

CAMBRIDGE TEXTS IN THE HISTORY OF POLITICAL THOUGHT

Series editors

RAYMOND GEUSS *Professor of Philosophy, Columbia University*
QUENTIN SKINNER *Professor of Political Science in the University of
Cambridge*

This series will make available to students the most important texts required for an understanding of the history of political thought. The scholarship of the present generation has greatly expanded our sense of the range of authors indispensable for such an understanding, and the series will reflect those developments. It will also include a number of less well-known works, in particular those needed to establish the intellectual contexts that in turn help to make sense of the major texts. The principal aim, however, will be to produce new versions of the major texts themselves, based on the most up-to-date scholarship. The preference will always be for complete texts, and a special feature of the series will be to complement individual texts, within the compass of a single volume, with subsidiary contextual material. Each volume will contain an introduction on the historical identity and contemporary significance of the text concerned, as well as such student aids as notes for further reading and chronologies of the principal events in a thinker's life.

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G. W. F. HEGEL

*Elements of the
Philosophy of Right*

EDITED BY

ALLEN W. WOOD

Professor of Philosophy, Cornell University

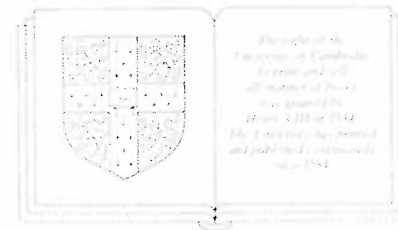
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on to the state, which is shown to be their true ground, is the *scientific proof* of the concept of the state, a proof which only a development of this kind can furnish. – Since the state appears as the *result* of the development of the scientific 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out to be the *true ground* [of this development], the *mediation* and semblance already referred to are likewise *superseded* by *immediacy*.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* [*Insichsein*] 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.]

CUSTOM
INDIVIDUAL

The *Penates* are the inner and *lower* gods, and the *spirit of the nation* (Athena) is the divine which *knows* and *wills* itself. *Piety* 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.]

ULTIMATE END
HIGHEST DUTY

AGENCY
THE
CONTRACT

MEMBERSHIP IN
STATE AS CAP
OF ETHICAL
LIFE

UNION
↳
FAMILY
↳
STATE

SELF-DETERMINING
ACTION IN
ACCORDANCE
W/ UNIVERSAL
PRINCIPLES

[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 *such* 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

LIMITS
OF
ROUSSEAU
+
FICHTE

^aTranslator'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 *banishing 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*.³ 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.]

³Hegel'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. – Originality like that of Herr von Haller is always a remarkable phenomenon [*Erscheinung*], and I will cite some examples of it for those of my readers who are as yet unfamiliar with his 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 ignoble?) 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

⁴Translator's note: The words in parentheses are Hegel's own interjection.

STATE
ACTUALIZATION
OF FREEDOM
↓
RETURNED
ON
ITSELF
NATURE
OTHER
STATE
UNITY

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 *own superiority* irresistibly ennoble 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 clients, 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 [*Kenntnis*] 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. I, 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 *insecure 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 goal* 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 *inculcation* 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. I, p. 292), is: honour everyone as your equal' (on the author's own principles, this ought to read: '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,⁴ of the English nation (such as the Magna Charta⁵ 'which is little read, however, and even less understood on account of its archaic expressions', the Bill of Rights' etc.), of the Hungarian nation, etc., we are amazed to discover that these once so

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*,⁶ Herr von Haller speaks of it with particular disfavour (Vol. I, 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 *serfs 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. I, Preface [pp. xxiii–xxiv]) – '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*.

⁶Translator'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,¹ 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 [*Einzelheit*] 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 [*eingehüllt*] 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 [*Besonderheit*] 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 Besonderheit*], 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 Loïs*, 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.¹ – *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.² 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.)³ – 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).¹

Addition (H). In Plato's republic, subjective freedom is not yet recognized, because individuals still have their tasks assigned to them by the authorities [*Obrigkeit*].² 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* [*als ihre in sie scheinende objektive Allgemeinheit*] as the power of the rational in necessity (see § 184), i.e. as the *institutions* considered above.¹

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-onself 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 Einzelnem]. [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 magnanimity 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^a 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.] *

*
A.B.

STATE HELD TOGETHER BY SENSE OF ORDER

^aTranslator's note: The equivalent term in Hotho'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.] [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.²

NO PREDICATES
ON THE STATE

§ 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 determinate knowledge [Kenntnis] 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,¹ 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 [unrechtlicher] 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).² 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).³ Religion therefore also contains that point which, in spite of all change, failure of actual ends and interests, and loss of possessions, affords a consciousness of immutability and of the highest freedom and satisfaction.⁴ 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,

³ 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 on 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 in its *own distinct* sphere and in accordance with its Idea, the principles of these other areas 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'.⁴ 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 [*Unrechtlichkeit*].⁵

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].⁷ But in so far as the religious

⁵ Hegel's note: Of Quakers, Anabaptists, etc., it may be said that they are active members only 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.⁶ 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 aptly 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 others 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 of the 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-awareness* 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.⁷ [If they had not been granted civil rights,] the Jews would have remained in that isolation 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.⁸

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 [*Bestimmung*] 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 [*Not*]. 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).⁹ 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 depository 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 Bruno¹⁰ and forced Galileo to recant on his knees for *expounding* the Copernican theory of the solar system,¹¹ etc.).[†] 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.

[†]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 it 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.¹² 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 fulfill 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.¹³ 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 [*eingehüllt*], 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^a 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^b and the praetorians;¹ 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.²

^aTranslator's note: The word *Gesinnung* ('disposition'), which appears at this point in all of those editions of the *Rechtsphilosophie* 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.

^bTranslator'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^c

§ 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 vapid 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.¹ 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

^cTranslator's note: Literally: 'The Internal Constitution for Itself [*für sich*]' – i.e. the internal aspects will be considered here in their own right.

consideration of] ends, grounds, and utilities – let alone from emotionality, love, and enthusiasm – but only from the concept; and it is also to be hoped that those who believe that the divine is incomprehensible and that cognition of the truth is a futile [*nichtiges*] enterprise will take no further part in the discussion. At any rate, neither the undigested chatter nor the edifying sentiments which their emotions and enthusiasm generate can claim to merit the attention of philosophy.

Among ideas [*Vorstellungen*] now in currency, that of the necessary division [*Teilung*] of powers within the state calls for mention (with reference to § 269).² This is a highly important determination which, if understood in its true sense, could rightly be regarded as the guarantee of public freedom; but it is also an idea [*Vorstellung*] of which those very people who believe that they speak out of love and enthusiasm know nothing and wish to know nothing, for it is in this very idea that the moment of rational determinacy lies. In other words, the principle of the division of powers contains the essential moment of difference, of real rationality; but such is the view of the abstract understanding that, on the one hand, it attributes to this principle the false determination of the absolute self-sufficiency of each power in relation to the others, and on the other hand, it one-sidedly interprets [*auffassen*] the relation of these powers to one another as negative, as one of mutual limitation. In this view, the reaction of each power to the others is one of hostility and fear, as if to an evil [*Übel*], and their determination [*Bestimmung*] is such that they oppose one another and produce, by means of this counterpoise, a general equilibrium rather than a living unity. It is only the self-determination of the concept within itself, not any other ends or utilities, which contains the absolute origin of the different powers, and it is solely because of this that the organization of the state is inherently [*in sich*] rational and the image of eternal reason. – How the concept and subsequently, in concrete fashion, the Idea, become determined in themselves and thereby posit their moments – universality, particularity, and individuality [*Einzelheit*] – in abstraction can be learned from logic (though not, of course, from the logic commonly in use).³ At any rate, to take the negative as a starting-point and

to make malevolence and distrust of malevolence the primary factor, and then, on this assumption, to devise ingenious defences whose efficiency depends merely on corresponding counter-defences is, as far as thought is concerned, characteristic of the negative understanding and, as far as the disposition is concerned, characteristic of the outlook of the rabble (see § 244 above). – If the powers – e.g. what have been called the executive and legislative powers – attain self-sufficiency, the destruction of the state, as has been witnessed on a grand scale⁴ [in our times], is immediately posited; or if the state is essentially preserved, a unity of one kind or another is established for the time being by means of a conflict whereby one power subjugates the others, and it is by this means alone that the essential [object], the survival [*Bestehen*] of the state, is achieved.

Addition (H). One should expect nothing from the state except what is an expression of rationality. The state is the world which the spirit has created for itself; it therefore follows a determinate course which has being in and for itself. How often do we hear talk of the wisdom of God in nature! But we must not for a moment imagine that the physical world of nature is of a higher order than the world of the spirit; for the state is as far above physical life as spirit is above nature. We should therefore venerate the state as an earthly divinity⁵ and realize that, if it is difficult to comprehend nature, it is an infinitely more arduous task to understand the state. It is of the utmost significance that, in recent times, we have attained specific⁶ intuitions concerning the state in general and have been so much occupied with discussing and framing constitutions. But this still does not resolve the problem; it is also necessary to bring to a rational matter [*Sache*] the reason of intuition,⁷ to know what its essence is, and [to realize] that its most conspicuous aspect is not always the essential. Thus, while the powers of the state must certainly be distinguished, each must form a whole in itself and contain the other moments within it. When we speak of the distinct activities of these powers, we must not fall into the monumental error of taking this to mean that each power should exist independently [*für sich*] and in abstraction; on the contrary, the powers should be distinguished only as moments of the concept. On the other

²Translator's note: *als ein Irdisch-Göttliches*; Hotho's notes, on which Gans based this Addition, read simply *als ein Göttliches* ('as something divine'); see VPR III, 744.

³Translator's note: Hotho's notes read *bestimmtere* ('more specific'); see VPR III, 744.

⁴Translator's note: Hotho's notes read (in translation): 'One must also bring reason to a rational intuition' (VPR III, 744).

hand, if these differences do exist [*bestehen*] independently and in abstraction, it is plain to see that two self-sufficient entities cannot constitute a unity, but must certainly give rise to a conflict whereby either the whole is destroyed or unity is restored by force. Thus, during the French Revolution, the legislative power at times engulfed the so-called executive, and at other times the executive power engulfed the legislative, so that it remains an absurdity in this context to raise, for example, the moral demand for harmony. For if we refer the matter [*Sache*] to the emotions, we admittedly save ourselves all the trouble; but although ethical feeling may be necessary, it is not qualified to determine the powers of the state on its own. Thus, the main point to note is that, just as the determinations of the powers are in themselves the whole, so too do all of them, in their existence [*Existenz*], constitute the entire concept. We usually speak of three powers – the legislative, the executive, and the judiciary. The first of these corresponds to universality and the second to particularity; but the judiciary is not the third constituent of the concept, because its [i.e. the judiciary's] individuality [*Einzelheit*] lies outside the above spheres.

