his skill at his abstract work

becomes greater, as does the volume of his output. At the same time, this abstraction of skill and means makes the *dependence* and *reciprocity* of human beings in the satisfaction of their other needs complete and entirely necessary. Furthermore, the abstraction of production makes work increasingly *mechanical*, so that the human being is eventually able to step aside and let a *machine* take his place.

### c. Resources [and Estates]

### § 199

In this dependence and reciprocity of work and the satisfaction of needs, *subjective selfishness* turns into a *contribution towards the satisfaction of the needs of everyone else*. By a dialectical movement, the particular is mediated by the universal so that each individual, in earning, producing, and enjoying on his own account [*für sich*], thereby earns and produces for the enjoyment of others. This necessity which is inherent in the interlinked dependence of each on all now appears to each individual in the form of *universal and permanent resources* (see § 170) in which, through his education and skill, he has an opportunity to share; he is thereby assured of his livelihood, just as the universal resources are maintained and augmented by the income which he earns through his work.

### § 200

The *possibility of sharing* in the universal resources – i.e. of holding *particular* resources – is, however, *conditional* upon one's own immediate basic assets (i.e. capital) on the one hand, and upon one's skill on the other; the latter in turn is itself conditioned by the former, but also by contingent circumstances whose variety gives rise to *differences* in the *development* of natural physical and mental [*geistigen*] aptitudes which are already unequal in themselves [*für sich*]. In this sphere of particularity, these differences manifest themselves in every direction and at every level, and, in conjunction with other contingent and arbitrary circumstances, necessarily result in *inequalities in the resources and skills* of individuals.

The spirit's objective *right of particularity*, which is contained within the Idea, does not cancel out [*nicht aufhebt*] the

inequality of human beings in civil society – an inequality posited by nature, which is the element of inequality – but in fact produces it out of the spirit itself and raises it to an inequality of skills, resources, and even of intellectual and moral education. To oppose this right with a demand for equality is characteristic of the empty understanding, which mistakes this abstraction and *obligation* of its own for the real and the rational. This sphere of particularity imagines that it is universal, but in its merely relative identity with the universal, it retains both natural and arbitrary particularity, and hence the remnants of the state of nature. In addition, that reason which is immanent in the system of human needs and their movement articulates this system into an organic whole composed of different elements (see § 201).

## § 201

The infinitely varied means and their equally infinite and intertwined movements of reciprocal production and exchange *converge*, by virtue of the universality inherent in their content, and become *differentiated* into *universal masses*. In consequence, the whole complex [*Zusammenhang*] evolves into *particular systems* of needs, with their corresponding means, varieties of work, modes of satisfaction, and theoretical and practical education – into systems to which individuals are separately assigned, i.e. into different *estates*.

*Addition* (H). The manner in which the universal resources are shared depends on every particular characteristic of the individuals concerned, but the universal differences into which civil society is particularized are necessary in character. While the family is the primary basis of the state, the estates are the second. The latter are of special importance, because private persons, despite their selfishness, find it necessary to have recourse to others. This is accordingly the root which links selfishness with the universal, i.e. with the state, which must take care to ensure that this connection is a firm and solid one.

## § 202

The estates are determined, in accordance with *the concept*, as the *substantial* or immediate estate, the reflecting or *formal* estate, and lastly, the *universal* estate.

## § 203

(a) The *substantial* estate has its resources in the natural products of the *soil* which it cultivates – soil which is capable of being exclusively private property, and which requires not just indeterminate exploitation, but formation of an objective kind. Given the association of work and acquisition with fixed *individual seasons*, and the dependence of the yield on the varying character of natural processes, the end to which need is directed in this case becomes that of *provision* for the future. But because of the conditions to which it is subject, this provision retains the character of a [mode of] subsistence [*Subsistenz*] in which reflection and the will of the individual play a lesser role, and thus its substantial disposition in general is that of an immediate ethical life based on the family relationship and on trust.

The proper beginning and original foundation of states has rightly been equated with the introduction of *agriculture* and of *marriage*. For the former principle brings with it the cultivation of the soil, and in consequence exclusively private property (cf. Remarks to § 170), and it reduces the nomadic life of savages, who seek their livelihood in constant movement, to the tranquillity of civil law [*Privatrecht*] and the secure satisfaction of needs. This is accompanied by the restriction [*Beschränkung*] of sexual love to marriage, and the marriage bond is in turn extended to become a *lasting* and inherently [*in sich*] universal union, while need becomes *care for the family* and possession becomes *family property*. Security, consolidation, lasting satisfaction of needs, etc. – qualities by which these institutions primarily recommend themselves – are nothing but forms of universality and shapes assumed by rationality, the absolute and ultimate end, as it asserts itself in these objects [*Gegenständen*]. – What can be more interesting in this connection than the ingenious and learned *explanations* which my highly esteemed friend, Herr Creuzer, has given of the *agrarian* festivals, images, and shrines of the ancients (especially in the fourth volume of his *Mythology and Symbolism*)? In the consciousness of the ancients, the introduction of agriculture and of the institutions associated with it were divine acts, and they were accordingly treated with religious

eneration. A further consequence, which also occurs in the other estates, is that the substantial character of this estate entails modifications with regard to civil law – especially to the administration of justice – and likewise with regard to education and instruction and also to religion; these modifications do *not* affect the *substantial content*, but only its *form* and the *development of reflection*.

*Addition (H)*. In our times, the [agricultural] economy, too, is run in a reflective manner, like a factory, and it accordingly takes on a character like that of the second estate and opposed to its own character of naturalness. Nevertheless, this first estate will always retain the patriarchal way of life and the substantial disposition associated with it. The human being reacts here with immediate feeling [*Empfindung*] as he accepts what he receives; he thanks God for it and lives in faith and confidence that this goodness will continue. What he receives is enough for him; he uses it up, for it will be replenished. This is a simple disposition which is not concerned with the acquisition of wealth; it may also be described as that of the *old nobility*, which consumed whatever it had. In this estate, the main part is played by nature, and human industry is subordinate to it. In the second estate, however, it is the understanding itself which is essential, and the products of nature can be regarded only as raw materials.

## § 204

(b) The *estate of trade and industry* [*Stand des Gewerbes*] has the task of giving *form* to natural products, and it relies for its livelihood on its *work*, on *reflection* and the understanding, and essentially on its mediation of the needs and work of others. What it produces and enjoys, it owes chiefly to *itself* and to its own activity. – Its business is in turn subdivided into work performed in a relatively concrete manner in response to individual [*einzelne*] needs and at the request of individuals [*Einzelner*] (*the estate of craftsmanship*); more abstract work of mass production which supplies individual needs but is more universally in demand (*the estate of manufacturers*); and the business of exchanging separate commodities [*Mittel*] for one another, chiefly through the universal means of exchange, namely money, in which the abstract value of all goods is actualized (*the estate of commerce*).

*Addition (H)*. In the estate of trade and industry, the individual [*Individuum*] has to rely on himself, and this feeling of selfhood is intimately connected with the demand for a condition in which right is upheld. The sense of freedom and order has therefore arisen mainly in towns. The first estate, on the other hand, has little need to think for itself: what it gains is an alien gift, a gift of nature. This feeling of dependence is fundamental to it, and may easily be coupled with a willingness to accept whatever may befall it at the hands of other people. The first estate is therefore more inclined to subservience, the second estate to freedom.

*Translator's note: hat... wenig selbst zu denken; this seems to be a misreading by Gans of the equivalent phrase in Hotho's notes (VPR III, 630), hat wenig sich selbst zu danken (owes little to its own efforts).*

## § 205

(c) The *universal estate* has the *universal interests* of society as its business. It must therefore be exempted from work for the direct satisfaction of its needs, either by having private resources, or by receiving an indemnity from the state which calls upon its services, so that the private interest is satisfied through working for the universal.

## § 206

On the one hand, the *estates*, as particularity become objective to itself, are divided in this way into different general categories in accordance with the concept. But on the other hand, the question of which particular estate the *individual* will belong to is influenced by his natural disposition, birth, and circumstances, although the ultimate and essential determinant is *subjective opinion* and the *particular arbitrary will*, which are accorded their right, their merit, and their honour in this sphere. Thus, *what* happens in this sphere through *inner necessity* is at the same time *mediated by the arbitrary will*, and for the subjective consciousness, it has the shape of being the product of its own will.<sup>1</sup>

In this respect, too, in relation to the principle of particularity and subjective arbitrariness, a difference emerges between the political life of east and west, and of the ancient and modern worlds. In the former, the division of the whole into estates

came about *objectively and of its own accord*, because it is rational *in itself*; but the principle of subjective particularity was at the same time denied its rights, as when, for example, the allocation of individuals to specific estates was left to the rulers, as in Plato's *Republic* (Book III, p. 320, Zweibrücken edition, Vol. VI [415 a-d]), or to birth *alone*, as in the *Indian caste-system*.<sup>2</sup> Thus subjective particularity, excluded from the organization of the whole and not reconciled within it, consequently shows itself — since it likewise appears as an essential moment — as a hostile element, as a corruption of the social order (see Remarks to § 185). It either overthrows the latter, as in the Greek states and in the Roman Republic; or if the social order survives as a ruling power — or perhaps as a religious authority — it appears as inner corruption and complete degeneration, as was to some extent the case in *Sparta* and as is now entirely the case in *India*. — But if it is supported by the objective order, conforming to the latter and at the same time retaining its rights, subjective particularity becomes the sole animating principle of civil society and of the development of intellectual activity, merit, and honour. The recognition and right according to which all that is rationally necessary in civil society and in the state should at the same time come into effect *through the mediation of the arbitrary will* is the more precise definition [*Bestimmung*] of what is primarily meant by the universal idea [*Vorstellung*] of freedom (see § 121).

## § 207

The individual attains actuality only by entering into existence [*Dasein*] in general, and hence into *determinate particularity*; he must accordingly limit himself *exclusively* to one of the *particular* spheres of need. The ethical disposition within this system is therefore that of *rectitude* and the *honour of one's estate*, so that each individual, by a process of self-determination, makes himself a member of one of the moments of civil society through his activity, diligence, and skill, and supports himself in this capacity; and only through this mediation with the universal does he simultaneously provide for himself and gain *recognition* in his own eyes [*Vorstellung*] and in the eyes of others. — *Morality*

has its proper place in this sphere, where reflection on one's own actions and the ends of welfare and of particular needs are dominant, and where contingency in the satisfaction of the latter makes even contingent and individual help into a duty.

Initially — i.e. especially in youth — the individual balks at the notion [*Vorstellung*] of committing himself to a particular estate, and regards this as a limitation imposed on his universal determination and as a purely *external* necessity. This is a consequence of abstract thinking, which stops short at the universal and so does not reach actuality; it does not recognize that the concept, in order *to exist*, must first of all enter into the distinction between the concept and its reality, and hence into determinacy and particularity (see § 7), and that only thus can abstract thinking attain actuality and ethical objectivity.

*Addition* (H). When we say that a human being must be *somebody* [*etwas*], we mean that he must belong to a particular estate; for being somebody means that he has substantial being. A human being with no estate is merely a private person and does not possess actual universality. On the other hand, the individual [*der Einzelne*] in his particularity may see himself as the universal and believe that he would be lowering himself if he became a member of an estate. This is the false notion [*Vorstellung*] that, if something attains an existence [*Dasein*] which is necessary to it, it is thereby limiting and surrendering itself.

## § 208

The principle of this system of needs, as that of the personal [*eigene*] particularity of knowledge and volition, contains within itself that universality which has being *in and for itself*, i.e. the universality of freedom, but only *abstractly* and hence as the *right of property*. Here, however, this right is present no longer merely *in itself*, but in its valid actuality as the *protection of property* through the *administration of justice*.

## B. The Administration of Justice

## § 209

The *relativity* of the reciprocal relation between needs and work to satisfy these needs includes in the first place its *reflection into itself* as infinite personality in general, i.e. as (abstract) *right*. But it is this very sphere of relativity — as that of *education* — which gives right an *existence [Dasein]* in which it is *universally recognized, known, and willed*, and in which, through the mediation of this quality of being known and willed, it has validity and objective actuality.

It is part of education, of *thinking* as consciousness of the individual [*des Einzelnen*] in the form of universality, that I am apprehended as a *universal person*, in which [respect] *all* are identical. A *human being counts as such because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, etc. This consciousness, which is the aim of *thought*, is of infinite importance, and it is inadequate only if it adopts a fixed position — for example, as *asimperialism* — in opposition to the concrete life of the state.

*Addition (H)*. On the one hand, it is through the system of particularity [*Partikularität*] that right becomes externally necessary as a protection for particular interests [*die Besonderheit*]. Even if its source is the concept, right comes into existence [*Existenz*] only because it is useful in relation to needs. In order to conceive of right in terms of thought, one must be educated in how to think, and not remain confined to the merely sensuous realm; one must adapt the form of universality to the objects [*Gegenständen*], and likewise regulate one's will according to a universal [principle]. Only after human beings have invented numerous needs for themselves, and the acquisition of these needs has become entwined with their satisfaction, is it possible for laws to be made.

## § 210

The objective actuality of right consists partly in its being present to the consciousness and being in some way *known*, and partly in its possessing the power of actuality, in having *validity* and hence also in becoming *known as universally valid*.

## a. Right as Law

## § 211

When what is right in itself is *posited* in its objective existence [*Dasein*] — i.e. determined by thought for consciousness and *known [bekannt]* as what is right and valid — it becomes *law*,<sup>4</sup> and through this determination, right becomes *positive* right in general.

To posit something as *universal* — i.e. to bring it to the consciousness as a universal — is, as everyone knows, to *think* (cf. Remarks to §§ 13 and 21 above); when the content is reduced in this way to its simplest form, it is given its final *determinacy*. Only when it becomes law does what is right take on both the *form* of its universality and its true determinacy. Thus, the process of legislation should not be represented merely by that one of its moments whereby something is declared to be a rule of behaviour valid for everyone; more important than this is the inner and essential moment, namely *cognition of the content* in its *determinate universality*. Since only animals have their law as instinct, whereas only human beings have theirs as custom [*Gewohnheit*], *customary rights* contain the moment of being *thought* and of being *known [gemusst]*. The difference between these and laws consists [*besteht*] simply in the fact that the former are known in a subjective and contingent manner, so that they are less determinate for themselves and the universality of thought is more obscure; and in addition, cognizance [*die Kenntnis*] of this or that aspect of right, or of right in general, is the contingent property of only a few people. The view that such rights, since they take the form of *customs [Gewohnheiten]*, are privileged in having become part of *life* is an illusion, for the valid laws of the nation do not cease to be its customs merely because they have been written down and collected. (Besides, it is precisely in those areas which involve the most lifeless material and the most lifeless thoughts that there is most talk nowadays of *life* and *becoming*

<sup>4</sup>*Translator's note:* Hegel is once again exploiting the etymological affinity of words to suggest a semantic affinity. In this case, the noun *Gesetz* ('law') echoes the verb *gesetzt* ('posited').

*part of life.*) When customary rights are eventually collected and put together — which must happen at an early stage among a people which has attained even some degree of education — this collection is a *legal code*; and since it is merely a collection, it will be characterized by *formlessness*, indeterminacy, and incompleteness. The main difference between this and a legal code in the proper sense is that in the latter, the principles of right in their *universality*, and hence in their determinacy, are apprehended, and expressed in terms of thought. The *law of the land* (or common law) of *England* is contained, as everyone knows, in *statutes* (formal laws) and in so-called *unwritten law*; this unwritten law, incidentally, is likewise recorded in writing, and knowledge [*Kenntnis*] of it can and must be acquired solely through reading (of the many quarto volumes which it fills). The enormous confusion which prevails in *England* both in the administration of justice and in the matter [*Sache*] itself has, however, been described by those most familiar with it.<sup>1</sup> They note in particular the circumstance that, since this unwritten law is contained in the verdicts of courts of law and judges, the judges constantly act as *legislators*,<sup>2</sup> they are both dependent on the authority of their predecessors — since the latter merely gave expression to the unwritten law — and independent of it, because they themselves incorporate the unwritten law and are accordingly entitled to judge whether earlier decisions were compatible with the unwritten law or not. — A similar confusion which could have arisen in the administration of justice during the later Roman Empire because of the differing authorities of all the famous jurists was averted when an emperor devised the ingenious expedient, known as the *law of citations*,<sup>3</sup> which introduced a kind of college of *long-deceased* lawyers with a majority vote and a president (see Hugo's *History of Roman Law* [1799 edition], § 354). — To deny a civilized nation, or the legal profession [*dem juristischen Stande*] within it, the ability to draw up a legal code would be among the greatest insults one could offer to either;<sup>4</sup> for this does not require that a system of laws with a *new content* should be created, but only that the present content of the laws should be recognized in its determinate

universality — i.e. grasped by means of *thought* — and subsequently applied to particular cases.

*Addition* (H.G.) The sun and the planets also have their laws, but they are unaware of them. Barbarians are governed by drives, customs [*Sitten*], and feelings, but they have no consciousness of these. When right is posited and known [*Gewusst*], all the contingencies of feeling [*Empfindung*] and opinion and the forms of revenge, compassion, and selfishness fall away, so that right only then attains its true determinacy and is duly honoured. Only through the discipline of being apprehended does it become capable of universality. Collisions arise in the application of the law, where the understanding of the judge has its place; this is entirely necessary, for the implementation of the law would otherwise be a completely mechanical process. But to go so far as to eliminate such collisions altogether by relying heavily on the discretion of the judge is a far worse solution, because collisions are also inherent in thought, in the thinking consciousness and its dialectic, whereas the mere decision of a judge would be arbitrary. It is usually argued in defence of customary right that it has a living quality, but this living quality, i.e. the identity of the determination with the subject, is not the whole essence of the matter [*Sache*]; right must be known by thought, it must be a system in itself, and only as such can it have any validity among civilized [*gebildeten*] nations. If it has lately been denied that nations have a vocation to legislate, this is not only offensive but also foolish, for it does not even credit individuals [*den Einzelnen*] with the skill to reduce the infinite mass of existing laws to a coherent system, despite the fact that the infinite urge of our times is precisely to systematize, i.e. to raise to the universal. It has likewise been held that collections of verdicts such as are found in the *corpus juris*<sup>5</sup> are much more valuable than a legal code worked out in the most general way, on the grounds that such verdicts always retain a certain particularity and association with history which people are reluctant to part with. But the practice of English law shows clearly enough how pernicious such collections are.

## § 212

In this identity of *being in itself* and *being posited*, only what is *law* has binding force as *right*. Since being posited constitutes the aspect of existence [*Dasein*] in which the contingency of self-will and of other particular factors may also intervene, what is law may differ in content from what is right in itself.

In positive right, what is *legal* [gesetzmäßig] is therefore the source of cognition of what is *right* [Recht], or more precisely, of what is *lawful* [Rechtens]; the positive science of right is to that extent a historical science whose principle is that of authority. Whatever else may arise is a matter [Sache] for the understanding and concerns the external classification, compilation, consequences, and further application etc. [of laws]. When the understanding becomes involved with the nature of the thing [Sache] itself, its theories (e.g. of criminal law) show what mischief it can do with its deductive reasoning [Räsonnement aus Gründen]. — On the one hand, positive science has not only the right, but also the necessary duty to deduce in every detail from its positive data both the historical developments and the applications and ramifications of the given determinations of right, and to follow up their consequences; but on the other hand, if it is then asked whether, after all these demonstrations, a determination of right is *rational*, those who occupy themselves with this science should at least not be absolutely astonished, even if they regard the question as *beside the point*. — On *understanding* [the law], cf. Remarks to § 3 above.

## § 213

While right comes into existence [Dasein] primarily in the form of being posited, it also comes into existence in terms of *content* when it is *applied* to the *material* of civil society — to its relationships and varieties of property and contracts in their endlessly increasing diversity and complexity — and to ethical relationships based on emotion, love and trust (but only in so far as these contain the aspect of abstract right — see § 159). Since morality and moral precepts concern the will in its most personal [eigensten] subjectivity and particularity, they cannot be the object [Gegenstand] of positive legislation. Further material [for the positive content of right] is furnished by the rights and duties which emanate from the administration of justice itself, from the state, etc.

*Addition* (G). In the higher relationships of marriage, love, religion, and the state, only those aspects which are by nature capable of having an external dimension can become the object of legislation. Nevertheless,

the legislation of different peoples varies greatly in this respect. For example, the Chinese state has a law to the effect that a husband must love his first wife more than his other wives. If he is convicted of having done the opposite, he is subjected to corporal punishment. In older legislations, there are likewise numerous rules concerning loyalty and honesty which are out of keeping with the nature of law, because they apply entirely to the realm of inwardness. It is only in the case of oaths, where things [Dinge] are referred to the conscience, that honesty and loyalty must be taken into account as substantial issues.

## § 214

But apart from its application to the *particular*, the fact that right is posited also makes it *applicable* to the *individual* [einzelnen] case. It thereby enters the sphere of the *quantitative*, which is not determined by the concept (i.e. the quantitative in itself [für sich], or as the determination of value when one qualitative item is exchanged for another). Determination by the concept imposes only a general limit [Grenze] within which variations are also possible. But such variations must be eliminated if anything is to be actualized, at which point a contingent and arbitrary decision is arrived at within the limit referred to.

It is in this *focusing* of the universal, not just on the particular but on an individual case — i.e. in its *immediate application* — that the *purely positive* aspect of the law chiefly lies. It is impossible to determine by *reason*, or to decide by applying a determination derived from the concept, whether the just penalty for an offence is corporal punishment of forty lashes or thirty-nine,<sup>1</sup> a fine of five dollars [Taler] as distinct from four dollars and twenty-three groschen or less,<sup>2</sup> or imprisonment for a year or for 364 days or less, or for a year and one, two, or three days. And yet an injustice is done if there is even one lash too many, or one dollar or groschen, one week or one day in prison too many or too few. — It is reason itself which recognizes that contingency, contradiction, and semblance have their (*albeit limited*) sphere and right, and it does not attempt to reduce such contradictions to a just equivalence; here, the only interest present is that of *actualization*, the interest that some kind of determination and decision should

be reached, no matter how this is done (within given limits [innerhalb einer Grenze]). This decision belongs to formal self-certainty, to abstract subjectivity, which may rely either on its ability – *within the given limits* – to stop short and settle the matter simply in order that a settlement may be reached, or on such grounds for determination as the choice of a *round* number, or of the number forty minus one. – It makes no difference if the law does not specify this ultimate determination, which actuality requires, but leaves it to the judge to decide and simply limits [beschränkt] him to a maximum and minimum; for the maximum and minimum will themselves be round numbers of this kind, and they do not remove [hebt es nicht auf] the need for the judge to arrive at a finite and purely positive determination of the kind referred to, but assign it to him as a necessary task.

*Addition (H.G).* There is essentially one aspect of law and the administration of justice which is subject to contingency, and this derives from the fact that the law is a universal determination which has to be applied to the individual case. If one were to object to this contingency, the objection would be merely abstract. For example, the magnitude of a punishment cannot be made to correspond with any conceptual definition [Begriffsbestimmung], and whatever is decided will in this respect always be arbitrary. But this contingency is itself necessary; and if one uses it as a general argument against a code of laws, for example, on the grounds that the latter is therefore imperfect, this overlooks the very aspect in which completeness is impossible to attain, and which must therefore be accepted as it stands.

*C. The Police and the Corporation*

§ 230

In the *system of needs*, the livelihood and welfare of each individual [jedes Einzelnen] are a *possibility* whose actualization is conditioned by the individual's own arbitrary will and particular nature, as well as by

the objective system of needs. Through the administration of justice, *infringements* of property or personality are annulled. But the right which is actually present in *particularity* means not only that *contingencies* which interfere with this or that end should be cancelled (*aufgehoben*) and that the *undisturbed security* of persons and property should be guaranteed, but also that the livelihood and welfare of individuals should be secured — i.e. that *particular welfare* should be treated as a right and duly actualized.

a. The Police<sup>1</sup>

§ 231

In so far as the principle by which this or that end is governed is still that of the particular will, that authority [*Macht*] of the universal which guarantees security remains, on the one hand, primarily limited to the sphere of *contingencies*, and on the other, it remains an *external order*.

§ 232

Apart from crimes which the universal authority [*Macht*] must prevent or bring to justice — i.e. contingency in the shape of arbitrary evil — the permissible arbitrariness of inherently [*für sich*] rightful actions and of the private use of property also has external relations [*Beziehungen*] with other individuals [*Einzelne*], as well as with other public arrangements designed to further a common end. Through this universal aspect, private actions become a contingent matter which passes out of my control [*Gewalt*] and which can wrong or harm other people or actually does so.

§ 233

There is admittedly *only a possibility* that harm may be done. But the fact that no harm is done is, as a contingency, likewise no more than that. This is the aspect of *wrong* which is inherent in such actions, and which is consequently the ultimate reason [*Grund*] for penal justice as implemented by the police.

§ 234

The relations [*Beziehungen*] of external existence [*Dasein*] fall within the infinite of the understanding; consequently, no boundary is present *in itself* between what is harmful and what is harmless (even with regard to crime), between what is suspicious and what is not suspicious, or between what should be prohibited or kept under surveillance and what should be exempted from prohibitions, surveillance and suspicion, inquiry and accountability. The more precise determinations will depend on custom, the spirit of the rest of the constitution, prevailing conditions, current emergencies, etc.

*Addition* (1-1). No fixed determinations are possible here, and no absolute boundaries can be drawn. Everything here is personal; subjective opinion comes into play, and the spirit of the constitution and current dangers will determine the more precise circumstances. In times of war, for example, various things which are otherwise harmless must be regarded as harmful. Because of these aspects of contingency and arbitrary personality, the police takes on a certain character of *maliciousness*. When reflection is highly developed, the police may tend to draw everything it can into its sphere of influence, for it is possible to discover some potentially harmful aspect in everything. On such occasions, the police may proceed very pedantically and disrupt the ordinary life of individuals. But however troublesome this may be, no objective boundary line can be drawn here.<sup>1</sup>

§ 235

In the indeterminate multiplication and interdependence of daily needs, the *procurement* and *exchange of means* to satisfy these (a process on whose unimpeded continuance everyone relies) and the need to make the requisite inquiries and negotiations as short as possible give rise to aspects of common interest in which the business of *one* is at the same time carried out on behalf of *all*; they also give rise to means and arrangements which may be of use to the community. These *universal functions* and arrangements of *public utility* require oversight and advance provision on the part of the public authority [*Macht*].

§ 236

The differing interests of producers and consumers may come into collision with each other, and even if, *on the whole*, their correct

relationship re-establishes itself automatically, its adjustment also needs to be consciously regulated by an agency which stands above both sides. The right to regulate individual matters in this way (e.g. by deciding the value of the common necessities of life) is based on the fact that, when commodities in completely universal everyday use are publicly marketed, they are offered not so much to a particular individual [*Individuum*] as such, as to the individual in a universal sense, i.e. to the public; and the task of upholding the public's right not to be cheated, and of inspecting market commodities may, as a common concern, be entrusted to a public authority [*Macht*]. — But the main reason why some universal provision and direction are necessary is that large branches of industry are dependent on external circumstances and remote combinations whose full implications cannot be grasped by the individuals [*Individuen*] who are tied to these spheres by their occupation.