§ 273

The political state is therefore divided into (three substantial elements):

- (a) the power to determine and establish the universal – (the legislative power);
- (b) the subsumption of particular spheres and individual cases under the universal – the (executive power)
- (c) subjectivity as the ultimate decision of the will – (the power of the sovereign) in which the different powers are united in an individual unity which is thus the apex and beginning of the whole, i.e. of constitutional monarchy.

The development [*Ausbildung*] of the state to constitutional monarchy is the achievement of the modern world, in which the substantial Idea has attained infinite form. The history of this immersion of the world spirit in itself or – and this amounts to the same thing – this free development in which the Idea releases its moments (and they are only its moments) from itself as totalities, and in so doing contains them in that ideal unity of the concept in which real rationality consists

[*besteht*] – the history of this true formation [*Gestaltung*] of ethical life is the concern [*Sache*] of universal world history.

[The old classification of constitutions into *monarchy*, *aristocracy*, and *democracy* presupposes a still undivided and substantial unity which has not yet attained its inner differentiation* (as an organization developed within itself) and which consequently still lacks depth and concrete rationality.] From the point of view of the ancient world, therefore, this classification is the true and correct one; for in the case of a unity which is still substantial and has not yet progressed to its absolute development [*Entfaltung*] within itself, (the difference is essentially external and appears primarily as a difference in the number of those in whom that substantial unity is supposed to be immanent) (see *Encyclopaedia of the Philosophical Sciences*, § 52).^a These forms, which in this instance belong to different wholes, are reduced, in constitutional monarchy, to [the status of] moments. [The monarch is one (individual); several participate in the executive power, and the many at large participate in the legislative power.] But as already mentioned, such purely quantitative differences are merely superficial and do not convey the concept of the thing [*Sache*]. There has been much talk in recent times of the democratic and aristocratic elements in *monarchy*, but this is equally beside the point; for in so far as the determinations in question do occur in *monarchy*, they have lost their democratic and aristocratic character. – [Some representations [*Vorstellungen*] of constitutions merely set up the state as an abstraction which governs and issues commands, and leave it undecided – or regard it as immaterial – whether this state is headed by one or several or all. – 'All these forms', says Fichte in his *Natural Law* (Part 1, p. 196), 'are right and proper provided that there is an ephorate'⁴ (an institution devised by Fichte as a counterweight to the supreme power), 'and may promote and preserve universal right within the state'. – Such a view (like the device of an ephorate) is a product of that superficial conception of the state referred to above.] If social conditions are quite simple, these differences are admittedly of little or no significance;

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GOVERNMENT

^aTranslator's note: The first edition refers to § 82 of the *Encyclopaedia* (first edition); I follow Knox (p. 367) and VPR II, 730 in preferring § 52³ as more plausible.

thus Moses, for example, made no provision in his legislation for institutional changes in the event of the people requiring a king, but merely added the commandment that the king should not possess large quantities of horses, wives, and silver and gold (Deuteronomy 17:16ff.). – Furthermore, it is certainly possible in one sense to say that the Idea is likewise indifferent to the three forms in question (including that of *monarchy*, at least in its limited meaning as an *alternative* to *aristocracy* and *democracy*); but it is indifferent to them in the opposite sense [to that of Fichte], because all three are out of keeping with the Idea in its rational development [*Entwicklung*] (see § 272), and the latter could not attain its right and actuality in any of them. For this reason, it has become utterly pointless to ask which of the three is most commendable; such forms can be discussed only in a historical context. – Nevertheless, in this as in so many other instances, we must acknowledge (Montesquieu's) depth of insight in his famous account of the principles of these forms of government. But while acknowledging the accuracy of his account, we must not misunderstand it. It is common knowledge that the specified *virtue* as the principle of *democracy*; and such a constitution does indeed depend on the *disposition* [of the citizens] as the purely substantial form in which the rationality of the will which has being in and for itself still exists under this constitution. But Montesquieu⁶ adds that *England*, in the seventeenth century, afforded a fine spectacle of how efforts to establish a democracy were rendered impotent by a lack of virtue on the part of the leaders, and further observes that, [when virtue disappears from the republic, ambition takes hold of those whose hearts [*Gemüt*] are susceptible to it and greed takes possession of everyone, so that the state falls prey to universal exploitation and its strength resides solely in the power of a few individuals and the unruliness of everyone.] To these remarks, it must be replied that, [as the condition of society grows more advanced and the powers of *particularity* are developed and liberated, it is not enough for the heads of state to be virtuous; another form of rational law is required apart from that of the [individual] disposition if the whole is to have the strength to maintain its unity and to grant the forces

of developed particularity their positive as well as negative rights.] In the same way, [we must avoid the misunderstanding of imagining that, since the disposition of virtue is the substantial form in a democratic republic, this disposition thereby becomes superfluous, or may even be totally absent, in a monarchy; and still less should we imagine that virtue and the *legally determined* activity of an *articulated* organization are mutually opposed and incompatible. – The view that *moderation* is the principle of *aristocracy*⁷ entails an incipient divergence between public power and private interest, which at the same time affect each other so directly that this constitution is intrinsically liable at any moment to turn immediately into the harshest condition of tyranny or anarchy – as witness the history of Rome – and so to destroy itself.] – The fact that Montesquieu recognizes *honour* as the principle of *monarchy*⁸ is enough to indicate that the monarchy he has in mind is neither the patriarchal or ancient variety nor that which has developed an objective constitution, but *feudal monarchy* as that in which the relationships covered by its constitutional law [*inneren Staatsrecht*] have become firmly established as rights of private property and privileges of individuals and corporations. Since the life of the state is based, under this constitution, on privileged personalities to whose discretion a large part of what has to be done for the preservation [*Bestehen*] of the state is entrusted, [the objective aspect of their services consists not in *duties* but in *representations* [*Vorstellung*] and *opinions*; consequently, the state is held together not by duty but merely by *honour*.]

Another question naturally presents itself here: *who is to draw up the constitution?* This question seems clear enough, but closer inspection at once shows that it is nonsensical. For it presupposes that no constitution as yet exists, so that only an [atomistic aggregate of individuals] is present. How such an aggregate could arrive at a constitution, whether by its own devices or with outside help, through altruism [*Güte*], thought, or force, would have to be left to it to decide, for the concept is not applicable to an aggregate. – But if the above question presupposes that [a constitution is already present] to draw up a constitution can only mean to change it, and the very fact that

a constitution is presupposed at once implies that this change could take place only in a constitutional manner. – But it is at any rate utterly essential that [the constitution should *not* be regarded as *something made*, even if it does have an origin in time. On the contrary, it is quite simply that which has being in and for itself, and should therefore be regarded as divine and enduring, and as exalted above the sphere of all manufactured things.]

* Addition (H). [The principle of the modern world at large is freedom of subjectivity] according to which all essential aspects present in the spiritual totality develop and enter into their right. [If we begin with this point of view, we can scarcely raise the idle question of which form, monarchy or democracy, is superior. We can only say that the forms of all political constitutions are one-sided if they cannot sustain within themselves the principle of free subjectivity and are unable to conform to fully developed reason.] *

"Translator's note: In Hotho's notes, on which this Addition is based, this word is not *aller* ('all') but *alter* ('ancient'), so that Hegel's observation, which then reads 'the forms of ancient political constitutions are one-sided and cannot sustain [etc.]', applies only to the constitutions of antiquity. Gans has removed the sentence from its context in the notes and given it a more general application.

§ 274

Since Spirit is actual only as that which it knows itself to be, and since the state, as the spirit of a nation [*Volk*], is both the law which permeates all relations within it and also the customs and consciousness of the individuals who belong to it, [the constitution of a specific nation will in general depend on the nature and development [*Bildung*] of its self-consciousness; it is in this self-consciousness that its subjective freedom and hence also the actuality of the constitution lie.]

The wish to give a nation a constitution *a priori*, even if its content were more or less rational, is an idea [*Einfall*] which overlooks the very moment by virtue of which a constitution is more than a product of thought. [Each nation accordingly has the constitution appropriate and proper to it.] *

Addition (H,G). The constitution of a state must permeate all relations within it. Napoleon, for example, tried to give the Spanish a constitution *a*

priori, but the consequences were bad enough. For [a constitution is not simply made: it is the work of centuries, the Idea and consciousness of the rational (in so far as that consciousness has developed in a nation). No constitution can therefore be created purely subjectively [*von Subjekten*]. * What Napoleon gave to the Spanish was more rational than what they had before, and yet they rejected it as something alien, because they were not yet sufficiently cultivated [*gebildet*].] The constitution of a nation must embody the nation's feeling for its rights and [present] condition; otherwise it will have no meaning or value, even if it is present in an external sense. [Admittedly, the need and longing for a better constitution may often be present in individuals [*Einzelnen*], but for the entire mass [of people] to be filled with such an idea [*Vorstellung*] is quite another matter, and this does not occur until later. Socrates' principle of morality or inwardness was a necessary product of his age, but it took time for this to become [part of] the universal self-consciousness.]

a. The Power of the Sovereign

§ 275

The power of the sovereign itself contains the three moments of the totality within itself (see § 272), namely the *universality* of the constitution and laws,¹ consultation as the reference of the *particular* to the universal, and the moment of ultimate *decision* as the *self-determination* to which everything else reverts and from which its actuality originates. This absolute self-determination constitutes the distinguishing principle of the power of the sovereign as such, and will accordingly be dealt with first.

Addition (H). We begin with the power of the sovereign, i.e. with the moment of individuality [*Einzelheit*], for it contains within itself the three moments of the state as a totality. In other words, the 'I' is simultaneously the most individual^a and the most universal [element]. On the face of it, nature, too, is individual in character, but reality – i.e. non-ideality or mutual externality – is not that which has being with itself [*das Beisich-seiende*]; for in reality, the various individual units [*Einzelheiten*] subsist side by side. In the spirit, on the other hand, all the various elements are present only ideally and as a unity. Thus, the state, as spiritual in character, is the exposition of all its moments, but individuality^b is at the same

^aTranslator's note: Hotho's notes read simply 'the individual' (*das Einzelne*; VPR III, 756).

^bTranslator's note: Hotho reads 'ideality' (*die Idealität*; VPR III, 757).

time its inner soul and animating principle, [and this takes the form of] sovereignty, which contains all differences within itself.

§ 276

1. The basic determination of the political state is the substantial unity or *ideality* of its moments. (α) In this unity, the particular powers and functions of the state are both dissolved and preserved. But they are preserved only in the sense that they are justified not as independent entities, but only in such a way and to such an extent as is determined by the Idea of the whole; their source is the latter's authority [*Macht*] and they are its fluid members, just as it is their simple self.