At the opposite extreme to freedom of trade and commerce in civil society are public arrangements to provide for and determine the work of everyone. These included, for example, the building of the pyramids in ancient times, and other enormous works in Egypt and Asia which were undertaken for public ends, and in which the work of the individual [*des Einzelnen*] was not mediated by his particular arbitrary will and particular interest. This interest invokes the freedom of trade and commerce against regulation from above; but the more blindly it immerses itself in its selfish ends, the more it requires such regulation to bring it back to the universal, and to moderate and shorten the duration of those dangerous convulsions to which its collisions give rise, and which should return to equilibrium by a process of unconscious necessity.

*Addition (H).* The aim of oversight and provisions on the part of the police is to mediate between the individual [*Individuum*] and the universal possibility which is available for the attainment of individual ends. The police should provide for street-lighting, bridge-building, the pricing of daily necessities, and public health. Two main views are prevalent on this subject. One maintains that the police should have oversight over everything, and the other maintains that the police should have no say in such matters, since everyone will be guided in his actions by the needs of others. The individual [*der Einzelne*] must certainly have a right to earn his living in this way or that; but on the other hand, the public also has a right

to expect that necessary tasks will be performed in the proper manner. Both viewpoints must be satisfied, and the freedom of trade should not be such as to prejudice the general good.

## § 237

Now even if the possibility exists for individuals to share in the universal resources, and even if this possibility is guaranteed by the public authority [*Macht*], it remains — apart from the fact that such a guarantee must always be incomplete — open to contingencies of a subjective kind. This is increasingly the case the more it takes such conditions as skill, health, capital, etc. for granted.

## § 238

Initially, the family is the substantial whole whose task it is to provide for this particular aspect of the individual, both by giving him the means and skills he requires in order to earn his living from the universal resources, and by supplying his livelihood and maintenance in the event of his incapacity to look after himself. But civil society tears the individual [*Individuum*] away from family ties, alienates the members of the family from one another, and recognizes them as self-sufficient persons. Furthermore, it substitutes its own soil for the external inorganic nature and paternal soil from which the individual [*der Einzelne*] gained his livelihood, and subjects the existence [*Bestehen*] of the whole family itself to dependence on civil society and to contingency. Thus, the individual [*Individuum*] becomes a *son of civil society*, which has as many claims upon him as he has rights in relation to it.

*Addition (H).* Admittedly, the family must provide food for its individual members [*Einzelnen*], but in civil society, the family is subordinate and merely lays the foundations; its effectiveness is no longer so comprehensive. Civil society, on the other hand, is the immense power which draws people to itself and requires them to work for it, to owe everything to it, and to do everything by its means. Thus, if a human being is to be a member of civil society, he has rights and claims in relation to it, just as he had in relation to his family. Civil society must protect its members' and defend their rights, just as the individual [*der Einzelne*] owes a duty to the rights of civil society.

## § 239

In this character as a *universal family*, civil society has the duty and right, in the face of *arbitrariness* and contingency on the part of the *parents*, to supervise and influence the *education* [*Erziehung*] of children in so far as this has a bearing on their capacity to become members of society, and particularly if this education is to be completed not by the parents themselves, but by others. In so far as communal arrangements can be made for this purpose, it is likewise incumbent upon civil society to make them.

*Addition* (H,G). It is difficult to draw a boundary here between the rights of parents and those of civil society. As far as education is concerned, parents usually consider that they have complete freedom and can do whatever they please. With all public education, the main opposition usually comes from the parents, and it is they who protest and speak out about teachers and institutions because their own preference goes against them. Nevertheless, society has a right to follow its own tested views on such matters, and to compel parents to send their children to school, to have them vaccinated, etc. The controversies which have arisen in France between the demands for freedom of instruction (i.e. for parental choice) and for state supervision are relevant in this context.\*

\*Translator's note: This final sentence has no counterpart in the sections of Hotho's and Griesheim's notes on which this *Addition* is based (cf. *VPR* iii, 701f. and iv, 602ff).

## § 240

In the same way, society has the duty and right to act as guardian on behalf of those who destroy the security of their own and their family's livelihood by their extravagance, and to implement their end and that of society in their place.

*Addition* (G). In Athens, the law obliged every citizen to give an account of his means of support; the view nowadays is that this is a purely private matter.<sup>1</sup> On the one hand, it is true that every individual has an independent existence [*sie jedes Individuum für sich*]; but on the other, the individual is also a member of the system of civil society, and just as every human being has a right to demand a livelihood from society, so also must society protect him against himself. It is not just starvation which is at stake here; the wider viewpoint is the need to prevent a rabble from emerging. Since civil society is obliged to feed its members, it also has the right to urge them to provide for their own livelihood.

## § 241

Not only arbitrariness, however, but also contingent physical factors and circumstances based on external conditions (see § 200) may reduce individuals to *poverty*. In this condition, they are left with the needs of civil society and yet—since society has at the same time taken from them the natural means of acquisition (see § 217), and also dissolves [*aufhebt*] the bond of the family in its wider sense as a kinship group (see § 181)—they are more or less deprived of all the advantages of society, such as the ability to acquire skills and education in general, as well as of the administration of justice, health care, and often even of the consolation of religion. For the *poor*, the universal authority [*Macht*] takes over the role of the family with regard not only to their immediate deficiencies, but also to the disposition of laziness, viciousness, and the other vices to which their predicament and sense of wrong give rise.

## § 242

The subjective aspect of poverty, and in general of every kind of want to which all individuals are exposed, even in their natural environment, also requires *subjective* help, both with regard to the *particular* circumstances and with regard to *emotion* and *love*. This is a situation in which, notwithstanding all universal arrangements, *morality* finds plenty to do. But since this help, both in itself [*für sich*] and in its effects, is dependent on contingency, society endeavours to make it less necessary by identifying the universal aspects of want and taking steps to remedy them.

The contingent character of almsgiving and charitable donations (e.g. for burning lamps before the images of saints, etc.) is supplemented by public poorhouses, hospitals, streetlighting, etc. Charity still retains enough scope for action, and it is mistaken if it seeks to restrict the alleviation of want to the *particularity* of emotion and the *contingency* of its own disposition and knowledge [*Kenntnis*], and if it feels injured and offended by universal rulings and precepts of an *obligatory* kind. On the contrary, public conditions should be regarded as all the more perfect the less there is left for the individual to

do by himself [*für sich*] in the light of his own particular opinion (as compared with what is arranged in a universal manner).<sup>1</sup>

## § 243

When the activity of civil society is unrestricted, it is occupied internally with *expanding its population and industry*. — On the one hand, as the association [*Zusammenhang*] of human beings through their needs is *universalized*, and with it the ways in which means of satisfying these needs are devised and made available, the *accumulation of wealth* increases; for the greatest profit is derived from this twofold universality. But on the other hand, the *specialization* [*Verinselung*] and *limitation* of particular work also increase, as do likewise the *dependence* and *want* of the class' which is tied to such work; this in turn leads to an inability to feel and enjoy the wider freedoms, and particularly the spiritual advantages, of civil society.

## § 244

When a large mass of people sinks below the level of a certain standard of living — which automatically regulates itself at the level necessary for a member of the society in question — that feeling of right, integrity [*Rechtlichkeit*], and honour which comes from supporting oneself by one's own activity and work is lost. This leads to the creation of a *rabble*, which in turn makes it much easier for disproportionate wealth to be concentrated in a few hands.

*Addition (G)*. The lowest level of subsistence [*Subsistenz*], that of the rabble, defines itself automatically, but this minimum varies greatly between different peoples. In England, even the poorest man believes he has his rights; this differs from what the poor are content with in other countries. Poverty in itself does not reduce people to a rabble; a rabble is created only by the disposition associated with poverty, by inward rebellion against the rich, against society, the government, etc. It also follows that those who are dependent on contingency become frivolous and lazy like the *lazzaroni* of Naples, for example. This in turn gives rise to the evil that the rabble do not have sufficient honour to gain their livelihood through their own work, yet claim that they have a right to receive their livelihood. No one can assert a right against nature, but within the conditions

tions of society hardship at once assumes the form of a wrong inflicted on this or that class. The important question of how poverty can be remedied is one which agitates and torments modern societies especially.<sup>1</sup>

## § 245

If the direct burden [of support] were to fall on the wealthier class, or if direct means were available in other public institutions (such as wealthy hospitals, foundations, or monasteries) to maintain the increasingly impoverished mass at its normal standard of living, the livelihood of the needy would be ensured without the mediation of work; this would be contrary to the principle of civil society and the feeling of self-sufficiency and honour among its individual members. Alternatively, their livelihood might be mediated by work (i.e. by the opportunity to work) which would increase the volume of production; but it is precisely in overproduction and the lack of a proportionate number of consumers who are themselves productive that the evil [*Ubel*] consists [*besteht*], and this is merely exacerbated by the two expedients in question. This shows that, despite an *excess of wealth*, civil society is *not wealthy enough* — i.e. its own distinct resources are not sufficient — to prevent an excess of poverty and the formation of a rabble.

The example of *England* permits us to study these phenomena [*Erscheinungen*] on a large scale, especially the results achieved by poor-rates, boundless donations, and equally limitless private charity, and above all by the abolition [*Aufheben*] of the corporations. There (especially in Scotland), it has emerged that the most direct means of dealing with poverty, and particularly with the renunciation of shame and honour as the subjective bases of society and with the laziness and extravagance which give rise to a rabble, is to leave the poor to their fate and direct them to beg from the public.

## § 246

This inner dialectic of society drives it — or in the first instance *this specific society* — to go beyond its own confines and look for consumers, and hence the means it requires for subsistence [*Subsistenz*], in other

nations [*Völkern*] which lack those means of which it has a surplus or which generally lag behind it in creativity, etc.

## § 247

Just as the earth, the firm and *solid ground*, is a precondition of the principle of family life, so is the *sea* the natural element for industry, whose relations with the external world it enlivens. By exposing the pursuit of gain to danger, industry simultaneously rises above it; and for the ties of the soil and the limited circles of civil life with its pleasures and desires, it substitutes the element of fluidity, danger, and destruction. Through this supreme medium of communication, it also creates trading links between distant countries, a legal [*rechtlich*] relationship which gives rise to contracts; and at the same time, such trade [*Verkehr*] is the greatest educational asset [*Bildungsmittel*] and the source from which commerce derives its world-historical significance.

Rivers are *not natural boundaries*, which they have been taken to represent in modern times. On the contrary, both they and the oceans link human beings together. It is also inaccurate on Horace's part to say:

deus abscondit  
Prudens Oceano dissociabili  
Torras<sup>a</sup>

This can be seen not only from the fact that river basins are inhabited by a single tribe or people, but also, for example, from the relations which existed in former times between Greece, Ionia, and Magna Graecia, between Brittany and Britain, between Denmark and Norway, Sweden, Finland, Livonia, etc.; it is also particularly clear when we contrast this with the lesser degree of contact between the inhabitants of coastal territories and those of the interior. — But in order to appreciate what an educational asset is present in the link with the sea, one should compare the relationship to the sea of those nations in which creativity has flourished with those which have shunned navigation and which, like the Egyptians

<sup>a</sup>Translator's note: 'A prudent god separated the lands by the dividing ocean.'

and Indians, have stagnated internally and sunk into the most appalling and miserable superstition; one should likewise note how all great and enterprising nations push their way to the sea.

## § 248

This extended link also supplies the means necessary for *colonization* — whether sporadic or systematic — to which the fully developed civil society is driven, and by which it provides part of its population with a return to the family principle in a new country, and itself with a new market and sphere of industrial activity.

*Addition (G).* Civil society is driven to establish colonies. The increase of population alone has this effect; but a particular factor is the emergence of a mass of people who cannot gain satisfaction for their needs by their work when production exceeds the needs of consumers. Sporadic colonization is found particularly in Germany. The colonists move to America or Russia and retain no links with their home country, to which they are consequently of no service. The second variety of colonization, quite different from the first, is systematic. It is initiated by the state, which is aware of the proper way of carrying it out and regulates it accordingly. This mode of colonization was frequently employed by the ancients, especially the Greeks. Hard work was not the concern [*Sache*] of the Greek citizen, whose activity was directed rather towards public affairs [*öffentlichen Dingen*]. Accordingly, whenever the population grew to a point at which it could become difficult to provide for it, the young people were sent off to a new region, which was either specifically chosen or left to be discovered by chance. In more recent times, colonies have not been granted the same rights as the inhabitants of the mother country, and this situation has resulted in wars and eventual independence, as the history of the English and Spanish colonies shows. The liberation of colonies itself proves to be of the greatest advantage to the mother state, just as the emancipation of slaves is of the greatest advantage to the master.

## § 249

What the police provides for in the first instance is the actualization and preservation of the universal which is contained within the particularity of civil society, [and it does so] as an *external order* and

arrangement for the protection and security of the masses of particular ends and interests which have their subsistence [*Bestehen*] in this universal; as the higher guiding authority, it also provides for those interests which extend beyond the society in question (see § 246). In accordance with the Idea, particularity itself makes this universal, which is present in its immanent interests, the end and object [*Gegenstand*] of its will and activity, with the result that *the ethical returns to civil society as an immanent principle*; this constitutes the determination of the *corporation*.

b. The Corporation

§ 250

The *agricultural estate*, in view of the substantiality of its natural and family life, has within itself, in immediate form, the concrete universal in which it lives. The *universal estate*, by definition [*in seiner Bestimmung*], has the universal for itself as its basis and as the end of its activity. The intermediate estate, i.e. the estate of trade and industry, is essentially concerned with the *particular*, and the corporation is therefore specially characteristic of it.

§ 251

The work performed by civil society is divided into different branches according to its particular nature. Since the inherent likeness of such particulars, as the quality *common* to them all, comes into existence [*Existenz*] in the *association*, the *selfish* end which pursues its own particular interest comprehends [*fäßt*] and expresses itself at the same time as a universal end; and the member of civil society, in accordance with his *particular skill*, is a member of a corporation whose universal end is therefore wholly *concrete*, and no wider in scope than the end inherent in the trade which is the corporation's proper business and interest.

§ 252

By this definition [*Bestimmung*], the corporation has the right, under the supervision of the public authority [*Macht*], to look after its own

interests within its enclosed sphere, to admit members in accordance with their objective qualification of skill and recitude and in numbers determined by the universal context, to protect its members against particular contingencies, and to educate others so as to make them eligible for membership. In short, it has the right to assume the role of a *second* family for its members, a role which must remain more indeterminate in the case of civil society in general, which is more remote from individuals and their particular requirements.

The tradesman [*Gewerbsmann*] is distinct from the day labourer, as he is from someone who is prepared to perform an occasional [*einzelnen*] contingent service. The former, who is — or wishes to become — a *master*, is a member of an association not for occasional contingent gain, but for the *whole* range and universality of his particular livelihood. — *Privileges*, in the sense of rights of a branch of civil society which constitutes a corporation, are distinct from privileges proper in the etymological sense, in that the latter are contingent exceptions to the universal law, whereas the former are no more than legally fixed determinations which lie in the *particular nature* of an essential branch of society itself.

§ 253

In the corporation, the family not only *has* its firm basis in that its livelihood is *guaranteed* — i.e. it has secure *resources* (see § 170) — on condition of its [possessing a certain] *capability*, but the two [i.e. livelihood and capability] are also *recognized*, so that the member of a corporation has no need to demonstrate his competence and his regular income and means of support — i.e. the fact that he is *somebody* — by any further *external evidence*. In this way, it is also recognized that he belongs to a whole which is itself a member of society in general, and that he has an interest in, and endeavours to promote, the less selfish end of this whole. Thus, he has his *honour in his estate*.

As a guarantor of resources, the institution of the corporation corresponds to the introduction of agriculture and private property in another sphere (see Remarks to § 203). — When complaints are made about that luxury and love of extravagance of the professional [*gewerbetreibenden*] classes which is

associated with the creation of a rabble (see § 244), we must not overlook, in addition to the other causes [of this phenomenon] (e.g. the increasingly mechanical nature of work), its *ethical* basis as implied in what has been said above. If the individual [*der Einzelne*] is not a member of a legally recognized [*berechtigten*] corporation (and it is only through legal recognition that a community becomes a corporation), he is without the *honour of belonging to an estate*, his isolation reduces him to the selfish aspect of his trade, and his livelihood and satisfaction lack *stability*. He will accordingly try to gain *recognition* through the external manifestations of success in his trade, and these are without limit [*unbegrenzt*], because it is impossible for him to live in a way appropriate to his estate if his estate does not exist; for a community can *exist* in civil society only if it is legally constituted and recognized. Hence no way of life of a more general kind appropriate to such an estate can be devised. — Within the corporation, the help which poverty receives loses its contingent and unjustly [*mit Unrechts*] humiliating character, and wealth, in fulfilling the duty it owes to its association, loses the ability to provoke arrogance in its possessor and envy in others; rectitude also receives the true recognition and honour which are due to it.

## § 254

In the corporation, the so-called *natural right* to practise one's skill and thereby earn what there is to earn is limited only to the extent that, in this context, the skill is rationally determined. That is, it is freed from personal opinion and contingency, from its danger to oneself and others, and is recognized, guaranteed, and at the same time raised to a conscious activity for a common end.

## § 255

The *family* is the first *ethical* root of the state; the *corporation* is the second, and it is based in civil society. The former contains the moments of subjective particularity and objective universality in *substantial* unity; but in the latter, these moments, which in civil society are at first divided into the *internally reflected* particularity of need and

satisfaction and abstract legal [*rechtlichen*] universality, are inwardly united in such a way that particular welfare is present as a right and is actualized within this union.

The sanctity of marriage and the honour attaching to the corporation are the two moments round which the dis-organization of civil society revolves.

*Addition (H)*. When the corporations were abolished [*aufgehoben*] in recent times, it was with the intention that the individual [*der Einzelne*] should look after himself. But even if we accept this, the corporation does not affect the individual's obligation to earn his living. In our modern states, the citizens have only a limited share in the universal business of the state; but it is necessary to provide ethical man with a universal activity in addition to his private end. This universal [activity], which the modern state does not always offer him, can be found in the corporation. We saw earlier that, in providing for himself, the individual [*des Individuum*] in civil society is also acting for others. But this unconscious necessity is not enough; only in the corporation does it become a knowing and thinking [part of] ethical life. The corporation, of course, must come under the higher supervision of the state, for it would otherwise become ossified and set in its ways, and decline into a miserable guild system.<sup>2</sup> But the corporation in and for itself is not an enclosed guild; it is rather a means of giving the isolated trade an ethical status, and of admitting it to a circle in which it gains strength and honour.

## § 256

The end of the corporation, which is limited and finite, has its truth in the end which is *universal* in and for itself and in the absolute actuality of this end. So likewise do the separation and relative identity which were present in the external organization of the police. The sphere of civil society thus passes over into the *state*.

The town is the seat of civil trade and industry, of self-absorbed and divisive [*vereinzelnden*] reflection, of individuals who mediate their own self-preservation in relation to other [legal [*rechtlichen*]] persons. The country is the seat of an ethical life based on nature and the family. Town and country — these constitute in general the two ideal moments from which the state *emerges* as their true *ground*. — This development of immediate ethical life through the division of civil society and

on to the state, which is shown to be their true ground, is the *scientific proof* of the concept of the state, a proof which only a development of this kind can furnish. — Since the state appears as the *result* of the development of the scientific concept in that it turns out to be the *true* ground [of this development], the *mediation* and semblance already referred to are likewise *superseded* by *immediacy*. In actuality, therefore, the *state* in general is in fact the *primary* factor; only within the state does the family first develop into civil society, and it is the idea of the state itself which divides into these two moments. In the development of civil society, the ethical substance takes on its *infinite* form, which contains within itself the following two moments: (1) infinite *differentiation* to the point at which the *inward being* [*Inlichkeit*] of self-consciousness attains being-for-itself and (2) the form of *universality* which is present in education, the form of *thought* whereby the spirit is objective and actual to itself as an *organic* totality in *laws* and *institutions*, i.e. in its own will as *thought*.

SECTION 3  
The State

§ 257

The state is the actuality of the ethical Idea — the ethical spirit as substantial will, *manifest* and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows it. It has its immediate existence [*Existenz*] in *custom* and its mediate existence in the *self-consciousness* of the individual [*des Einzelnen*], in the individual's knowledge and activity, just as self-consciousness, by virtue of its disposition, has its *substantial freedom* in the state as its essence, its end, and the product of its activity.

The *Penates* are the inner and *lower* gods, and the *spirit of the nation* (Athene) is the divine which *knows* and *wills* itself. *Pieté* is feeling [*Empfindung*] and ethical life governed by feeling, and *political virtue* is the willing of that thought end which has being in and for itself.

§ 258

The state is the actuality of the substantial *will*, an actuality which it possesses in the particular *self-consciousness* when this has been raised to its universality; as such, it is the *rational* in and for itself. This substantial unity is an absolute and unmoved end in itself, and in it, freedom enters into its highest right, just as this ultimate end possesses the highest right in relation to individuals [*die Einzelnen*], whose *highest duty* is to be members of the state.

If the state is confused with civil society and its determination is equated with the security and protection of property and personal freedom, the interest of individuals [der Einzelnen] as *sach* becomes the ultimate end for which they are united; it also follows from this that membership of the state is an optional matter. — But the relationship of the state to the individual [Individuum] is of quite a different kind. Since the state is objective spirit, it is only through being a member of the state that the individual [Individuum] himself has objectivity, truth, and ethical life. Union as such is itself the true content and end, and the destiny [Bestimmung] of individuals [Individuen] is to lead a universal life; their further particular satisfaction, activity, and mode of conduct have this substantial and universally valid basis as their point of departure and result. — Considered in the abstract, rationality consists in general in the unity and interpenetration of universality and individuality [Einzelheit]. Here, in a concrete sense and in terms of its content, it consists in the unity of objective freedom (i.e. of the universal substantial will) and subjective freedom (as the freedom of individual [individuellen] knowledge and of the will in its pursuit of particular ends). And in terms of its form, it therefore consists in self-determining action in accordance with laws and principles based on *thought* and hence *universal*. — This Idea is the being of spirit as necessary and eternal in and for itself. — As far as the Idea of the state itself is concerned, it makes no difference what is or was the *historical* origin of the state in general (or rather of any particular state with its rights and determinations) — whether it first arose out of patriarchal conditions, out of fear or trust, out of corporations etc., or how the basis of its rights has been understood and fixed in the consciousness as divine and positive right or contract, habit, etc. In relation to scientific cognition, which is our sole concern here, these are questions of appearance, and consequently a matter [Sache] for history. In so far as the authority of any actual state concerns itself with the question of reasons, these will be derived from the forms of right which are valid within that state. — The philosophical approach deals only with the internal aspect of all this, with the concept as *thought* [mit dem gedachten Begriffe]. As far as the

search for this concept is concerned, it was the achievement of Rousseau to put forward the *will* as the principle of the state, a principle which has *thought* not only as its form (as with the social instinct, for example, or divine authority) but also as its content, and which is in fact *thinking* itself. But Rousseau considered the will only in the determinate form of the individual [einzelnen] will (as Fichte subsequently also did) and regarded the universal will not as the will's rationality in and for itself, but only as the *common element* arising out of this individual [einzelnen] will as a *conscious will*! The union of individuals [der Einzelnen] within the state thus becomes a *contract*, which is accordingly based on their arbitrary will and opinions, and on their express consent given at their own discretion; and the further consequences which follow from this, and which relate merely to the understanding, destroy the divine [element] which has being in and for itself and its absolute authority and majesty. Consequently, when these abstractions were invested with power, they afforded the tremendous spectacle, for the first time we know of in human history, of the overthrow of all existing and given conditions within an actual major state and the revision of its constitution from first principles and purely in terms of *thought*; the *intention* behind this was to give it what was *supposed* to be a purely *rational* basis. On the other hand, since these were only abstractions divorced from the Idea, they turned the attempt into the most terrible and drastic event? — In opposition to the principle of the individual will, we should remember the fundamental concept according to which the objective will is rational in itself, i.e. in its *concept*, whether or not it is recognized by individuals [Einzelnen] and willed by them at their discretion — and that its opposite, knowledge and volition, the subjectivity of freedom\* (which is the *sole* content of the principle of the individual will) embodies only *one* (consequently one-sided) moment of the *Idea of the rational will*, which is rational solely because it has being both *in itself* and *for itself*. — Also at variance with the thought that the state may

\*Translator's note: The word order in the first edition is 'the subjectivity of freedom, knowledge and volition'; but since the following relative clause requires *Subjektivität* as its antecedent, other editions have adopted the present word-order.

be apprehended by cognition as something rational for itself is [the practice of] taking the *externality* of appearance and the contingencies of want, need of protection, strength, wealth, etc. not as moments of historical development, but as the *substance* of the state. Here, the principle of cognition is once again that of separate individuality [*die Einzelheit der Individuen*], but not so much the *thought* of this individuality as the converse of this, namely empirical individuality with all its contingent qualities of strength and weakness, wealth and poverty, etc. This notion [*Einfall*] of ignoring the state's *infinity* and *rationality* in and for itself and of *banning thought* from the apprehension of its inner nature has probably never appeared in so unadulterated a form as in Herr von Haller's *Restoration of Political Science*.<sup>3</sup> It is *unadulterated*, because in all other attempts to grasp the essence of the state, however one-sided or superficial their principles may be, this very intention of *comprehending* the state brings with it thoughts or universal determinations. Here, however, Herr von Haller not only consciously dispenses with the rational content of the state and with the form of thought, but fulminates with passionate zeal against them both. This *Restoration* doubtless owes part of what Herr von Haller assures us is the widespread influence of its principles to the fact that it has managed, in its presentation, to dispense with *all thoughts*, and has thereby managed to make the whole work as of *one piece* in its thoughtlessness. For in this way, it avoids the confusion and discontinuity which diminish the impact of a presentation in which references to the substantial are mixed in with the contingent, and reminders of the universal and rational are intermingled with the merely empirical and external, with the result that, in the sphere of the empty and insignificant, we are reminded of the higher realm of the infinite. — This presentation is equally *consistent* in one further respect. For since the sphere of contingency, rather than the substantial, is taken to be the essence of the state, the content of such a work is consistent precisely in the utter inconsistency of its thoughtlessness, in that it heedlessly goes its way and is soon just as much at home with the opposite of what it had approved a moment earlier.<sup>4</sup>

<sup>3</sup>Hegel's note: In view of the characteristics specified above, the book in question is of an