Addition (G). This ideality of the moments [in the state] is like life in an organic body: it is present at every point, there is only one life in all of them, and there is no resistance to it. Separated from it, each point must die. The same applies to the ideality of all the individual estates, powers, and corporations, however much their impulse may be to subsist and have being for themselves. In this respect, they resemble the stomach of an organism which also posits itself as independent [*für sich*] but is at the same time superseded and sacrificed and passes over into the whole.¹

§ 277

(β) The particular functions and activities of the state *belong to it* as its own essential moments, and the *individuals* who perform and implement them are associated with them not by virtue of their immediate personalities, but only by virtue of their universal and objective qualities. Consequently, the link between these functions and particular personalities as such is external and contingent in character. For this reason, the functions and powers of the state cannot be *private property*.¹

Addition (G). The activity of the state is associated with individuals. The latter, however, are not entitled by nature to perform these tasks, but [only] by virtue of their objective qualities. Ability, skill, and character are *particular* qualities of an individual, who must be trained and educated for a particular occupation. For this reason, an office can neither be sold nor inherited. In France, seats in parliament were formerly sold, as are officers' commissions up to a certain rank in the English army to this day; but

this practice was (or still is) connected with the medieval constitutions of certain states, and these constitutions are now gradually disappearing.^a

Translator's note: The second half of this sentence is an extremely free paraphrase of much fuller reflections in Griesheim's notes on the conflict in England between nobility and crown (VPR IV, 668).

§ 278

The above two determinations – i.e. that the particular functions and powers of the state are not self-sufficient and fixed, either on their own account [*für sich*] or in the particular will of individuals, but are ultimately rooted in the unity of the state as their simple self – constitute the *sovereignty of the state*.

This is *internal* sovereignty. The second aspect is *external* sovereignty (see below). – In the *feudal monarchy* of earlier times, the state certainly had external sovereignty, but internally, neither the monarch himself nor the state was sovereign. On the one hand (cf. Remarks to § 273), the particular functions and powers of the state and civil society were vested in independent corporations and communities, so that the whole was more of an aggregate than an organism; and on the other hand, they [i.e. these functions and powers] were the private property of individuals, so that what the latter had to do in relation to the whole was left to their own opinion and discretion. – The *idealism* which constitutes sovereignty is the same determination as that according to which the so-called *parts* of an animal organism are not parts, but members or organic moments whose isolation and separate existence [*Für-sich-Bestehen*] constitute disease (see *Encyclopaedia of the Philosophical Sciences*, § 293).¹ It is the same principle which we encountered (see § 7) in the abstract concept of the will (see Remarks to § 279) as self-referring negativity, and hence as universality *determining itself to individuality* [*Einzelheit*], in which all particularity and determinacy are superseded – i.e. the absolute and self-determining ground. In order to grasp this, one must first have understood the whole conception of the substance and true subjectivity of the concept. – Since sovereignty is the ideality of every particular authority [*Berech-*

tingung], it is easy to fall into the very common misunderstanding of regarding this ideality as mere power and empty arbitrariness, and of equating sovereignty with despotism. But despotism signifies the condition of lawlessness in general, in which the particular will as such, whether of a monarch or of the people (ochlocracy), counts as law (or rather replaces law), whereas sovereignty is to be found specifically under lawful and constitutional conditions as the moment of ideality of the particular spheres and functions [within the state]. In other words, these spheres are not independent or self-sufficient in their ends and modes of operation, nor are they solely immersed in themselves; on the contrary, in these same ends and modes of operation, they are determined by and dependent on *the end of the whole* (to which the indeterminate expression 'the *welfare of the state*' has in general been applied). This ideality manifests itself in two different ways. – In times of *peace*, the particular spheres and functions [within the state] pursue the course of satisfying themselves and their ends, and it is in part only as a result of the unconscious *necessity* of the thing [*Sache*] that their selfishness is *transformed* into a contribution to mutual preservation, and to the preservation of the whole (see § 183). But it is also in part a *direct influence* from above which constantly brings them back to the end of the whole and limits them accordingly (see 'The Executive Power', § 289), and at the same time urges them to perform direct services for the preservation of the whole. – But in a *situation of crisis* [*Not*] – whether in internal or external affairs – it is around the simple concept of sovereignty that the organism and all the particular spheres of which it formerly consisted rally, and it is to this sovereignty that the salvation of the state is entrusted, while previously legitimate functions [*dieses sonst Berechtigte*] are sacrificed; and this is where that idealism already referred to attains its distinct actuality (see § 321 below).

§ 279

2. Sovereignty, which is initially only the *universal* thought of this ideality, can *exist* only as *subjectivity* which is certain of itself, and as

the will's abstract – and to that extent ungrounded – *self-determination* in which the ultimate decision is vested. This is the individual aspect of the state as such, and it is in this respect alone that the state itself is *one*. But subjectivity attains its truth only as a *subject*, and personality only as a *person*, and in a constitution which has progressed to real rationality, each of the three moments of the concept has its distinctive [*ausgesonderte*] shape which is *actual for itself*. This absolutely decisive moment of the whole, therefore, is not individuality in general, but *one* individual, the *monarch*.

The immanent development of a science, the *derivation of its entire content* from the simple *concept* – and without such a derivation it certainly does not deserve the name of a philosophical science – has the following distinctive feature. One and the same concept – in this case the will – which begins by being abstract (because it is itself the beginning), retains its character yet [at the same time] consolidates its determinations, again through its own exclusive agency, and thereby acquires a concrete content. Thus, it is the basic moment of personality, initially abstract in [the sphere of] immediate right, which has continued to develop through its various forms of subjectivity until at this point, in [the sphere of] absolute right, in the state, and in the completely concrete objectivity of the will, it becomes the *personality of the state*, its *certainty of itself*. This last [instance], whose simple self supersedes all particularities, cuts short the weighing of arguments [*Gründe*] and counter-arguments (between which vacillations in either direction are always possible) and *resolves* them by its 'I will', thereby initiating all activity and actuality. – But personality (and subjectivity in general), as infinite and self-referring, has its *truth* – and indeed its proximate and immediate truth – simply and solely as a person, i.e. as a subject which has being for itself; and that which has being for itself is also simply *one*. The personality of the state has actuality only as a *person*, as the *monarch*. – Personality expresses the concept as such, whereas the person also embodies the actuality of the concept, and only when it is determined in this way [i.e. as a person] is the concept *Idea* or truth. – A so-called *moral person*, [such as] a society, community, or family, however concrete it

may be in itself, contains personality only abstractly as one of its moments. In such a person, personality has not yet reached the truth of its existence [*Existenz*]. The state, however, is precisely this totality in which the moments of the concept attain actuality in accordance with their distinctive truth. – All these determinations, both in themselves [*für sich*] and in the [particular] shapes which they assume, have been discussed throughout this entire treatise; but they are repeated here because, although they are readily accepted when they assume a particular shape, they are no longer recognized and apprehended precisely when they reappear in their true position, i.e. no longer in isolation, but in their truth as *moments* of the Idea. – The concept of the monarch is therefore extremely difficult for ratiocination – i.e. the reflective approach of the understanding – to grasp, because such ratiocination stops short at isolated determinations, and consequently knows only [individual] reasons [*Gründe*], finite viewpoints, and *deduction* from such reasons. It accordingly presents the dignity of the monarch as *derivative*, not only in its form but also in its determination, whereas the very concept of monarchy is that it is not deduced from something else but *entirely self-originating*. The idea [*Vorstellung*] that the right of the monarch is based on divine authority is therefore the closest approximation to this concept, because it conveys the unconditional aspect of the right in question. But the misunderstandings associated with this idea are familiar enough, and the task of philosophical enquiry consists precisely in comprehending this divine quality.

The term '*popular sovereignty*' may be used to indicate that a people is self-sufficient for all *external* purposes and constitutes a state of its own, like the people of Great Britain – as distinct from the peoples of England, Scotland, or Ireland, or of Venice, Genoa, Ceylon, etc., who are now no longer sovereign because they have ceased to have sovereign princes or supreme governments of their own. – We may also say that *internal sovereignty* lies with the *people*, but only if we are speaking of the *whole* [state] in general, in keeping with the above demonstration (see §§ 277 and 278) that sovereignty belongs to the *state*. But the usual sense in which the term 'popular

sovereignty' has begun to be used in recent times is to denote *the opposite of that sovereignty which exists in the monarch*. In this oppositional sense, popular sovereignty is one of those confused thoughts which are based on a *garbled* notion [*Vorstellung*] of the *people*. *Without* its monarch and that *articulation* of the whole which is necessarily and immediately associated with monarchy, *the people* is a formless mass. The latter is no longer a state, and *none* of those determinations which are encountered only in an *internally organized* whole (such as sovereignty, government, courts of law, public authorities [*Obrigkeit*], estates, etc.) is applicable to it. It is only when moments such as these which refer to an organization, to political life, emerge in a people that it ceases to be that indeterminate abstraction which the purely general idea [*Vorstellung*] of the *people* denotes. – If 'popular sovereignty' is taken to mean a *republican* form [of government], or more specifically democracy (for the term 'republic' covers many other empirical combinations which are in any case irrelevant in a philosophical discussion), then all that needs to be said has already been said above (see Remarks to § 273), apart from which there can be no further discussion of such a notion [*Vorstellung*] in face of the developed Idea. – If a people is represented neither as a patriarchal *tribe* [*Stamm*], nor as existing in an undeveloped condition in which democratic or aristocratic forms are possible (see Remarks to § 273) – or indeed in any other arbitrary and inorganic condition – but is envisaged as an internally developed and truly organic totality, its sovereignty will consist in the personality of the whole, which will in turn consist in the reality appropriate to its concept, i.e. the *person of the monarch*.

At that stage referred to above at which constitutions were divided into democracy, aristocracy, and monarchy – i.e. the point of view of substantial unity which remains within itself and which has not yet attained its infinite differentiation and immersion in itself – the moment of the *ultimate and self-determining decision of the will* does not emerge for itself in its *own distinct actuality* as an *immanent* organic moment of the state. Admittedly, even when the state assumes these less advanced shapes, there must always be an individual at its

head. This individual is either already present as such [*für sich*], as in monarchies of the type in question, or, as in aristocracies and more particularly in democracies, he may rise up from among the statesmen or generals in a contingent manner and as *particular circumstances* require; for all actions and all actuality are initiated and implemented by a leader as the decisive unit. But enclosed in a union of powers which is still undifferentiated, this subjectivity of decision must either be contingent in its origin and emergence or occupy an altogether subordinate position. So long as heads of state were subject to such conditions, it was only in a sphere beyond their own that a pure and unalloyed decision could be found in the shape of a fate which determined [events] from without. As a moment within the Idea, this decision had to come into existence [*Existenz*], but its roots lay outside the circle of human freedom which the state encompasses. – This is the origin of the need to derive the *ultimate* decision on major issues and important concerns [*Momente*] of the state from *oracles*, a *daemon* (in the case of Socrates), the entrails of animals, the feeding and flight of birds, etc.;¹ for when human beings had not yet fathomed the depths of self-consciousness or emerged from the undifferentiated condition of substantial unity to attain being for themselves, they were not yet strong enough to perceive this decision *within* their own being. – In the *daemon* of Socrates (cf. [Remarks to] § 138 above), we can see how the will which in the past had simply projected itself *beyond* itself began to turn in upon itself and to recognize itself from within, which is the beginning of a *self-knowing* and hence genuine freedom. Since this real freedom of the Idea consists precisely in giving each of the moments of rationality its own present and *self-conscious* actuality, it is through its agency that the ultimate self-determining certainty which constitutes the apex of the concept of the will is allotted the function of a [an individual] consciousness. But this ultimate self-determination can fall within the sphere of human freedom only in so far as it occupies this supreme position, *isolated for itself* and exalted *above everything particular and conditional*; for only thus does its actuality accord with its concept.