*Addition* (G). The state in and for itself is the ethical whole, the actualization of freedom, and it is the absolute end of reason that freedom should be actual. The state is the spirit which is present in the world and which *consciously* realizes itself therein, whereas in nature, it actualizes itself only as the other of itself, as dormant spirit. Only when it is present in consciousness, knowing itself as an existent object [*Gegenstand*], is it the state. Any discussion of freedom must begin not with individuality [*Einzelheit*] or the individual self-consciousness, but only with the essence of self-consciousness; for whether human beings know it or not, this essence realizes itself as a self-sufficient power of which single individuals [*die einzelnen Individuen*] are only moments. The state consists in the march of God in the world, and its basis is the power of reason actualizing itself as will. In considering the Idea of the state, we must not have any particular states or particular institutions in mind; instead, we should consider the Idea, this actual God, in its own right [*für sich*]. Any state, even if we pronounce it bad in the light of our own principles, and even if we discover this or that defect in it, invariably has the essential moments of its existence [*Existenz*] within itself (provided it is one of the more advanced states of our time). But since it is easier to discover deficiencies than to comprehend the affirmative, one may easily fall into the mistake of overlooking the inner organism of the state in favour of individual [*einzelne*] aspects. The state is not a work of art; it exists in the world, and hence in the sphere of arbitrariness, contingency, and error, and bad behaviour may disfigure it in many respects. But the ugliest man, the criminal, the invalid, or the cripple is still a living human being; the affirmative aspect — life — survives [*besteht*] in spite of such deficiencies, and it is with this affirmative aspect that we are here concerned.

original kind. In itself [*für sich*], the author's indignation could well have something noble about it, for it was sparked off by the false theories referred to above (which originated largely with Rousseau), and above all by attempts to put these theories into practice. But in order to escape from these, Herr von Haller has withdrawn to the opposite extreme, which is totally devoid of thought and therefore cannot claim to have any substance [*Gehalt*] — that is, the most virulent hatred of all *laws and legislation*, and of *all formally and legally determined right*. Hatred of *law*, of *legally determined right*, is the shibboleth whereby fanaticism, imbecility, and hypocritical good intentions manifestly and infallibly reveal themselves for what they are, no matter what disguise they may adopt. — Originally like that of Herr von Haller is always a remarkable phenomenon [*Eracheinung*], and I will cite some examples of it for those of my readers who are as yet unfamiliar with this book. Herr von Haller first puts forward his basic principle (Vol. 1, pp. 342ff.), namely 'that just as, in the *inanimate* world, the larger displaces the smaller, the powerful the weak, etc., so also among the *animals*, and likewise among human beings, does the same law reappear in nobler (often surely, also in ignobler)<sup>6</sup> forms [*Gestalten*], and 'that this is *accordingly the eternal and unalterable ordinance of God*, that the *more powerful* rules, must rule, and always shall rule'. It is evident even from this, as well as from what I have said in the preceding section, that the words in parentheses are Hegel's own interjection.

follows, what is meant by *power* in this context: it is not the power of justice and ethics, but the contingent power of nature. In support of this, Herr von Haller further cites, among other reasons (pp. 365f.), the fact that nature, with admirable wisdom, has ordained that the very sense of one's *omni superiority* irresistibly ennobles the character and favours the development of precisely those virtues which are most necessary to one's subordinates. He asks, with elaborate formal rhetoric, 'whether it is the strong or the weak in the realm of the sciences who more often abuse their authority and trust for base and selfish ends and to the detriment of credulous people, whether among jurists the masters of their science are the pettifoggers and cavilling lawyers who deceive the hopes of credulous citizens, who call white black and black white, who misuse the laws as a vehicle of wrongdoing, who make beggars out of those who need their protection and who, like hungry *vultures*, tear the innocent lamb to pieces, etc.' Herr von Haller forgets at this point that he is employing such rhetoric precisely in order to defend the proposition that the *rule of the more powerful* is an eternal ordinance of God, the very ordinance whereby the vulture tears the innocent lamb to pieces, and that those whose knowledge [Kennisis] of the law gives them greater power are therefore quite right to plunder the credulous people who need their protection, since they are the weak. But it would be expecting too much for two thoughts to be brought together where not a single thought is present. — It goes without saying that Herr von Haller is an enemy of *legal codes*. Civil laws, in his opinion, are on the one hand completely 'unnecessary, in that they follow *self-evidently from the law of nature*'. It would have saved much of the effort that has been expended on legislation and legal codes since states first began, and that is still expended on such matters and on the study of jurisprudence [*des gesetzlichen Rechts*], if people had always been content with the sound principle *that all this is self-evident*. On the other hand, laws are not in fact made for private persons, but as *instructions* for lesser magistrates to acquaint them with the will of the chief justice. *Jurisdiction* is not in any case a duty on the part of the state (Vol. 1, pp. 297f. and *passim*), but a charitable act, a service provided by those with greater power and purely as an accessory. It is not the most perfect means of guaranteeing right, but is in fact *insane and uncertain*. It is the only means with which our modern jurists have left us, for they have robbed us of the *other three means*, the very ones which *lead most quickly and reliably to the good* and which, apart from the legal system, *friendly nature* has given to human beings in order to *secure their rightful freedom*. And these three means are — what do you think? — '(1) *personal obedience to, and imitacion of, the natural law*; (2) *resistance to injustice [Unrecht]; and (3) flight, when no other help is available*.' (How unfriendly the jurists are in comparison with friendly nature!) 'The *natural and divine law*, however, which all-bountiful nature has given to everyone (Vol. 1, p. 292), is: honour him who is *not your equal*, but is more powerful than yourself; 'give offence to no one *who gives no offence to you*; demand nothing but what he *owes to you*' (but what does he owe?); 'but more than this: love your neighbour and serve him where you can.' — The *implantation of this law* is supposed to render a legislation and constitution superfluous. It would be interesting to see how Herr von Haller interprets the fact that, despite the implantation of this law, legislations and constitutions have made their appearance in the world! In Volume III, pp. 362f., the author comes to the 'so-called national liberties', i.e. the juridical and constitutional laws of nations. (In this wider sense, every legally determined right may be described as a *liberty*.) He says of these laws, among other things, 'that their content is usually very insignificant, even if great value may be placed in *books on such documentary liberties*'. When we see then that the author is here referring to the national liberties of the German Imperial Estates,<sup>4</sup> of the English nation (such as the Magna Charta<sup>5</sup>, which is little read, however, and even less understood on account of its archaic expressions', the Bill of Rights<sup>6</sup> etc.), of the Hungarian nation, etc., we are amazed to discover that these once-

highly prized possessions are of no significance, and that it is *only in books* that these nations place any value on their laws, which have had an effect on every garment the individual wears and every morsel of bread he eats, and whose effects are daily and hourly present in everything. — If we may also mention the *General Legal Code of Prussia*,<sup>7</sup> Herr von Haller speaks of it with particular disfavour (Vol. 1, pp. 185ff.) because unphilosophical errors' (though not, at least, the Kantian philosophy, to which Herr von Haller reacts with particular bitterness) have exerted an *incredible* influence on it, and above all because it refers, among other things, to the *state*, the resources of the state, the end of the state, the head of state, the *duties* of the head of state, servants of the state, etc. Worst of all, in Herr von Haller's opinion, is 'the right to impose taxes on the private resources of individuals, their trade, their production, or their consumption in order to pay for the needs of the state; for this means that both the *king himself* (since the resources of the state are not the private property of the sovereign, but the resources of the state itself) and the *Prussian citizens have nothing of their own*, neither their persons nor their assets, and all subjects are *servi in the eyes of the law*, because *they may not withdraw from the service of the state*'.

On top of all this incredible crudity, perhaps the most amusing touch is the emotion [Rührung] with which Herr von Haller describes his inexpressible pleasure at his discoveries (Vol. 1, Preface [pp. xxiii–xxv]) — 'a joy such as only the friend of truth can feel when, after honest enquiry, he attains the certainty that . . . he has, so to speak (yes, so to speak) indeed, found the utterance of *nature*, the word of *God himself*'. (On the contrary, the word of God quite expressly distinguishes its revelations from the utterances of nature and of natural man.) He tells us 'how he could have fallen on his knees in sheer wonderment, how a flood of joyful tears poured from his eyes, and living religiosity arose from that moment within him'. — Herr von Haller's religiosity ought rather to have bemoaned it as the harshest punishment imposed by God (for it is the harshest judgement human beings can experience) that he had strayed so far from thought and rationality, from respect for the laws, and from the knowledge [*Erkenntnis*] of how infinitely important and divine it is for the duties of the state and the rights of the citizens to be determined by *law* — that he had strayed so far from all this that absurdity was able to pass itself off in his eyes as the *word of God*.

<sup>7</sup>*Translator's note*: Haller's text reads *neuphilosophischen Irrtümer* ('errors of modern philosophy').

## § 259

The Idea of the state

- (a) has *immediate* actuality and is the individual state as a self-related organism — the *constitution or constitutional law* [*inneres Staatsrecht*];
- (b) passes over into the *relationship* of the individual state to other states — *international law* [*äußeres Staatsrecht*];
- (c) is the universal Idea as a *genus* [*Gattung*] and as an absolute power in relation to individual states — the spirit which gives itself its actuality in the process of *world history*.

*Addition (G)*. The state as actual is essentially an individual state, and beyond that a particular state. Individuality should be distinguished from

particularity; it is a moment within the very Idea of the state, whereas particularity belongs to history. States as such are independent of one another, and their relationship can consequently only be an external one, so that there must be a third factor above them to link them together. This third factor is in fact the spirit which gives itself actuality in world history and is the absolute judge of states. Admittedly, several states may form a league and sit in judgement, as it were, on other states, or they may enter into alliances (like the Holy Alliance, for example), but these are always purely relative and limited, like [the ideal of] perpetual peace. The one and only absolute judge which always asserts its authority over the particular is the spirit which has being in and for itself, and which reveals itself as the universal and as the active genus in world history.

### A. Constitutional Law

#### § 260

The state is the actuality of concrete freedom. But *concrete freedom* requires that personal individuality [*Einzeltheit*] and its particular interests should reach their full *development* and gain *recognition of their right for itself* (within the system of the family and of civil society), and also that they should, on the one hand, *pass over* of their own accord into the interest of the universal, and on the other, knowingly and willingly acknowledge this universal interest even as their own *substantial spirit*, and *actively pursue it as their ultimate end*. The effect of this is that the universal does not attain validity or fulfilment without the interest, knowledge, and volition of the particular, and that individuals do not live as private persons merely for these particular interests without at the same time directing their will to a universal end [*in und für das Allgemeine wollen*] and acting in conscious awareness of this end. The principle of modern states has enormous strength and depth because it allows the principle of subjectivity to attain fulfilment in the *self-sufficient extreme* of personal particularity while at the same time *bringing it back to substantial unity* and so preserving this unity in the principle of subjectivity itself.

*Addition* (H.G). The Idea of the state in modern times has the distinctive characteristic that the state is the actualization of freedom not in accordance with subjective caprice, but in accordance with the concept of the will, i.e. in accordance with its universality and divinity. Imperfect

states are those in which the Idea of the state is still invisible [*eingeshüllt*] and where the particular determinations of this Idea have not yet reached free self-sufficiency. In the states of classical antiquity, universality was indeed already present, but particularity [*Partikularität*] had not yet been released and set at liberty and brought back to universality, i.e. to the universal end of the whole. The essence of the modern state is that the universal should be linked with the complete freedom of particularity [*Besondertheit*] and the well-being of individuals, and hence that the interest of the family and of civil society must become focused on the state; but the universality of the end cannot make further progress without the personal [*eigene*] knowledge and volition of the particular individuals [*der Besondertheit*], who must retain their rights. Thus, the universal must be activated, but subjectivity on the other hand must be developed as a living whole. Only when both moments are present [*bestehen*] in full measure can the state be regarded as articulated and truly organized.

#### § 261

In relation to the spheres of civil law [*Privatrecht*] and private welfare, the spheres of the family and civil society, the state is on the one hand an *external necessity* and the higher power to whose nature their laws and interests are subordinate and on which they depend. But on the other hand, it is their *immanent end*, and its strength consists in the unity of its universal and ultimate end with the particular interest of individuals, in the fact that they have *duties* towards the state to the same extent as they also have rights (see § 155).

As has already been noted (in the Remarks to § 3 above), it was above all Montesquieu who, in his celebrated work *L'Esprit des Lois*, focused on and attempted to expound in detail both the thought that laws, including those of civil law in particular, are dependent on the specific character of the state, and the philosophical view that the part should be considered only with reference to the whole. — *Duty* is primarily an attitude *towards* something which, for me, is *substantial* and universal in and for itself. Right, on the other hand, is in general the *existence* [*Dasein*] of this substantial element, and is consequently the latter's *particular* aspect and that of my own *particular* freedom.<sup>2</sup> Thus, on a formal level, right and duty appear to belong to different aspects or persons. In the state, as an ethical entity and as the interpenetration of the substantial

and the particular, my obligation towards the substantial is at the same time the existence of my particular freedom; that is, duty and right are *united* within the state in *one and the same relation* [Beziehung]. But further, since the distinct moments also attain their *characteristic* shape and reality within the state, so that the distinction between right and duty again arises at this point, these moments, although identical in themselves (i.e. in a formal sense) are at the same time *different in content*. In the realms of civil law and morality, the relation [between right and duty] lacks *actual* necessity, so that only an *abstract* equality of content is present; in these abstract spheres, *what* is right for one person ought also to be right for another, and *what* is one person's duty ought also to be another person's duty. That absolute identity of duty and right [referred to above] occurs here only as an equivalent identity of *content*, in that the determination of the content is itself wholly universal; that is, there is a single principle for both duty and right, namely the personal freedom of human beings. Consequently, slaves have no duties because they have no rights, and vice versa. (Religious duties do not concern us here.) – But in the internal development of the concrete Idea, its moments become differentiated, and their determinacy becomes at the same time a different content: in the family, the rights of the son are not *the same in content* as the son's duties towards his father, and the rights of the citizen are not *the same in content* as the citizen's duties towards the sovereign and government. – The above concept of the union of duty and right is a factor [Bestimmung] of the greatest importance, and the inner strength of states is embodied in it. – The abstract aspect of duty consists simply in disregarding and excluding particular interests as an inessential and even unworthy moment. But if we consider the concrete aspect, i.e. the Idea, we can see that the moment of particularity is also essential, and that its satisfaction is therefore entirely necessary; in the process of fulfilling his duty, the individual must somehow attain his own interest and satisfaction or settle his own account, and from his situation within the state, a right must accrue to him whereby the universal cause [Sache] becomes *his own particular*

cause. Particular interests should certainly not be set aside, let alone suppressed; on the contrary, they should be harmonized with the universal, so that both they themselves and the universal are preserved. The individual, whose duties give him the status of a subject [Untertan], finds that, in fulfilling his duties as a citizen, he gains protection for his person and property, consideration for his particular welfare, satisfaction of his substantial essence, and the consciousness and self-awareness of being a member of a whole. And through his performance of his duties as services and tasks undertaken on behalf of the state, the state itself is preserved and secured. Viewed in the abstract, the sole interest of the universal would be [to ensure] that the tasks and services which it requires are performed as duties.