Addition (G). In the organization of the state (which in this case means constitutional monarchy), the one thing which we must bear in mind is the internal necessity of the Idea; all other considerations are irrelevant. The state must be regarded as a great architectonic edifice, a hieroglyph of reason which becomes manifest in actuality. All considerations of mere utility, externality, and the like must therefore be excluded from a philosophical treatment [of this subject]. Representational thought can easily comprehend that the state is the self-determining and completely sovereign will, the ultimate source of decisions. But it is more difficult to grasp this ‘I will’ as a person, for this [formula] does not imply that the monarch may act arbitrarily: on the contrary, he is bound by the concrete content of the advice he receives, and if the constitution is firmly established, he often has nothing more to do than to sign his name. But this *name* is important: it is the ultimate instance and *non plus ultra*. It could be said that an organic articulation was already present in the beautiful democracy of Athens, but we can see at once that the Greeks based the ultimate decision on completely external phenomena [*Erscheinungen*] such as oracles, the entrails of sacrificial animals, and the flight of birds, and that they regarded nature as a power which proclaimed and expressed by these means what was good for human beings. At that time, self-consciousness had not yet arrived at the abstraction of subjectivity, nor had it yet realized that an ‘I will’ must be pronounced by man himself on the issue to be decided. This ‘I will’ constitutes the great difference between ancient and modern worlds, so that it must have its own distinct existence [*Existenz*] in the great edifice of the state. Unfortunately, however, this determination is regarded² as merely external and discretionary.

¹Translator’s note: Griesheim’s notes, from which this Addition is extracted, read ‘frequently regarded’ (*häufig . . . angesehen*; VPR IV, 676).

§ 280

3. Seen in abstraction, this ultimate self of the will of the state is simple and therefore an *immediate* individuality [*Einzelheit*], so that the determination of *naturalness* is inherent in its very concept. The monarch, therefore, is essentially determined as *this* individual, in abstraction from every other content, and this individual is destined [*bestimmt*] in an immediate and natural way, i.e. by his natural *birth*, to hold the dignity of the monarch.

This transition from the concept of pure self-determination to

the immediacy of being, and hence to the natural realm, is of a purely speculative nature, and its cognition accordingly belongs to logical philosophy. Furthermore, it is, on the whole, the same transition as that which is already familiar to us from the nature of the will in general, as the process which translates a content from subjectivity (as an end in view [*als vorgestellten Zweck*]) into existence [*Dasein*] (see § 8). But the distinctive form of the Idea and of the transition here in question is the *immediate transformation* of the pure self-determination of the will (i.e. of the simple concept itself) into *this* [specific entity], into natural existence, without the mediation of a *particular* content (such as the end of an action). – In the so-called *ontological proof* of the *existence of God*, it is this same transformation of the absolute concept into being which has given the Idea its profundity in the modern age. But this has recently been declared *incomprehensible*, which amounts to renouncing all cognition of the *truth*, for truth is simply the unity of the concept and existence (see § 23).¹ Since this unity is not to be found in the consciousness of the understanding, which continues to regard these two moments of the truth as *separate*, this consciousness may perhaps, in the present [religious] context, concede the possibility of a *faith* in this unity. But since the idea [*Vorstellung*] of the monarch is regarded as entirely within the scope of ordinary consciousness, the understanding insists all the more firmly on its separation [of the two moments] and on the consequences which its astute reasoning can deduce from this. It accordingly denies that the moment of ultimate decision in the state is linked *in and for itself* (i.e. in the concept of reason) with the immediate and natural, and concludes from this first, that this link is *contingent*, and secondly – since it equates rationality with the absolute distinctness of the two moments – that such a link is irrational. From this, further devastating consequences ensue for the Idea of the state.

Addition (H). A frequent objection to monarchy is that it makes the affairs of the state subject to contingency – since the monarch may be ill-educated or unworthy of holding the highest office – and that it is absurd for such a situation to be regarded as rational. But this objection is based on the invalid assumption that the monarch's particular character is of

vital importance. In a fully organized state, it is only a question of the highest instance of formal decision, and all that is required in a monarch is someone to say 'yes' and to dot the 'i'; for the supreme office should be such that the particular character of its occupant is of no significance. Whatever other qualities the monarch has in addition to his role of ultimate decision belong to [the sphere of] particularity [*Partikularität*], which must not be allowed to affect the issue. There may indeed be circumstances in which this particularity plays an exclusive part, but in that case the state is either not yet fully developed, or it is poorly constructed. In a well-ordered monarchy, the objective aspect is solely the concern of the law, to which the monarch merely has to add his subjective 'I will'.²

§ 281

The two moments in their undivided unity – i.e. the ultimate ungrounded self of the will, and its existence [*Existenz*] which is consequently also ungrounded (and which belongs by definition [*Bestimmung*] to *nature*) – constitute the Idea of something *unmoved* by arbitrary will, i.e. the *majesty* of the monarch. In this unity lies the *actual unity* of the state, and it is only by virtue of its inward and *outward immediacy* that this unity is saved from being dragged down into the sphere of *particularity* with its arbitrariness, ends, and attitudes, from the strife of factions round the throne, and from the enervation and destruction of the power of the state.

The rights of birth and inheritance constitute the basis [*Grund*] of *legitimacy*, i.e. the basis not just of a purely positive right but also [of a right contained] in the Idea. – If the mode of succession is clearly defined – i.e. if the throne is inherited – the formation of factions is prevented when the throne falls vacant; this circumstance has long been cited, and rightly so, in support of hereditary succession. Nevertheless, this aspect is merely a consequence, and if it is made into a *ground* [*Grund*], it debases [the monarch's] majesty to the sphere of ratiocination and, regardless of its character of ungrounded immediacy and ultimate inward being, grounds it not upon the Idea of the state which is immanent within it, but on something *outside it*, on some thought of a different character such as the welfare *of the state or of the people*. From a determination of this kind, it is indeed possible, by using middle terms

[*medios terminos*], to deduce [the need for] hereditary succession; but other middle terms, and hence other consequences, are equally possible, and the consequences which have been drawn from this *welfare* of the people (*salut du peuple*) are only too familiar. – For these reasons, *philosophy alone* is in a position to consider this majesty [of the monarch] by means of thought, for every method of enquiry other than the speculative method of the infinite and self-grounded Idea annuls [*aufhebt*] the nature of majesty in and for itself. – *Elective monarchy*¹ may well seem the most *natural* idea [*Vorstellung*], i.e. the one most obvious to superficial thinking; for since it is the concerns and interests of the people that the monarch must look after, it can be argued that the people must also be left to choose whom they wish to entrust their welfare to, and that it is from this trust alone that the right to rule arises. This view, like the ideas [*Vorstellungen*] of the monarch as the first servant of the state,² of a contractual relationship between monarch and people, etc., bases itself on the will in the sense of the *caprice*, opinion, and arbitrariness of the many – a determination which, as we noticed some time ago,³ is of primary importance in civil society (or merely seeks to assert itself as such), but is not the [basic] principle of the family, let alone of the state, and is completely opposed to the Idea of ethical life. – Indeed, it is even possible for ratiocination to deduce from the *consequences* of elective monarchy that it is the worst of institutions. But these consequences appear to ratiocination only as a *possibility* or *probability*, although they are in fact an essential concomitant of this institution. That is to say, the nature of the situation in an elective monarchy whereby the *particular* will is made the ultimate source of decisions means that the constitution becomes an *electoral contract* [*Wahlkapitulation*], i.e. a surrender of the power of the state at the discretion of the particular [*partikularen*] will; as a result, the particular [*besonderen*] powers of the state are turned into private property, the sovereignty of the state is weakened and lost, and the state is dissolved from within and destroyed from without.⁴

¹Translator's note: See, for example, §§ 182–189 above.

Addition (G). In order to grasp the Idea of the monarch, it is not enough to say that kings are appointed by God, for God has made everything, including the worst [of things].⁵ The point of view of utility does not get us far either, for it is always possible to point to disadvantages. And it is of just as little help to regard monarchy as a positive right. The fact that I have property is necessary, but this [or that] particular possession is contingent, and the right whereby one individual must occupy the highest office appears in a similar light if it is taken in an abstract and positive sense. But this right is present as a felt need and as a need of the thing [*Sache*] in and for itself. Monarchs are not exactly distinguished by their physical powers or intellect [*Geist*], yet millions accept them as their rulers. But it is absurd to say that people allow themselves to be ruled in defiance of their own interests, ends, and intentions, for they are not as stupid as that; it is their need, the inner power of the Idea, which compels them to accept such rule and keeps them in this situation, even if they appear to be consciously opposed to it. Thus, whereas the monarch functions as head of state and as part of the constitution, it has to be said that a conquered people is not constitutionally identical with its sovereign. If a rebellion occurs in a province conquered in war, this is not the same thing as a revolt in a well-organized state. The conquered people are not rebelling against their sovereign prince, and they are not committing a political crime, for they are not linked with their master in terms of the Idea or through the inner necessity of the constitution. There is only a contract, but not a political association. 'Je ne suis pas votre prince, je suis votre maître' was Napoleon's reply to the delegates at Erfurt.⁶

⁵Translator's note: 'I am not your prince, I am your master.'

§ 282

The sovereignty of the monarch is the source of the *right to pardon* criminals, for only the sovereign is entitled to actualize the power of the spirit to undo what has been done and to nullify crime by forgiving and forgetting.

The right of pardon is one of the highest acknowledgements of the majesty of the spirit. – Furthermore, this right is one of those instances in which a determination from a higher sphere is applied to, or reflected in, a lower one. – But such applications are the concern of particular science, which must deal with the entire empirical range of its subject (cf. [the first]

footnote to the Remarks to § 270). – Another example of such applications is the subsumption under the concept of crime (which we encountered in an earlier context – see §§ 95–102) of injuries [*Verletzungen*] to the state in general, or to the sovereignty, majesty, and personality of the sovereign prince; such injuries are in fact classed as crimes of the *highest order*, and a particular procedure etc. [is applied to them].

Addition (14). Pardon is the remission of punishment, but it is not a cancellation of right [*die aber das Recht nicht aufhebt*]. On the contrary, right continues to apply, and the pardoned individual still remains a criminal; the pardon does not state that he has not committed a crime. This cancellation [*Aufhebung*] of punishment may be effected by religion, for what has been done can be undone in spirit by spirit itself.¹ But in so far as it is accomplished in this world, it is to be found only in the majesty [of the sovereign] and is the prerogative of [the sovereign's] ungrounded decision.

§ 283

The *second* moment contained in the power of the sovereign is that of *particularity* or of determinate content and its subsumption under the universal. In so far as this moment attains a particular existence [*Existenz*], it does so in the highest advisory offices and in the individuals who hold them; these individuals submit to the monarch for his decision the content of current affairs of state, or the legal determinations made necessary by present needs, along with their *objective* aspects, grounds for decision, relevant laws, circumstances, etc. The appointment of *individuals* for this purpose and their dismissal from office fall within the [competence of the] unrestricted arbitrary will of the monarch, since the individuals in question are in immediate personal contact with him.¹

§ 284

The only factors for which people can be made *accountable* – i.e. those which are capable of objective proof and on which advice distinct from the personal will of the monarch as such can appropriately be sought – are the *objective* aspects of decision such as knowledge [*Kenntnis*] of the content and circumstances, and the legal and other

grounds for determination. It is only for matters such as these that the advisory offices and their incumbents can be held accountable.¹ But the distinctive majesty of the monarch, as the ultimate subjectivity of decision, is raised above all accountability for the acts of government.

§ 285

The *third* moment in the power of the sovereign concerns the universal in and for itself, which is present subjectively in the *conscience* of the *monarch* and objectively in the *constitution* and *laws* as a *whole*. To this extent, the power of the sovereign presupposes the other moments, just as it is presupposed by each of them.

§ 286

The *objective guarantee* of the power of the sovereign and of rightful succession to the throne by way of inheritance, etc., lies in the fact that, just as this sphere has its own actuality distinct from that of other rationally determined moments, so also do these other moments have their own distinct rights and duties in accordance with their determination. Each member [of the whole], in maintaining itself independently [*für sich*], thereby also maintains the others in their own distinct character within the rational organism.

One of the more recent achievements of history has been to develop the monarchic constitution to the point where hereditary succession to the throne is firmly based on primogeniture. Monarchy has thereby reverted to the patriarchal principle in which it had its historical origin, although it now has the higher determination whereby the monarch is the absolute apex of an organically developed state. This achievement is of the greatest importance for public freedom and for a rational constitution, although it is often very poorly understood – as we earlier noticed – even if it is treated with respect. Thus, the history of despotisms and of the purely feudal monarchies of earlier times represents a succession of rebellions, acts of violence by rulers, civil wars, the downfall of sovereign princes and dynasties, and in consequence, general devastation and destruction on both internal and external fronts. The reason

for this is that, in conditions such as these, the division [*Teilung*] of political business is purely mechanical, with its different parts distributed among vassals, pashas, etc., so that the difference [between these elements] is not one of determination and form, but merely of greater or lesser power. Thus, each part maintains *itself alone*, and in so doing, it promotes only itself and not the others along with it, and has within itself the complete set of moments which it requires for independence and self-sufficiency. In an organic relationship, the units in question are not parts but members, and each maintains the others while fulfilling *its own* function; the substantial end and product of each is to maintain the *other* members while simultaneously maintaining *itself*. Such guarantees as are required, whether for the continuity of the succession and of the power of the sovereign in general, or for justice, public freedom, etc., are secured by means of *institutions*. Such factors as the love of the people, character, oaths, coercion, etc. may be regarded as *subjective* guarantees; but when we are dealing with the *constitution*, we are concerned solely with *objective* guarantees or institutions, i.e. with organically linked and mutually conditioning moments. Thus, public freedom in general and a hereditary succession guarantee each other reciprocally, and their association [*Zusammenhang*] is absolute, because public freedom is the rational constitution, and the hereditary character of the power of the sovereign is, as has already been shown, the moment inherent in its concept.

b. The Executive Power

§ 287

The execution and application of the sovereign's decisions, and in general the continued implementation and upholding of earlier decisions, existing laws, institutions, and arrangements to promote common ends, etc., are distinct from the decisions themselves. This task of *subsumption* in general belongs to the *executive power*, which also includes the powers of the *judiciary* and the *police*; these have more

immediate reference to the particular affairs of civil society, and they assert the universal interest within these [particular] ends.

§ 288

The *particular* common interests which fall within civil society, and which lie outside the universal interest of the state as the interest which has being in and for itself (see § 256), are administered by the corporations (see § 251) which represent the communities and the various professions [*Gewerbe*] and estates, with their authorities [*Obrigkeit*], supervisors, administrators, etc. On the one hand, the business of these administrators is to look after the *private property* and *interests* of these *particular* spheres, and in this respect, their authority [*Autorität*] is based in part on the trust of their fellow-citizens and equals. On the other hand, these circles must be subordinated to the higher interests of the state. Thus, the filling of such offices will in general involve a mixture of popular election by the interested parties, and confirmation and determination by a higher authority.¹

§ 289

The task of *upholding*, within these particular rights, *legality* and the *universal interest of the state*, and that of bringing these rights back to the universal, need to be performed by delegates of the executive power, i.e. the executive *civil servants* and the higher consultative bodies. The latter necessarily work together in groups, and they converge in their supreme heads who are in touch with the monarch himself.¹

Just as civil society is the field of conflict in which the private interest of each individual comes up against that of everyone else,² so do we here encounter the conflict between private interests and particular concerns of the community, and between both of these together and the higher viewpoints and ordinances of the state. The spirit of the corporation, which arises when the particular spheres gain legal recognition [*Berechtigung*], is now at the same time inwardly transformed into the spirit of the state, because it finds in the state the means of sustaining its particular ends. This is the secret of the patriotism of the citizens in the sense that they know the

state as their substance, for it is the state which supports their particular spheres and the legal recognition, authority, and welfare of these. In so far as the *rooting of the particular in the universal* is contained *immediately* in the spirit of the corporation, it is in this spirit that such depth and strength of *disposition* as the state possesses are to be found.

The administration of a corporation's affairs by its own supervisors will often be inept, for although they know [*kennen*] and have before them their own distinct interests and affairs, they have a less complete grasp of the connection between these and more remote conditions and universal points of view. Besides, further circumstances have a similar effect, e.g. the close personal contact and other kinds of equality between the supervisors and those who should be subordinate to them, the various ways in which they are dependent on others, etc. But this personal [*eigene*] sphere may be seen as belonging to the moment of *formal freedom*, which provides an arena in which personal cognition and personal decisions and their execution, as well as petty passions and imaginings, may indulge themselves. This is all the more acceptable in proportion to the triviality of the business which is thereby vitiated or conducted less efficiently, more laboriously, etc., and to its relative unimportance for the more general concerns of the state; and the same applies the more directly the laborious or foolish conduct of such trifling business is related to the satisfaction and self-esteem [*Meinung von sich*] which are derived from it.

§ 290

The *division* [*Teilung*] of labour (see § 198) likewise makes its appearance in the business of the executive. The *organization* of official bodies accordingly faces the formal but difficult task of ensuring that civil life shall be governed in a *concrete* manner from below, where it is concrete, but that the business in question shall be divided into its *abstract* branches and dealt with by distinct bodies; the latter should function as separate centres whose activities should again converge both at the lowest level and in a concrete overview on the part of the supreme executive.¹

Addition (G). The most important issue for the executive power is the division of functions. The executive power is concerned with the transition from the universal to the particular and individual, and its functions must be divided in accordance with its different branches. The difficulty, however, is [that of ensuring] that they also come together again at upper and lower levels. For although the power of the police and that of the judiciary, for example, are divergent, they do converge in every particular case [*Geschäft*]. The expedient which is often employed in these circumstances is to appoint a State Chancellor, Prime Minister, or Cabinet Council in order to simplify the highest level of government. But this may have the result that everything is again controlled from above by ministerial power, and that functions are, to use the common expression, centralized.² This is associated with a high degree of facility, speed, and effectiveness in measures adopted for the universal interest of the state. A regime of this kind was introduced by the French Revolution and further developed by Napoleon, and it still exists [*besteht*] in France today. On the other hand, France lacks corporations and communal associations [*Kommunen*] – that is, circles in which particular and universal interests come together. Admittedly, these circles gained too great a degree of self-sufficiency in the Middle Ages, when they became states within the state and behaved in an obdurate manner like independently established bodies.³ But although this ought not to happen, it can still be argued that the proper strength of states resides in their [internal] communities [*Gemeinden*]. In these, the executive encounters legitimate [*berechtigte*] interests which it must respect; and since the administration can only encourage such interests – although it must also supervise them – the individual finds protection for the exercise of his rights, so that his particular [*partikulares*] interest is bound up with the preservation of the whole. For some time now, organization has always been directed from above, and efforts have been devoted for the most part to this kind of organization, despite the fact that the lower level of the masses as a whole can easily be left in a more or less disorganized state. Yet it is extremely important that the masses should be organized, because only then do they constitute a power or force; otherwise, they are merely an aggregate, a collection of scattered atoms. Legitimate power is to be found only when the particular spheres are organized.

¹Translator's note: Gans's version, as translated by the nine preceding words, reads *gerieten sich auf harte Weise als für sich bestehende Körperschaften*. Griesheim's original, of which Gans's text is a paraphrase, reads *gerieten auf eine harte Weise die Ausübung allgemeiner Zwecke*, i.e. 'obstructed the implementation of universal ends in an obdurate manner' (VPR IV, 691). Gans appears to have misread *gerieten* as *geri(e)ren*.

§ 291

The functions of the executive are *objective* in character; as such [*für sich*], they have already been substantially decided in advance (see § 287), and they must be fulfilled and actualized by *individuals*. Individuals are not destined by birth or personal nature to hold a particular office, for there is no immediate and natural link between the two. The objective moment in their vocation [*Bestimmung*] is knowledge [*Erkenntnis*] and proof of ability; this proof guarantees that the needs of the state will be met, and, as the sole condition [of appointment], at the same time guarantees every citizen the possibility of joining the universal estate.¹

§ 292

There is necessarily an *indeterminate number* of candidates for public office, because their objective qualification does not consist in genius (as it does in art, for example), and their relative merits cannot be determined with absolute certainty. The selection of *this* particular individual for a given post, his appointment, and his authorization to conduct public business are subjective decisions, in that they link together an individual and an office as two factors whose mutual relation must always be contingent. This subjective aspect pertains to the sovereign as the supreme [*souveränen*] and decisive power within the state.