*Addition (H).* Everything depends on the unity of the universal and the particular within the state. In the states of antiquity, the subjective end was entirely identical with the will of the state; in modern times, however, we expect to have our own views, our own volition, and our own conscience. The ancients had none of these in the present sense; for them, the ultimate factor was the will of the state. Whereas, under the despotic regimes of Asia, the individual has no inner life and no justification within himself, in the modern world human beings expect their inner life to be respected. The association of duty and right has a dual aspect, in that what the state requires as a duty should also in an immediate sense be the right of individuals, for it is nothing more than the organization of the concept of freedom. The determinations of the will of the individual acquire an objective existence through the state, and it is only through the state that they attain their truth and actualization. The state is the sole precondition of the attainment of particular ends and welfare.

## § 262

The actual Idea is the spirit which divides itself up into the two ideal spheres of its concept – the family and civil society – as its finite mode, and thereby emerges from its ideality to become infinite and actual spirit for itself. In so doing, it allocates the material of its finite actuality, i.e. individuals as a *mass*, to these two spheres, and in such a way that, in each individual case [am Einzelnen], this allocation

appears to be mediated by circumstances, by the individual's arbitrary will and personal [*eigene*] choice of vocation [*Bestimmung*] (see § 185 and the appended Remarks).<sup>1</sup>

*Addition (H)*. In Plato's republic, subjective freedom is not yet recognized, because individuals still have their tasks assigned to them by the authorities [*Obrigkeiten*].<sup>2</sup> In many oriental states, this assignment is governed by birth. But subjective freedom, which must be respected, requires freedom of choice on the part of individuals.

### § 263

In these spheres in which its moments, individuality [*Einzelheit*] and particularity, have their immediate and reflected reality, spirit is present as their objective universality which manifests itself in them [*läßt ihre in sie scheinende Allgemeinheit*] as the power of the rational in necessity (see § 184), i.e. as the institutions considered above.<sup>1</sup>

*Addition (H)*. The state, as spirit, is divided up into the particular determinations of its concept or mode of being. If we take an example from nature, the nervous system is, properly speaking, the system of sensation: it is the abstract moment of being with oneself [*bei sich*] and of thereby having one's own identity. But the analysis of sensation reveals two aspects, and these are divided in such a way that both of them appear as complete systems: the first is abstract feeling or self-containment, dull internal movement, reproduction, inner self-nutrition, growth [*Produzieren*], and digestion. The second moment is that this being-with oneself stands in opposition to the moment of difference [*Differenz*] or outward movement. This is irritability, the outward movement of sensation, which constitutes a system of its own, and there are lower classes of animals which have developed this system exclusively as distinct from the soul-governed unity of inner sensation. If we compare these natural relations [*Naturbeziehungen*] with those of spirit, we must liken the family to sensibility and civil society to irritability. Then the third factor is the state, the nervous system itself [*für sich*], with its internal organization; but it is alive only in so far as both moments – in this case, the family and civil society – are developed within it. The laws which govern them are the institutions of that rationality which manifests itself within them [*des in sie scheinenden Vernünftigen*]. But the ground and ultimate truth of these institutions is the spirit, which is their universal end and known object [*Gegenstand*]. The family, too, is ethical, but its end is not a known end; in civil society, however, separation is the determining factor.

### § 264

Individuals as a mass are themselves spiritual natures, and they therefore embody a dual moment, namely the extreme of individuality [*Einzelheit*] which knows and wills for itself, and the extreme of universality which knows and wills the substantial. They can therefore attain their right in both of these respects only in so far as they have actuality both as private and as substantial persons. In the spheres in question [i.e. family and civil society], they attain their right in the first respect directly; and in the second respect, they attain it by discovering their essential self-consciousness in [social] institutions as that universal aspect of their particular interests which has being in itself, and by obtaining through these institutions an occupation and activity directed towards a universal end within a corporation.

### § 265

These institutions together form the constitution – that is, developed and actualized rationality – in the realm of particularity, and they are therefore the firm foundation of the state and of the trust and disposition of individuals towards it. They are the pillars on which public freedom rests, for it is within them that particular freedom is realized and rational; hence the union of freedom and necessity is present in itself within these institutions.

*Addition (G)*. It has already been noted that the sanctity of marriage and the institutions in which civil society takes on an ethical appearance constitute the stability of the whole – that is, the universal is simultaneously the concern [*Sache*] of each [individual] as a particular entity. What matters most is that the law of reason should merge with the law of particular freedom, and that my particular end should become identical with the universal; otherwise, the state must hang in the air. It is the self-awareness of individuals which constitutes the actuality of the state, and its stability consists in the identity of the two aspects in question. It has often been said that the end of the state is the happiness of its citizens. This is certainly true, for if their welfare is deficient, if their subjective ends are not satisfied, and if they do not find that the state as such is the means to this satisfaction, the state itself stands on an insecure footing.

## § 266

But the spirit is objective and actual to itself not only as this necessity and as a realm of appearance, but also as the *ideality* and inner dimension of these. Thus, this substantial universality becomes its *own object* [Gegenstand] and end, with the result that the necessity in question similarly becomes its own object and end in the *shape* of freedom.

## § 267

The *necessity* in ideality is the *development* of the Idea within itself, as *subjective substantiality*, it is the [individual's] *political disposition*, and as *objective substantiality* — in contrast with the former — it is the *organism* of the state, the *political* state proper and its *constitution*.

*Addition* (G). The unity of freedom which wills and knows itself is present in the first instance as necessity. Here, the substantial is present as the subjective existence [Existenz] of individuals; but the other mode of necessity is the organism, i.e. the spirit is a process within itself which is internally articulated, and which posits differences within itself through which it completes its cycle.

## § 268

The *political disposition*, i.e. *patriotism* in general, is certainty based on *truth* (whereas merely subjective certainty does not originate in *truth* but is only opinion) and a volition which has become *habitual*. As such, it is merely a consequence of the institutions within the state, a consequence in which rationality is *actually* present, just as rationality receives its practical application through action in conformity with the state's institutions. — This disposition is in general one of *trust* (which may pass over into more or less educated insight), or the consciousness that my substantial and particular interest is preserved and contained in the interest and end of an other (in this case, the state), and in the latter's relation to me as an individual [als Einzelnen]. As a result, this other immediately ceases to be an other for me, and in my consciousness of this, I am free.

Patriotism is frequently understood to mean only a willingness to perform *extraordinary* sacrifices and actions. But in essence,

it is that disposition which, in the normal conditions and circumstances of life, habitually knows that the community is the substantial basis and end. It is this same consciousness, tried and tested in all circumstances of ordinary life, which underlies the willingness to make extraordinary efforts. But just as human beings often prefer to be guided by unanimity instead of by right, so also do they readily convince themselves that they possess this extraordinary patriotism in order to exempt themselves from the genuine disposition, or to excuse their lack of it. — Furthermore, if we take this *disposition* to be something which can originate independently [für sich] and arise out of subjective representations [Vorstellungen] and thoughts, we are confusing it with opinion; for in this interpretation, it is deprived of its true ground, i.e. objective reality.

*Addition* (H). Uneducated people delight in argument [Räsonieren] and fault-finding, for it is easy to find fault, but difficult to recognize the good and its inner necessity. Education in its early stages always begins with fault-finding, but when it is complete, it sees the positive element in everything. In religion, it is equally easy to say that this or that is superstition, but it is infinitely more difficult to comprehend the truth which it contains. Thus people's apparent political disposition should be distinguished from what they genuinely will; for inwardly, they in fact will the thing [Sache], but they fasten on to details and delight in the vanity of claiming superior insight. They trust that the state<sup>a</sup> will continue to exist [bestehen] and that particular interests can be fulfilled within it alone; but habit blinds us to the basis of our entire existence [Existenz]. It does not occur to someone who walks the streets in safety at night that this might be otherwise, for this habit of [living in] safety has become second nature, and we scarcely stop to think that it is solely the effect of particular institutions. Representational thought often imagines that the state is held together by force; but what holds it together is simply the basic sense of order which everyone possesses.

<sup>a</sup>Translator's note: The equivalent term in Hobbes's notes (VPR III, 725) is not *der Staat* ('the state'), as in Gans's version here, but *die Sache* ('the thing').

## § 269

The [political] disposition takes its particularly determined content from the various aspects of the organism of the state. This organism is the development of the Idea in its differences and their objective actuality. These different aspects are accordingly the various powers [within the state] with their corresponding tasks and functions, through which the universal continually produces itself. It does so in a necessary way, because these various powers are determined by the nature of the concept; and it preserves itself in so doing, because it is itself the presupposition of its own production. This organism is the political constitution.

*Addition (G).* The state is an organism, i.e. the development of the Idea in its differences. These different aspects are accordingly the various powers with their corresponding tasks and functions, through which the universal continually produces itself in a necessary way and thereby preserves itself, because it is itself the presupposition of its own production. This organism is the political constitution; it proceeds perpetually from the state, just as it is the means by which the state preserves itself. If the two diverge and the different aspects break free, the unity which the constitution produces is no longer established. The fable of the belly and the other members is relevant here.<sup>1</sup> It is in the nature of an organism that all its parts must perish if they do not achieve identity and if one of them seeks independence. Predicates, principles, and the like get us nowhere in assessing the state, which must be apprehended as an organism, just as predicates are of no help in comprehending the nature of God, whose life must instead be intuited as it is in itself.<sup>2</sup>

## § 270

The fact that the end of the state is both the universal interest as such and the conservation of particular interests within the universal interest as the substance of these constitutes (1) the abstract actuality or substantiality of the state. But this substantiality is (2) the necessity of the state, for it divides itself up into the conceptual differences within the state's functions; and these differences, by virtue of this substantiality, are likewise actual and fixed determinations or powers. (3) But this very substantiality is the spirit which knows and wills itself as having passed through the form of education. The state therefore knows

what it wills, and knows it in its universality as something thought. Consequently, it acts and functions in accordance with known ends and recognized principles, and with laws which are laws not only in themselves but also for the consciousness; and it likewise acts in determine knowledge [Kennis] of existing circumstances and relations in so far as its actions have relevance to these.

This is the point at which we must touch on the state's relation to religion,<sup>1</sup> because it has repeatedly been maintained in recent times that religion is the foundation of the state, and has even been presumed that this assertion constitutes the whole of political science. No assertion is more apt to produce so much confusion, or indeed to set up confusion itself as the political constitution and the form which cognition ought to take. — It may at first seem suspicious that people recommend and resort to religion above all in times of public distress, disruption, and oppression, and that they are referred to it for consolation in the face of wrong and for hope as a compensation for loss. When it is further regarded as a precept of religion that we ought to treat worldly interests and the course of actual events with indifference, despite the fact that the state is the spirit which is present in the world, this religious advice does not seem calculated to promote the interest and business of the state as an essential and serious end. On the contrary, it seems to represent the entire political regime as a matter [Sache] of indifference and arbitrariness, either because it is formulated in such a way as to suggest that the state is dominated by the ends of passion, unjust [unrechlicher] force, and the like, or because such religious advice attempts to retain exclusive validity and claims authority to determine and administer [the process of] right. Although it may seem derisive to dismiss all resentment towards tyranny by declaring that the oppressed find consolation in religion, it should not be forgotten that religion can take on a form which leads to the harshest servitude within the fetters of superstition and to the debasement of human beings to a level below that of the animals (as among the Egyptians and Indians, who venerate animals as higher beings).<sup>2</sup> This phenomenon [Erscheinung] may at least draw our attention to the fact that we ought not to

speak of religion in wholly general terms, and that we instead require a power to rescue us from it in some of the shapes it assumes and to champion the rights of reason and self-consciousness. — But the essential determinant of the relationship between religion and the state can be discovered only if we recall the concept of religion. The content of religion is absolute truth, and it is therefore associated with a disposition of the most exalted kind. As intuition, feeling, and representational cognition [*vorstellende Erkenntnis*] whose concern is with God as the unlimited foundation and cause on which everything depends, it contains the requirement that everything else should be seen in relation [*Beziehung*] to this and should receive confirmation, justification, and the assurance of certainty from this source. It is within this relationship that the state, laws, and duties all receive their highest endorsement as far as the consciousness is concerned, and become supremely binding upon it; for even the state, laws, and duties are in their actuality something determinate which passes over into the higher sphere as that in which its foundation lies (see *Encyclopaedia of the Philosophical Sciences*, § 453).<sup>1</sup> Religion therefore also contains that point which, in spite of all change, affords of actual ends and interests, and loss of possessions, affords a consciousness of immutability and of the highest freedom and satisfaction.† If, then, religion constitutes the *foundation* which embodies the ethical realm in general, and, more specifically, the nature of the state as the divine will, it is at the same time only a *foundation*; and this is where the two [i.e. the state and religion] diverge. The state is the divine will as present spirit, *unfolding* as the actual shape and *organization of a world*. — Those who refuse to go beyond the form of religion when confronted by the state behave like those who,