§ 293

The particular tasks within the state which the monarch assigns to the official bodies form part of the *objective* aspect of sovereignty which is inherent in him. The specific *differences* between these tasks are likewise given in the nature of the thing [*Sache*]; and just as the activity of the official bodies is the fulfilment of a duty, so also does their business constitute a right which is exempt from contingency.

§ 294

The individual who has been appointed to his professional office by an act of the sovereign (see § 292) must fulfil his duties, which are the

substantial aspect of his position [*Verhältnis*], as a condition of his appointment. *As a consequence* of this substantial position, his appointment provides him with resources, guarantees the satisfaction of his particularity (see § 264), and frees his external situation and ~~official~~ activity from other kinds of subjective dependence and influence.¹

The state does not count on arbitrary and discretionary services (for example, the administration of justice by knights errant), precisely because such services are discretionary and arbitrary, and because those who perform them reserve the right to do so in accordance with their subjective views, or not to perform them at all if they so wish and to pursue subjective ends instead. As regards the service of the state, the opposite extreme to the knight errant would be a *civil servant* who performed his work purely out of necessity [*Not*] without any genuine duty and likewise without any right. – In fact, the service of the state requires those who perform it to sacrifice the independent and discretionary satisfaction of their subjective ends, and thereby gives them the right to find their satisfaction in the performance of their duties, and in this alone. It is here that, in the present context, that link is to be found between universal and particular interests which constitutes the concept of the state and its internal stability (see § 260). – Similarly, the [civil servant's] relationship to his office is not one of *contract* (see § 75), although the parties in question both give their consent and render a service. The civil servant is not employed, like an agent, to perform a single contingent task, but makes this relationship [to his work] the main interest of his spiritual and particular existence [*Existenz*]. Likewise, the task which he has to perform and with which he is entrusted is not a purely particular thing [*Sache*] of an external character; the *value* of such a thing is an inward quality which is therefore distinct from its external nature, so that it is not impaired [*verletzt*] if what has been stipulated is not delivered (see § 77). But the task which the civil servant has to perform is, in its immediate character, a value in and for itself. The wrong which is done by non-performance or positive infringement (i.e. by an action in violation of one's duty, which applies in both of these cases) is

therefore an infringement of the universal content itself, i.e. a negatively infinite judgement (cf. § 95), and hence a misdemeanour or even a crime. – The guaranteed satisfaction of particular needs removes that external necessity [*Nor*] which may induce someone to seek the means of satisfying them at the expense of his official activities and duty. Those who are entrusted with the business of the state find protection in its universal power against another subjective factor, namely the private passions of the governed, whose private interests etc. are prejudiced when the universal is asserted against them.

§ 295

The protection of the state and the governed against the misuse of power on the part of the official bodies and their members is, on the one hand, the direct responsibility [*Verantwortlichkeit*] of their own hierarchy; on the other hand, it lies with the legal recognition [*Berechtigung*] accorded to communities and corporations, for this prevents subjective arbitrariness from interfering on its own account [*für sich*] with the power entrusted to officials, and supplements from below that control from above which does not extend as far as individual conduct.

The conduct and education of the officials is the point at which the laws and decisions of the executive come into contact with individuals [*die Einzelheit*] and are translated into actuality. This is accordingly the factor on which the satisfaction and confidence of the citizens in relation to the executive depend, as does the execution (or dilution and frustration) of the government's intentions – in the sense that the *manner* in which these intentions are executed may well be rated as highly by the feelings [*Empfindung*] and disposition [of the citizens] as the *content* of the intention to be implemented, even though this content may itself be of a burdensome nature. Because of the immediate and personal character of such contact, control from above can attain its end in this respect only partially, and this end may also encounter obstacles in the shape of the common interest of the officials in maintaining solidarity amongst themselves in opposition to

their subordinates and superiors. The need to remove such obstacles, especially in cases where the institutions in question may still be relatively imperfect in other respects also, calls for and justifies the higher intervention of the sovereign (as, for example, of Frederick the Great in the notorious case [*Sache*] of the miller Arnold).¹

§ 296

Whether or not dispassionateness, integrity [*Rechtlichkeit*], and polite behaviour become *customary* will depend in part on direct *education in ethics and in thought*, for this provides a spiritual counterweight to the mechanical exercises and the like which are inherent in learning the so-called sciences appropriate to these [administrative] spheres, in the required business training, in the actual work itself, etc. But the *size* of the state is also an important consideration, for it both reduces the burden of family ties and other private commitments and lessens the power – and thereby takes the edge off – such passions as revenge, hatred, etc. These subjective aspects disappear of their own accord in those who are occupied with the larger interests of a major state, for they become accustomed to dealing with universal interests, views, and functions.

§ 297

Members of the executive and civil servants constitute the bulk of the middle class [*des Mittelstandes*], which embodies the educated intelligence and legal [*rechtliche*] consciousness of the mass of the people. The institutions which prevent this class from adopting the isolated position of an aristocracy and from using its education and skill as arbitrary means of domination are the sovereign, who acts upon it from above, and the rights of the corporations, which act upon it from below.

It was in this way that the administration of justice, whose object is the proper interests of all individuals, was at one time transformed into an instrument of profit and domination, because knowledge [*Kenntnis*] of right hid behind scholarship and a foreign language, and knowledge of the legal process hid behind complicated formalities.

Addition (H,G). The middle class, to which the civil servants belong, has a political consciousness and is the most conspicuously educated class. For this reason, it is the mainstay of the state as far as integrity [*Rechtlichkeit*] and intelligence are concerned. Consequently, the level of a state which has no middle class cannot be high. This is true of Russia, for example, which has a mass of serfs and another mass of rulers. It is central to the interests of the state that this middle class should develop, but this can occur only in an organization like the one we have just considered, i.e. in which legal recognition [*Berechtigung*] is given to particular bodies which are relatively independent, and in which the arbitrariness of officialdom is broken down by institutions of this kind. Action in accordance with universal right and the habit of such action are consequences of the opposition offered by bodies which are self-sufficient in themselves.

c. The Legislative Power

§ 298

The *legislative power* has to do with the laws as such, in so far as they are in need of new and further determination, and with those internal concerns of the state whose content is wholly universal. This power is itself a part of the constitution, which it presupposes and which to that extent lies in and for itself outside the sphere which the legislative power can determine directly; but the constitution does undergo further development through the further evolution of the laws and the progressive character of the universal concerns of government.

Addition (H). The constitution must be in and for itself the firm and recognized ground on which the legislative power is based, so that it does not first have to be constructed. Thus, the constitution *is*, but it just as essentially *becomes*, i.e. it undergoes progressive development. This progression is a change which takes place imperceptibly and without possessing the form of change. If, for example, the resources of the German princes and their families were originally private property but were then transformed, without conflict or opposition, into crown domains, i.e. into resources of the state, this occurred because the princes felt the need to maintain their possessions intact and demanded guarantees to this effect from their country and its Estates.¹ Thus, the latter became involved in the way in which the resources in question were conserved, so that the princes no longer had exclusive control over them. Similarly, the Emperor was at one time a judge who travelled round the Empire dispensing justice. Then, the (merely apparent) progress of culture [*Bildung*] made it

outwardly necessary for the Emperor to delegate this judicial office increasingly to others, which led to the transfer of judicial power from the person of the sovereign to [judicial] colleges.² Thus, conditions evolve in an apparently peaceful and imperceptible manner, with the result that a constitution changes its character completely over a long period of time.

§ 299

These matters are more precisely determined, as far as individuals are concerned, in the following two respects: (α) in relation to the benefits which the state enables them to enjoy, and (β) in relation to the services which they must perform for the state. The former include the laws of civil right [*die privatrechtlichen Gesetze*] in general, the rights of communities and corporations, all arrangements of a wholly universal character, and indirectly (see § 298), the constitution as a whole. But as for services to the state, it is only when these are expressed in terms of *money*, as the existing and universal *value* of things [*Dinge*] and services, that they can be determined justly and at the same time in such a way that the *particular* work and services which the individual can perform are mediated by his own arbitrary will.

It is possible to distinguish in general terms between what is the object [*Gegenstand*] of universal legislation and what should be left to the direction [*Bestimmung*] of administrative bodies or to any kind of government regulation, in that the former includes only what is wholly universal in content – i.e. legal determinations – whereas the latter includes the particular and the ways and means whereby measures are *implemented*. This distinction is not entirely determinate, however, if only because a law, in order to be a law, must be more than just a commandment in general (such as ‘Thou shalt not kill’ – cf. Remarks to § 140, p. 144^a), i.e. it must be *determinate* in itself; but the more determinate it is, the more nearly capable its content will be of being implemented as it stands. At the same time, however, so far-reaching a determination as this would give the laws an empirical aspect which would necessarily be subject to alteration when they were actually

^aTranslator's note: p. 176 in this edition (Hegel's reference is to the first edition).

implemented, and this would detract from their character as laws. It is implicit in the organic unity of the powers of the state itself that *one* and the same spirit decrees the universal and brings it to determinate actuality in implementing it. – It may at first seem remarkable that the state requires no direct services from the numerous skills, possessions, activities, and talents [of its citizens] and from the infinitely varied living *resources* which these embody and which are at the same time associated with the disposition [of those who possess them], but lays claim only to the *one* resource which assumes the shape of *money*. (Services associated with the defence of the state against its enemies belong to those duties which will be considered in the following section.) But money is not in fact one *particular* resource among others; on the contrary, it is the universal aspect of all of them, in so far as they express themselves in an external existence [*Dasein*] in which they can be apprehended as *things* [als eine *Sache*]. Only at this extreme point of externality is it possible to determine services *quantitatively* and so in a just and equitable manner. – In Plato's *Republic*, it is the task of the guardians to allot individuals to their particular estates and to specify what *particular* services they have to perform (cf. Remarks to § 185). In feudal monarchies, the services required of vassals were equally indeterminate, but these vassals also had to serve in their *particular* capacity, e.g. as judges.¹ Services imposed in the Orient and in Egypt in connection with immense architectural enterprises etc. are likewise of a *particular* character. In these circumstances, what is lacking is the principle of *subjective freedom* whereby the individual's substantial activity (whose content is in any case of a particular nature in the services in question) is mediated by his own *particular will*. This right cannot be enjoyed until the demand for services is expressed in terms of the universal value, and it is itself the reason [*Grund*] why this change was introduced.

Addition (H). The two aspects of the constitution relate respectively to the rights and services of individuals. As far as services are concerned, nearly all of them have now been reduced to money. Military duties are now almost the only personal service required. In earlier times, far more claims were made on individuals in a concrete sense, and they were called

upon to work according to their skills. In our times, the state *purchases* what it needs. This may at first seem an abstract, lifeless, and soulless procedure, and it may also look as if the state has become decadent if it is satisfied with abstract services. But it is inherent in the principle of the modern state that all of an individual's actions should be mediated by his will. The justice of equality, however, can be achieved far more effectively by means of money. Otherwise, if the criterion were concrete ability, the talented individual would be taxed much more heavily than the untalented. But the very fact that people are now required to deliver only what they are able to deliver is a sign that public freedom is respected.

§ 300

In the legislative power as a whole, the other two moments have a primary part to play, namely the *monarchy* as the power of ultimate decision, and the *executive power* as the advisory moment which has concrete knowledge [*Kenntnis*] and oversight of the whole with its numerous aspects and the actual principles which have become established within it, and knowledge of the needs of the power of the state in particular. The final element [in the legislature] is the *Estates*.

Addition (H,G). One of the misconceptions concerning the state is the view that members of the executive should be excluded from the legislative bodies, as happened, for example, in the Constituent Assembly [of France].¹ In England, ministers must be Members of Parliament, and rightly so, since those who participate in government should be associated with, rather than opposed to, the legislative power. The idea [*Vorstellung*] of the so-called independence of powers contains the basic error [of supposing] that the powers should be independent yet mutually limiting. If they are independent, however, the unity of the state, which is the supreme requirement, is destroyed [*aufgehoben*].²

§ 301

The role [*Bestimmung*] of the Estates is to bring the universal interest [*Angelegenheit*] into existence [*Existenz*] not only *in itself* but also *for itself*, i.e. to bring into existence the moment of subjective *formal freedom*, the public consciousness as the *empirical universality* of the views and thoughts of the *many*.

The expression '*the many*' (οἱ πολλοί) denotes empirical universality more accurately than the usual term '*all*'. For if it

is said to be obvious that the term '*all*' excludes from the start at least children, women, etc., it is by the same token even more obvious that the entirely specific expression '*all*' ought not to be used with reference to something else which is entirely unspecific.¹ – In fact, such untold numbers of warped and erroneous ideas [*Vorstellungen*] and turns of phrase concerning 'the people', 'the constitution', and 'the Estates' have passed into current opinion that it would be a futile endeavour to try to enumerate, discuss, and rectify them. The idea with which the ordinary consciousness usually begins when it considers the necessity or usefulness of a convention of the Estates will generally be, for example, that delegates of the people, or indeed the people themselves, *must know best* what is in their own best interest, and that their own will is undoubtedly the one best equipped to pursue the latter. As for the first of these propositions, the reverse is in fact the case, for if the term 'the people' denotes a particular category of members of the state, it refers to that category of citizens *who do not know their own will*. To know what one wills, and even more, to know what the will which has being in and for itself – i.e. reason – wills, is the fruit of profound cognition and insight, and this is the very thing [*Sache*] which 'the people' lack. – It can be seen with a little reflection that the guarantee which the Estates provide for universal welfare and public freedom does not lie in any particular insight they may possess. For the highest officials within the state necessarily have a more profound and comprehensive insight into the nature of the state's institutions and needs, and are more familiar with its functions and more skilled in dealing with them, so that they *are able* to do what is best even without the Estates, just as they must continue to do what is best when the Estates are in session. The guarantee doubtless lies rather in the extra insight which the delegates have, first of all into the activities of those officials who are less visible to their superiors, and in particular into the more urgent and specialized needs and deficiencies which they [the delegates] see in concrete form before their eyes; and secondly, it lies in the effect which the expectation of criticism, indeed of public criticism, at the hands of the many has in compelling the officials to apply their

best insights, even before they start, to their functions and to the plans they intend to submit, and to put these into effect only in accordance with the purest of motives. (This compulsion is equally effective for the members of the Estates themselves.) But as for the [belief that there is] particular *good will* on the part of the Estates towards the universal welfare, we have already noted (see Remarks to § 272) that it is characteristic of the rabble, and of the negative viewpoint in general, to assume ill will, or less good will, on the part of the government. If this assumption were to be answered in kind, it would invite the counter-accusation that, since the Estates have their origin in individuality [*Einzelheit*], in the private point of view and in particular interests, they are inclined to direct their efforts towards these at the expense of the universal interest, whereas the other moments in the power of the state are by their very nature [*schon für sich*] dedicated to the universal end and disposed to adopt the point of view of the state. As for that general guarantee which is supposed to lie in the Estates in particular, each of the other institutions within the state shares with them the quality of being a guarantee of public welfare and rational freedom; and in some of these institutions – such as the sovereignty of the monarch, hereditary succession, the constitution of the courts, etc. – this guarantee is present to a much greater degree. The proper conceptual definition [*Begriffsbestimmung*] of the Estates should therefore be sought in the fact that, in them, the subjective moment of universal freedom – the personal [*eigene*] insight and personal will of that sphere which has been described in this work as civil society – comes *into existence in relation* [*Beziehung*] *to the state*. As in every other case, the philosophical viewpoint here enables us to conclude that this moment is a determination of the Idea when the latter has reached its total development, and the inner necessity of this moment should not be confused with *external necessities* and *utilities*.

Addition (H). The attitude of the government towards the Estates should not be essentially hostile, and the belief that this relationship is necessarily a hostile one is a sad mistake. The government is not a party opposed to another party in such a way that both have to fight for major concessions from each other; and if a state does get into a predicament of this kind,

this cannot be described as health but only as a misfortune.² Besides, the taxes which the estates approve should not be regarded as a gift presented to the state; on the contrary, they are approved for the benefit of those who approve them. The proper significance of the Estates is that it is through them that the state enters into the subjective consciousness of the people, and that the people begins to participate in the state.

§ 302

Viewed as a *mediating* organ, the Estates stand between the government at large on the one hand and the people in their division into particular spheres and individuals [*Individuen*] on the other. Their determination requires that they should embody in equal measure both the *sense* and *disposition* of the state and government and the *interests* of particular circles and individuals [*Einzelnen*]. At the same time, this position means that they share the mediating function of the organized power of the executive, ensuring on the one hand that the power of the sovereign does not appear as an isolated *extreme* – and hence simply as an arbitrary power of domination – and on the other, that the particular interests of communities, corporations, and individuals [*Individuen*] do not become isolated either. Or more important still, they ensure that individuals do not present themselves as a *crowd* or *aggregate*, unorganized in their opinions and volition, and do not become a massive power in opposition to the organic state.¹

It is one of the most important insights of logic that a specific moment which, when it stands in opposition, has the position of an extreme, loses this quality and becomes an *organic* moment by being simultaneously a *mean*.² It is all the more important to stress this aspect in the present context, because it is a common but highly dangerous prejudice to represent [*vorzustellen*] the Estates chiefly from the point of view of their opposition to the government, as if this were their essential position. It is only through their mediating function that the Estates display their organic quality, i.e. their incorporation in the totality. In consequence, their opposition is itself reduced to a [mere] semblance. If this opposition does make its appearance, and if it is not just superficial but actually takes on a substantial character, the state is close to destruction. – It is evident from the nature of the thing [*Sache*] that the conflict

is not of this kind if the matters in dispute are not the essential elements of the political organism but more specialized and trivial things [*Dinge*], and if the passion with which even this content is associated consists of factional rivalry over merely subjective interests such as the higher offices of state.

Addition (H). The constitution is essentially a system of mediation. In despotic states, where there are only rulers [*Fürsten*] and people, the people function – if they function at all – merely as a destructive mass opposed to all organization. But when it becomes part of the organism, the mass attains its interests in a legitimate and orderly manner. If, however, such means are not available, the masses will always express themselves in a barbarous manner. This is why, in despotic states, the despot always treats the people with indulgence and vents his wrath only on his immediate circle. In the same way, the people in such states pay only modest taxes, whereas in constitutional states, the taxes become higher as a result of the people's own consciousness. In fact, in no country are so many taxes paid as in England.

§ 303

It is integral to the definition [*Bestimmung*] of the *universal* estate – or more precisely, the estate which devotes itself to the *service of the government* – that the universal is the end of its essential activity; and in the *Estates*, as an element of the legislative power, the *private estate* attains a *political significance* and function. In this capacity, the private estate cannot appear either as a simple undifferentiated mass or as a crowd split up into atomic units. It appears rather as *what it already is*, namely as an *estate* consisting of two distinct parts, the one based on the substantial relation, and the other on particular needs and the work through which these are mediated (see §§ 201 ff.). Only in this respect is there a genuine link between the *particular* which has actuality in the state and the universal.

This runs counter to another prevalent idea [*Vorstellung*] according to which, if the private estate is raised to the level of participating in the universal interest [*Sache*] via the legislative power, it must appear therein in the form of *individuals*, whether representatives are elected to fulfil this function or whether every individual is in fact to have a vote himself.¹ This atomistic and abstract view ceases to apply even within

the family, as well as in civil society, where the individual makes his appearance only as a member of a universal. But the state is essentially an organization whose members constitute *circles in their own right* [*für sich*], and no moment within it should appear as an unorganized crowd. *The many* as single individuals – and this is a favourite interpretation of [the term] ‘the people’ – do indeed live *together*, but only as a *crowd*, i.e. a formless mass whose movement and activity can consequently only be elemental, irrational, barbarous, and terrifying. If we hear any further talk of ‘the people’ as an unorganized whole, we know in advance that we can expect only generalities and one-sided declamations. – The idea [*Vorstellung*] that those communities which are already present in the circles referred to above can be split up again into a collection of individuals as soon as they enter the sphere of politics – i.e. the sphere of the *highest concrete universality* – involves separating civil and political life from each other and leaves political life hanging, so to speak, in the air; for its basis is then merely the abstract individuality of arbitrary will and opinion, and is thus grounded only on contingency rather than on a foundation which is *stable* and *legitimate* [*berechtigt*] in and for itself. – Although the *estates* of civil society in general and the *Estates* in the *political* sense are represented, in so-called [political] theories, as remote from each other, linguistic usage still preserves the unity which they certainly possessed in earlier times.

§ 304

The Estates in their political capacity still retain within their own determination those distinctions between different estates which were already present in the preceding spheres. Their initially abstract position – namely as the *extreme of empirical universality* as opposed to the *principle of the sovereign* or *monarch* in general – contains only the *possibility of agreement*, and hence also the *possibility of hostile opposition*. This abstract position becomes a rational relation (i.e. a [logical] *conclusion* – cf. Remarks to § 302) only when its *mediation* comes into existence [*Existenz*]. Just as, in the case of the power of the sovereign, this function [*Bestimmung*] is already fulfilled by the executive power

(see § 300), so in the case of the estates must one of their moments be given the function of existing essentially as a moment of mediation.

§ 305

One of the estates of civil society contains the principle which is in itself capable of being adapted to this political relation [*Beziehung*], namely the estate of natural ethical life; its basis is the life of the family and, as far as its livelihood is concerned, landed property. Thus, in its particular aspect, this estate shares that independent volition and natural determination which is also contained in the moment [*Element*] of sovereignty.