<sup>1</sup>Hegel's note: Religion, like cognition and science, has as its principle a distinct form which is different from that of the state. All of these therefore enter into the state, partly as *means* to education and the [appropriate] disposition, and partly in so far as they are essentially *ends in themselves* inasmuch as they have an external existence [*Dasein*]. In both respects the principles of the state are *applicable* to them. A comprehensively concrete treatise of the state would also have to consider these spheres, as well as art, purely natural circumstances, etc., in their relevance [*Beziehung*] to and position within the state. In the present treatise, however, in which it is the principle of the state which is expounded, its *own distinct* sphere and in accordance with its Idea, the principles of these other are and the *application* of the right of the state to them can be mentioned only in passing.

in the cognitive realm, claim to be right even if they invariably stop at the *essence* instead of proceeding beyond this abstraction to existence [*Dasein*], or like those who (see Remarks to § 140 above) will only the *abstract good* and leave it to the arbitrary will to determine *what* is good. Religion is the relation to the absolute *in the form of feeling, representational thought, and faith*, and within its all-embracing centre, everything is merely accidental and transient. † If, then, we also adhere to this form in relation [*Beziehung*] to the state and act as if it were the essentially valid and determining factor in this [political] context, too, we thereby expose the state, as an organism within which lasting [*bestehende*] differences, laws, and institutions have developed, to instability, insecurity, and disruption. The laws, as the objective and universal element [within the state], no longer have a lasting and valid determination, but take on a negative determination in relation to that form [of religion] which veils over everything determinate and thereby assumes a subjective character. The consequence for human behaviour is [such advice as] 'To the righteous, no law is given', 'Be pious, and you may otherwise do as you please', or 'You may abandon yourselves to your own arbitrariness and passion, and refer others who thereby suffer wrong to the solace and hope of religion, or (even worse) dismiss and condemn them as irreligious'.<sup>4</sup> If, however, this negative attitude does not simply remain an inward disposition and viewpoint, but turns instead to the actual world and asserts itself within it, it leads to religious *fanaticism* which, like political fanaticism, repudiates all political institutions and legal order as restrictive limitations [*Schranken*] on the inner emotions and as incommensurate with the infinity of these, and hence also rejects private property, marriage, the relationships and tasks of civil society, etc. as unworthy of love and the freedom of feeling. Since, however, decisions still have to be made in relation to actual existence [*Dasein*] and action, the same thing happens as in the case of that subjectivity of the will in general which knows itself to be absolute (see § 140), namely that the decisions are made on the basis of subjective representations [*Vorstellung*], i.e. of *opinion* and the *caprice of the arbitrary will*. — The truth, however — as opposed to this truth which veils itself in the

subjectivity of feeling and representational thinking — is the momentous transition of the inner to the outer, that incorporation [*Einbildung*] of reason into reality which the whole of world history has worked to achieve. Through this work, educated humanity has actualized and become conscious of rational existence [*Dasein*], political institutions, and laws. Those who 'seek the Lord' and assure themselves, in their uneducated opinion, that they possess everything *immediately* instead of undertaking the work of raising their subjectivity to cognition of the truth and knowledge of objective right and duty, can produce nothing but folly, outrage, and the destruction of all ethical relations. These are necessary consequences of that religious disposition which insists exclusively on its form, and so turns against actuality and the truth which is present in universal form within the laws. But this disposition need not necessarily proceed to actualize itself in this way. With its negative point of view, it may well retain its inward character, conform to [social] institutions and laws, and simply resign itself to these with sighs, or with contempt and longing. It is not strength but weakness which, in our times, has turned religiosity into a *polemical* kind of piety, whether this is associated with a genuine need or merely with unsatisfied vanity. Instead of mastering one's opinions by the labour of study and subjecting one's volition to discipline so as to elevate it to free obedience, the easiest course is to renounce cognition of objective truth, to nurse a sense of grievance and hence also of self-conceit, and to find in one's own godliness all that is required in order to see through the nature of the laws and of political institutions, to pass judgement on them, and to lay down what their character should and must be. And indeed, since these are the findings of a pious heart, they must be infallible and indisputable; for if we make religion the basis of our intentions and assertions, these cannot be faulted on account of either their shallowness or their injustice [*Unrechtheit*].<sup>5</sup>

But if the religion in question is of a genuine kind and does not have this negative and polemical attitude towards the state, but acknowledges and endorses it, it will also have a *status* [*Zustand*] and *expression* of its own [*für sich*]. The busi-

ness of its worship consists in *actions* and in *doctrine*; for these, it requires *possessions* and *property*, as well as *individuals* dedicated to the *service* of the community. A relationship thus arises between the state and the religious community, and its determination is a simple one. It is in the nature of the case [*Sache*] that the state fulfils a duty by giving the [religious] community every assistance and protection in the pursuit of its religious end. Indeed, since religion is that moment which integrates the state at the deepest level of the disposition [of its citizens], the state ought even to require all its citizens to belong to such a community — but to any community they please, for the state can have no say in the content [of religious belief] in so far as this relates to the internal dimension of representational thought. A state which is strong because its organization is fully developed can adopt a more liberal attitude in this respect, and may completely overlook individual matters [*Einzelheiten*] which might affect it, or even tolerate communities whose religion does not recognize even their direct duties towards the state (although this naturally depends on the numbers concerned). It is able to do this by entrusting the members of such communities to civil society and its laws, and is content if they fulfil their direct duties towards it passively, for example by commutation or substitution [of an alternative service].<sup>7</sup> But in so far as the religious

<sup>5</sup>*Hegel's note:* Of Quakers, Anabaptists, etc., it may be said that they are active members of civil society and that, as private persons, they have purely private relations with other people. Even in this context, they have been exempted from taking oaths; they fulfil their direct duties towards the state in a passive manner, and although they reject outright one of the most important of these, namely the defence of the state against its enemies, they may even be allowed to fulfil this duty by substituting another service instead.<sup>6</sup> Towards such sects, the state practises *toleration* in the proper sense of the word: for since they do not recognize their duties towards it, they cannot claim the right to belong to it. When, on one occasion, there was a strong movement in the American Congress to abolish negro slavery, a member from the southern states apply retorted: 'Leave us our negroes and you can keep your Quakers.' — Only if the state is strong in other respects can it overlook and tolerate such anomalies, relying above all on the power of custom and the inner rationality of its institutions to reduce and overcome the discrepancy if the state does not strictly enforce its rights in this respect. For example, although it may well have been contrary to formal right to grant even civil rights to the Jews, on the grounds that the latter should be regarded not just as a particular religious group but also as members of a foreign nation [*Volk*], the outcry which this viewpoint and politics produced overlooked the fact that the Jews are primarily *human beings*; this is not just a neutral and abstract quality (see Remarks to § 209), for its consequence is that the

community owns *property* and otherwise performs *acts* of worship with the help of individuals employed for this purpose, it emerges from the inner realm into that of worldly affairs and hence into the province of the state, thereby placing itself *immediately* under its laws. It is true that the oath and the ethical realm in general, including the marriage relationship, involve that inner penetration and elevation of the *disposition* which is confirmed at the profoundest level by religion. [But] since ethical relations are essentially relations of *actual rationality*, the rights of this rationality must first be asserted within them, and the confirmation of the Church is then added to these rights as their purely inward and more abstract aspect. — As for the other ways in which the Church community expresses itself, the inward [dimension] predominates over the outward to a greater extent in matters of *doctrine* than in *acts* of worship and other related kinds of behaviour, in which it is at once apparent that the *legal* [*rechtliche*] aspect at least is in itself [*für sich*] a matter [*Sache*] for the state. (Admittedly, Churches have also contrived to exempt their servants and property from the authority [*Macht*] and jurisdiction over laymen in state, and have even acquired jurisdiction over laymen in matters such as divorce proceedings, the taking of oaths, etc., in which religion plays a part.) — The role of the *police* with regard to such actions is, of course, more indeterminate, but this lies in the nature of their function and applies equally to other purely civil activities (see § 234 above). Whenever individuals of the same religious persuasion join together to form a community or corporation, the latter will in general be subject to the policing and supervision of the state. — *Doctrine* itself, however, has its province within the conscience, and

granting of civil rights gives those who receive them a *self-amazement* as recognized *legal* [*rechtliche*] persons in civil society, and it is from this root, infinite and free from all other influences, that the desired assimilation in terms of attitude and disposition arises. If they had not been granted civil rights, the Jews would have remained in that isolated with which they have been reproached, and this would rightly have brought blame [*Schuld*] and reproach upon the state which excluded them; for the state would thereby have failed to recognize its own principle as an objective institution with a power of its own (cf. the end of the Remarks to § 268). While the demand for the exclusion of the Jews claimed to be based on the highest right, it has proved in practice to be the height of folly, whereas the way in which governments have acted has proved wise and honourable.<sup>g</sup>

enjoys the right of the subjective freedom of self-consciousness, that sphere of inwardness which is not, as such, the province of the state. Nevertheless, the state, too, has its doctrine, for its institutions and whatever it recognizes as valid in relation to right, to the constitution, etc. are present essentially in the form of *thought* as law. And since the state is not a mechanism but the rational life of self-conscious freedom and the system of the ethical world, the *disposition* [of its citizens], and so also the [ir] consciousness of this disposition in *principles*, is an essential moment in the actual state. But the doctrine of the Church is in turn not just an internal matter for the conscience; as doctrine, it is in fact an *expression*, indeed the expression of a content which is intimately connected, or even directly concerned, with ethical principles and with the laws of the state. Thus, state and Church are at this point either in direct *agreement* or in direct *opposition*. The Church may go so far as to present the difference between their respective provinces as an abrupt opposition, for it may take the view that, since the Church embodies the absolute content of religion, the *spiritual* in general and hence also the ethical element are part of its concern, whereas the state is a mechanical framework serving non-spiritual and external ends. The Church may look on itself as the kingdom of God, or at least as the road and forecourt which lead to it, yet regard the state as the kingdom of the world, i.e. of the transitory and finite; in other words, it may see itself as an end in itself, but the state purely as a *means*. And as far as *doctrinal instruction* is concerned, these claims may be coupled with the demand that the state should not only grant the Church complete freedom in such matters, but should also treat its teachings, as doctrines, with unconditional respect, regardless of what they may contain, on the grounds that the Church is alone responsible for determining them. But while the Church bases these claims on the far-reaching argument [*Gründe*] that the spiritual element in general is its property, *science* and cognition in general are also represented in this province and, like a Church, develop into a totality with its own distinct principle which may consider itself as occupying the same position as the Church, but with even greater justification. Thus, science

may also demand the same independence from the state, and treat the latter simply as a means which should provide for it as an end in itself. — Furthermore, it makes no difference to this relationship [between Church and state] whether the individuals and heads of congregations who devote themselves to the service of the religious community have gone so far as to lead an existence [*Existenz*] separate from the state, so that only the other members of their community are subject to its control, or, whether they remain in other respects within the state and regard their ecclesiastical vocation [*Besimmung*] merely as one aspect of their social status [*Stand*] which they keep separate from the state. It should in the first place be noted that such a relationship is associated with that view [*Vorstellung*] of the state according to which its sole function [*Bestimmung*] is to protect and secure the life, property, and arbitrary will of everyone, in so far as the latter does not infringe the life, property, and arbitrary will of others; in this view, the state is merely an arrangement dictated by necessity [*Noth*]. In this way, the higher spiritual element of what is true in and for itself is placed, as subjective religiosity or theoretical science, beyond the [confines of the] state which, as the *laity* in and for itself, should merely show respect [for this element] and is thus completely deprived of its proper ethical character. We do indeed know from history that there have in the past been periods and conditions of barbarism in which all higher spirituality had its seat in the Church, while the state was merely a secular regime of violence, arbitrariness, and passion and the abstract opposition [of Church and state] referred to above was the main principle of actuality (see § 358).<sup>2</sup> But to claim that this situation is the one which truly corresponds to the Idea is to proceed too blindly and superficially. On the contrary, the development of this Idea has established the truth [of the proposition] that spirit, as free and rational, is inherently [*an sich*] ethical, that the true Idea is actual rationality, and that it is this rationality which exists as the state. It has further emerged just as plainly from this Idea that the ethical truth which it embodies is present for thinking consciousness as a content on which the form of universality has been conferred — i.e. as *law* — and that the state in general

knows its ends, and recognizes and implements them with a determinate consciousness and in accordance with principles. Now religion, as already remarked, has the truth as its universal object [*Gegenstand*], but as a given content whose basic determinations have not been recognized in terms of concepts and thought. In the same way, the relation of the individual to this object is an obligation based on authority, and the witness of his own spirit and heart, as that in which the moment of freedom is contained, is faith and feeling [*Empfindung*]. It is philosophical insight which recognizes that Church and state are not opposed to each other as far as their content is concerned, which is truth and rationality, but merely differ in form. Thus, when the Church proceeds to put forward doctrines (although there are and have been Churches which confine themselves to worship, and others in which worship is the principal concern, and doctrine and a more educated consciousness are merely secondary), and its doctrines relate to objective principles, to ethical and rational thoughts, its expression of these doctrines immediately brings it into the province of the state. In contrast with the faith and authority of the Church in relation to ethics, right, laws, and institutions, and with its subjective conviction, the state possesses knowledge. Within its principle, the content is no longer essentially confined to the form of feeling and faith, but belongs to determinate thought. When the content which has being in and for itself appears in the shape of religion as a particular content, as the doctrines peculiar to the Church as a religious community, they remain outside the domain of the state. (In Protestantism, there is no *laity*, so that there is likewise no clergy to act as an exclusive depositary of Church doctrine.) Since ethical principles and the organization of the state in general may be drawn into the province of religion and not only may, but also should, be framed with reference to the latter, this reference gives the state itself its religious accreditation. On the other hand, the state retains the right and form of self-conscious, objective rationality, the right to enforce the latter and to defend it against assertions based on the subjective variety [*Gestalt*] of truth, no matter what assurances and authority this truth may carry with it. Since the essential principle

of the form of the state as a universal is thought, it was in fact from the state that freedom of thought and science first emerged (whereas it was a Church which burned Giordano Bruno<sup>10</sup> and forced Galileo to recant on his knees for expounding the Copernican theory of the solar system,<sup>11</sup> etc.).<sup>†</sup> Thus, science, too, is to be found on the side of the state, for it has the same element of form as the state, and its end is cognition, by means of thought, of objective truth and rationality. Thinking cognition may admittedly fall from [the level of] science to [that of] opinion and deductive reasoning [*Räsonieren aus Gründen*] and, turning its attention to ethical subjects and the organization of the state, set itself up in contradiction to their principles. And it may in so doing make the same pretensions as the Church makes for its own distinctive sphere, namely by presenting its opinions as reason, and as the right of the subjective self-consciousness to freedom of opinion and conviction.

<sup>†</sup> Hegel's note. See Laplace, *Exposition of the System of the World* (*Exposition du Système du monde* (Paris, 1796)), Book V, Chapter 4: "When Galileo announced the discoveries he had made with the telescope (the phases of Venus, etc.), he showed at the same time that they proved beyond doubt the movement of the earth itself. But the idea [Vorstellung] of this movement was pronounced heretical by an assembly of cardinals, and Galileo, its most famous advocate, was summoned before the court of the Inquisition and compelled to recant in order to escape a harsh prison sentence. In a man of intellect (*Geist*), one of the strongest passions is the passion for truth. Galileo, convinced of the earth's movement by his own observations, reflected for a long time over a new work in which he intended to develop all the proofs in its favour. But in order to avoid that persecution to which he would otherwise certainly have fallen victim, he adopted the stratagem of presenting these proofs in the form of dialogues between three individuals. It is obvious enough that the advocate of the Copernican system has the advantage; but since Galileo did not pronounce a verdict, and since he gave as much weight as possible to the objections advanced by the adherents of Ptolemy, he was entitled to expect that he would be left to enjoy unmolested that peace which his advanced years and labours had earned for him. In his seventieth year, he was again summoned before the tribunal of the Inquisition; he was put in prison, and there required to recant his opinions for a second time, under threat of the penalty laid down for relapsed heretics. He was made to sign the following formula of abjuration: "I, Galileo, having appeared in person before the court in my seventieth year, on bended knee and with the holy Gospels before my eyes and in my hands, abjure, damn, and curse, with sincere heart and true belief, the absurdity, falsity, and heresy of the doctrine of the earth's movement", etc. What a spectacle, to see a venerable old man, famed throughout a long life devoted solely to the study of nature, abjuring on his knees and against the testimony of his own conscience that truth which he had convincingly demonstrated! A judgement of the Inquisition condemned him to imprisonment in perpetuity. A year later, on the intercession of the Grand Duke of Florence, he was set at liberty. He died in 1642. His loss was mourned throughout Europe, which his labours had enlightened and which was incensed at the judgement passed by a hated tribunal on so great a man."

tion. The principle of this subjectivity of knowledge has already been discussed above (see Remarks to § 140). All that need be mentioned here is that the attitude of the state towards opinion – in so far as it is merely opinion, a subjective content which therefore has no true inner force and power, however grandiose its claims – is on the one hand one of infinite indifference, like that of the painters who stick to the three primary colours on their palettes, regardless of the wisdom of the schools which tells them that there are seven. But on the other hand, when these opinions based on bad principles give themselves a universal existence [*Dasein*] which undermines actuality, the state must protect objective truth and the principles of ethical life; and it must do the same if the formalism of unconditional subjectivity should seek to make science its basis and starting-point, and to turn the state's own educational establishments against it by inciting them to make pretensions akin to those of a Church. And conversely, when confronted with a Church which claims unlimited and unconditional authority, the state must on the whole assert the formal right of self-consciousness to its own insight and conviction, and in general to thoughts concerning what should count as objective truth.

The unity of state and Church, a subject [*Bestimmung*] which has likewise been much discussed and held up as an ultimate ideal in recent times, may also be mentioned here.<sup>12</sup> Although their essential unity lies in the truth of principles and disposition, it is just as essential that, along with this unity, the difference between their forms of consciousness should attain particular existence [*Existenz*]. That unity of Church and state which has so often been wished for is to be found in oriental despotism – but in this case, there is no state in the sense of that self-conscious configuration [*Gestaltung*] of right, of free ethical life, and of organic development which is alone worthy of the spirit. – Furthermore, if the state is to attain existence [*Dasein*] as the self-knowing ethical actuality of spirit, its form must become distinct from that of authority and faith. But this distinction emerges only in so far as the Church for its part becomes divided within itself. Only then, [when it stands] above the particular Churches, can the state attain universality

of thought as its formal principle and bring it into existence [*Existenz*]; but in order to recognize this, one must know not only what universality is *in itself*, but also what its *existence* [*Existenz*] is. Consequently, far from it being, or ever having been, a misfortune for the state if the Church is divided, it is *through this division alone* that the state has been able to fulfil its destiny [*Bestimmung*] as self-conscious rationality and ethical life. This division is likewise the most fortunate thing which could have happened to the Church and to thought as far as their freedom and rationality are concerned.

*Addition (H).* The state is actual, and its actuality consists in the fact that the interest of the whole realizes itself through the particular ends. Actuality is always the unity of universality and particularity, the resolution of universality into particularity; the latter then appears to be self-sufficient, although it is sustained and supported only by the whole. If this unity is not present, nothing can be *actual*, even if it may be assumed to have *existence* [*Existenz*]. A bad state is one which merely exists; a sick body also exists, but it has no true reality. A hand which has been cut off still looks like a hand and exists, but it has no actuality.<sup>13</sup> True actuality is necessity: what is actual is necessary in itself. Necessity consists [*besteht*] in the division of the whole into the distinctions within the concept, and in the fact that this divided whole exhibits a fixed and enduring determinacy which is not dead and unchanging but continues to produce itself in its dissolution. An essential part of the fully developed state is consciousness or thought; the state accordingly knows what it wills and knows this as an object of thought [*ein Gedachtes*]. Since, then, the seat of knowledge is within the state, science also has its seat *here* and not within the Church. This notwithstanding, there has been much talk in recent times to the effect that the state should grow out of religion. The state is [fully] developed spirit and it displays its moments in the light of consciousness, and the fact that what lies within the Idea emerges into [the sphere of] objectivity [*Gegenständlichkeit*] means that the state appears as a finite entity and is thereby shown to be a secular realm [*Gebiet*], whereas religion presents itself as a realm of infinity. The state consequently seems subordinate, and since the finite cannot exist on its own [*für sich bestehen*], it allegedly requires the Church as its basis. As a finite entity, it is said to lack justification, and only through religion can it be sanctified and belong to the infinite. But this view of the matter [*Sache*] is extremely one-sided. The state is indeed essentially secular and finite, and has particular ends and particular powers; but its secularity is only one of its aspects, and only a spiritless perception can regard it as merely finite. For the state has a

soul which animates it, and this animating soul is subjectivity, which creates distinctions on the one hand but preserves their unity on the other. In the realm [*Reich*] of religion, distinctions and finite elements are also present. God, it is said, is three in one; there are accordingly three determinations, and it is only the unity of these which constitutes the spirit. Consequently, if we apprehend the divine nature in concrete terms, this can be done only by means of distinctions. Thus, finite elements are to be found in the divine realm as well as in the secular, and [to contend] that the secular spirit, i.e. the state, is purely finite is a one-sided view, for actuality is not irrational. A bad state, of course, is purely secular and finite, but the rational state is infinite within itself. Secondly, it is argued that the state should derive its justification from religion. The Idea, within [the context of] religion, is spirit internalized in emotion, but it is this same Idea which gives itself secular expression in the state and secures an existence [*Dasein*] and actuality for itself in knowledge and volition. Thus, to say that the state must be founded on religion may mean that it should be based on and grow out of rationality. But the same proposition can also be misunderstood to mean that those human beings whose spirit is fettered by an unfree religion are best equipped to obey. The Christian religion, however, is the religion of freedom – although it may come about that this freedom is perverted into unfreedom under the influence of superstition. If, then, the above proposition means that individuals must have religion in order that their fettered spirit can be more effectively oppressed within the state, its sense is a bad one; but if it is meant that human beings should have respect for the state as that whole of which they are the branches, the best way of achieving this is, of course, through philosophical insight into its essence. But if this insight is lacking, the religious disposition may lead to the same result. Consequently, the state may have need of religion and faith. But the state remains essentially different from religion, for what it requires has the shape of a legal [*rechtlichen*] duty, and it is indifferent to the emotional attitude with which this duty is performed. The field of religion, on the other hand, is inwardness, and just as the state would prejudice the right of inwardness if it imposed its requirements in a religious manner, so also does the Church, if it acts like a state and imposes penalties, degenerate into a tyrannical religion. A third difference, connected with that just mentioned, is that the content of religion is and remains latent [*stüchtilig*], so that emotion, feeling [*Empfindung*], and representational thought are the ground on which it rests. On this ground, everything has the form of subjectivity, whereas the state actualizes itself and gives its determinations a stable existence [*Dasein*]. Thus, if religiosity sought to assert itself in the state in the manner which it usually adopts on its own ground, it would subvert

the organization of the state; for the differences within the state are far apart, whereas everything in religion invariably has reference to the totality. And if this totality sought to take over all the relations [*Beziehungen*] of the state, it would become fanaticism; it would wish to find the whole in every particular, and could accomplish this only by destroying the particular, for fanaticism is simply the refusal to admit particular differences. If we may so put it, the saying 'Laws are not made for the pious' is no more than an expression of this fanaticism. For when piety adopts the role of the state, it cannot endure anything determinate, but simply destroys it. It is also in keeping with this if piety leaves decisions to the conscience, to inwardness, and is not determined by reasons; for inwardness does not develop reasons and is not accountable to itself. Thus, if piety is to count as the actuality of the state, all laws are swept aside and it is subjective feeling which legislates. This feeling may be pure arbitrariness, and it is only by its actions that we can tell whether or not this is so. But in so far as they are actions or precepts, they assume the shape of laws, and this is in direct contradiction to the subjective feeling referred to. God, as the object [*Gegenstand*] of this feeling, might also be made the determinant; but God is the universal Idea which remains indeterminate within this feeling, and which is not sufficiently mature to determine what exists in developed form within the state. The very fact that everything in the state is stable and secure is a defence against arbitrariness and positive opinion. Thus, religion as such should not hold the reins of government.

### § 271

The political constitution is, first, the organization of the state and the process of its organic life with reference to itself, in which it differentiates its moments within itself and develops them to established existence [*zum Bestehen*].

Secondly, the state in its individuality is an exclusive unit which accordingly has relations with others; it thereby turns its differentiation outwards and, in accordance with this determination, posits its existing [*bestehenden*] differences within itself in their ideality.

*Addition* (H). Just as irritability in the living organism is itself in one respect an inward quality which belongs to the organism as such, so also in the present case is the outward reference directed towards inwardness. The inward aspect of the state as such is the civil power, and its outward direction is the military power, although the latter is also a specific aspect within the state itself. The equilibrium of these two aspects is an import-

ant factor in the history of the state. Sometimes the civil power is completely defunct and based exclusively on the military power, as at the time of the Roman emperors<sup>8</sup> and the praetorians,<sup>9</sup> and at other times — as in the modern period — the military power is solely a product of the civil power, as when all citizens are eligible for conscription.<sup>2</sup>

<sup>8</sup>*Translator's note:* The word *Gewinnung* ('disposition'), which appears at this point in all of those editions of the *Rechtphilosophie* which include Gans's Additions, should read *Geschichte* ('history') as in Hotho's notes, used by Gans as the basis of this Addition (see VPR III, 742). The error is presumably a misreading by Gans.

<sup>9</sup>*Translator's note:* The remainder of this sentence appears to be Gans's own interpolation, as it has no counterpart in either Hotho's or Griesheim's notes.

## I The Internal Constitution<sup>1</sup>

### § 272

The constitution is rational in so far as the state differentiates and determines its activity within itself in accordance with the nature of the concept. It does so in such a way that each of the powers in question is in itself the totality, since each contains the other moments and has them active within it, and since all of them, as expressions of the differentiation [*Unterschied*] of the concept, remain wholly within its ideality and constitute nothing but a single individual whole.

In recent times, we have heard an endless amount of empty talk both about the constitution and about reason itself. The most rapid of this has come from those in Germany who have persuaded themselves that they have a better understanding than anyone else — especially governments — of what a constitution is, and who believe that all their superficialities are irrefutably justified because they are allegedly based on religion and piety. It is no wonder that such talk has made reasonable men [*Männer*] sick of the words 'reason', 'enlightenment', 'right', etc., and likewise of the words 'constitution' and 'freedom', and that one is almost ashamed to enter into any further discussion of political constitutions.<sup>1</sup> But it may at least be hoped that such excesses will lead to a more widespread conviction that philosophical cognition of such subjects cannot come from ratiocination or from [the

<sup>1</sup>*Translator's note:* Literally: 'The Internal Constitution for Itself [*für sich*]' — i.e. the internal aspects will be considered here in their own right.