§ 306

This estate is better equipped for its political role and significance inasmuch as its resources are equally independent of the resources of the state and of the uncertainty of trade, the quest for profit, and all variations in property. It is likewise independent of the favour of the executive power and of the masses, and is even protected *against its own arbitrariness* by the fact that those members of this estate who are called to this vocation [*Bestimmung*] do not have the same right as other citizens either to dispose freely of their entire property or to know that it will pass on to their children in proportion to the equal degree of love that they feel for them. Thus, their resources become *inalienable inherited property*, burdened with primogeniture.

Addition (H). This estate has a more independent [*für sich bestehend*] volition. On the whole, the estate of landowners can be divided into the educated section and the estate of farmers. Distinct from both of these, however, are the estate of trade and industry, which is dependent on needs and their satisfaction, and the universal estate, which is essentially dependent on the state. The security and stability of this [landowning] estate can be further enhanced by the institution of primogeniture, but this is desirable only in a political sense, for it involves a sacrifice for the political end of enabling the eldest son to live independently. The justification of primogeniture lies in the fact that the state should be able to count on a disposition [to political service] not just as a possibility, but as necessarily present. Now it is true that such a disposition is not tied to the possession of resources; but the relatively necessary connection between

the two consists in the fact that someone of independent means is not limited by external circumstances, and is accordingly able to play his part without encumbrance, and to act in the interests of the state. But where no political institutions are present, the foundation and furtherance of primogeniture are merely fetters on the freedom of civil right, and they must either acquire a political significance, or face eventual extinction.^a

^a *Translator's note:* This final sentence appears to be Gans's own addition, since it has no counterpart in either Hotho's or Griesheim's notes, on which Gans's Additions are based.

§ 307

In this way, the right of this section of the substantial estate is indeed based on the natural principle of the family; but at the same time, this principle is given a new direction by stringent sacrifices for the *political end*, so that this estate is essentially eligible for activities connected with the latter. Consequently, it is likewise called and *entitled* to such a career by *birth*, without the contingency of an election. It accordingly occupies a firm and substantial position between the subjective arbitrariness and contingency of the two extremes; and just as it itself contains a counterpart to the moment of the power of the sovereign (see § 305),^a so also does it share the otherwise identical needs and rights of the other extreme, so that it becomes a support both of the throne and of [civil] society.

^a *Translator's note:* Hegel actually writes 'see the preceding paragraph' (i.e. § 306), but must in fact have § 305 in mind.

§ 308

The second section of the Estates encompasses the *changing* element in *civil* society, which can play its part only by means of *deputies*; the external reason for this is the sheer number of its members, but the essential reason lies in the nature of its determination and activity. In so far as these deputies are elected by civil society, it is immediately evident that, in electing them, society acts *as what it is*. That is, it is not split up into individual atomic units which are merely assembled for a moment to perform a single temporary act and have no further cohesion; on the contrary, it is articulated into its associations, communities, and corporations which, although they are already in being,

acquire in this way a political connotation. In the entitlement of this estate to elect deputies at the request of the sovereign power, and in the entitlement of the first estate to appear [in person] (see § 307), the existence [*Existenz*] of the Estates and of their assembly acquires its own constitutional guarantee.

The idea [*Vorstellung*] that *all* individuals ought to participate in deliberations and decisions on the universal concerns of the state – on the grounds that they are all members of the state and that the concerns of the state are the concerns of *everyone*, so that everyone has a *right* to share in them with his own knowledge and volition – seeks to implant in the organism of the state a *democratic* element *devoid of rational form*, although it is only by virtue of its rational form that the state is an organism. This idea [*Vorstellung*] appears plausible precisely because it stops short at the *abstract* determination of membership of the state and because superficial thinking sticks to abstractions. Rational deliberation or the consciousness of the Idea [*Idee*] is *concrete*, and it coincides to that extent with true *practical* sense, which is itself nothing other than rational sense or the sense of the Idea; it must not, however, be confused with the mere routine of business and the horizon of a limited sphere. The concrete state is *the whole, articulated into its particular circles*. Each member of the state is a *member* of an *estate* of this kind, and only in this objective determination can he be considered in relation to the state. His universal determination in general includes two moments, for he is a *private person* and at the same time a *thinking* being with consciousness and volition of the *universal*. But this consciousness and volition remain empty and lack *fulfilment* and actual *life* until they are filled with particularity, and this is [to be found in] a particular estate and determination. Otherwise, the individual remains a *generic category* [*Gattung*], but only within the *next* generic category does he attain his *immanent* universal *actuality*. – Consequently, it is within the sphere of his corporation, community, etc. (see § 251) that the individual first attains his actual and living determination as *universal*, and it remains open to him to enter any sphere, including the universal estate, for which his aptitude qualifies him. The idea

[*Vorstellung*] that *everyone* should participate in the concerns of the state entails the further assumption that *everyone is an expert on such matters*; this is also absurd, notwithstanding the frequency with which we hear it asserted. In public opinion, however (see § 316), the way is open for everyone to express and give effect to his subjective opinions on the universal.

§ 309

Since deputies are elected to deliberate and decide on matters of *universal* concern, the aim of such elections is to appoint individuals who are credited by those who elect them with a better understanding of such matters than they themselves possess. It is also the intention that these individuals will not subordinate the universal interest to the particular interest of a community or corporation, but will give it their essential support. Their position is accordingly not that of commissioned or mandated agents, especially since the purpose [*Bestimmung*] of their assembly is to provide a forum for live exchanges and collective deliberations in which the participants instruct and convince one another.

Addition (G). The introduction of representation [*Repräsentation*] means that consent is not given directly by everyone but only by authorized deputies, for the individual [*der Einzelne*] is no longer involved as an infinite person. Representation is based on trust, but trust is not the same thing as giving my vote *in person*. Majority decisions are also at variance with the principle that I should be personally present in anything which imposes an obligation on me. I can trust a person if I believe that he has sufficient insight to treat my cause [*Sache*] as if it were his own, and to deal with it in the light of his own best knowledge and conscience. Thus, the principle of the individual subjective will is no longer applicable, for the trust is vested in a cause, in the principles of a human being and his conduct, actions, and concrete sense in general. It is therefore desirable that anyone who becomes a member of the Estates should possess a character, insight, and will consistent with his task of participating in universal concerns. For it is not essential that the individual [*Individuum*] should have a say as an abstract individual entity; on the contrary, all that matters is that his interests should be upheld in an assembly which deals with universal issues. The electors require a guarantee that the elected deputy will promote and accomplish this end.

§ 310

In the second section of the Estates, whose members are drawn from the changing and variable element in civil society, the guarantee that the deputies will have the qualities and disposition required for this end – for independent means have already claimed their right in the first section – consists above all in the disposition, skill, and knowledge [*Kenntnis*] of the institutions and interests of the state and civil society which they have acquired through the *actual* conduct of business in *positions of authority* or *political office*, and which have proved their worth *in practice*; it further consists in the *sense of authority* and *political sense* which they have developed and put to the test in the process.

The subjective opinion which individuals have of themselves may well find the demand for such guarantees, if it is made with explicit reference to ‘the people’, superfluous and perhaps even insulting. But the determination of the state is objectivity, not subjective opinion and the self-confidence which accompanies it. The state is concerned only with those aspects of individuals which are objectively recognizable and which have been tried and tested, and it must pay all the more attention to such aspects in the case of the second section of the Estates, because this section is rooted in interests and activities which are directed towards the particular, and in which contingency, mutability, and arbitrary will have the right to express themselves. – Taken on its own, the external qualification of possessing a certain amount of property has the appearance of a one-sided extreme of externality in contrast to the other, equally one-sided, extreme of the purely subjective trust and opinion of the electorate. Both of these extremes contrast, in their abstraction, with those concrete qualities which are necessary for deliberations on political business, and which are contained within the specifications [*Bestimmungen*] indicated in § 302. – Nevertheless, the selection of individuals for positions of authority and other offices within corporations [*Genossenschaften*] and communities does constitute a sphere in which the property qualification has been able to operate effectively, particularly if some of these

tasks are performed without remuneration; and it is directly relevant to the business of the Estates if the members do not receive a salary.¹

§ 311

In view of the fact that the deputies are elected by civil society, it is also desirable that they should be familiar with and party to its special needs, frustrations, and particular interests. Given the nature of civil society, the deputies are elected by the various corporations (see § 308), and this simple mode of procedure is not impaired by abstractions and atomistic notions [*Vorstellungen*] [of society]. Consequently, it directly fulfils the requirement referred to above, and the election itself is either completely superfluous or can be reduced to an insignificant play of arbitrary opinion.

It is clearly in the general interest that the deputies should include individuals who are thoroughly familiar with, and personally involved in, each particular major branch of society (e.g. commerce, manufacturing industries, etc.) – an important consideration which the idea [*Vorstellung*] of loose and indeterminate elections leaves entirely to chance. Each of these branches of society, however, has the same right as the others to be represented. If the deputies are regarded as *representatives*, this term cannot be applied to them in an organic and rational sense unless they are *representatives* not of *individuals* as a crowd, but of one of the essential *spheres* of society, i.e. of its major interests. Thus, representation no longer means the *replacement* of one individual *by another*; on the contrary, the interest itself is *actually present* in its representative, and the latter is there to represent the objective element he himself embodies. – As for mass elections, it may also be noted that, in large states in particular, the electorate inevitably becomes *indifferent* in view of the fact that a single vote has little effect when numbers are so large; and however highly they are urged to value the right to vote, those who enjoy this right will simply fail to make use of it. As a result, an institution of this kind achieves the opposite of its intended purpose [*Bestimmung*], and the election comes under the control of a few people, of a faction, and hence of that

particular and contingent interest which it was specifically designed to neutralize.

§ 312

Each of the two sections of the Estates (see §§ 305 and 308) introduces a particular modification to the process of deliberation; and since one of the moments in question also has the characteristic function of mediation within this sphere – mediation between two existents – this moment must likewise take on a separate existence [*Existenz*]. The assembly of the Estates will therefore be divided into *two houses*.¹

§ 313

This division, by creating a plurality of *instances*, not only provides an increased guarantee of mature decisions and eliminates the contingent quality which the mood of the moment^a possesses and which decisions by majority vote may acquire. Above all, it ensures that the Estates are less likely to come into direct opposition to the government; and if the mediating moment also happens to take the side of the second Estate, the latter's view will carry all the more weight, for it will appear more impartial and its opposition will appear to be neutralized.

^aTranslator's note: Hegel's phrase 'Stimmung des Augenblicks' is (perhaps intentionally) ambiguous: it may mean either 'mood of the moment' or possibly 'instantaneous vote' (although present-day German would use the term *Abstimmung* in the latter context).

§ 314

The determination of the Estates as an institution does not require them to achieve optimum results in their deliberations and decisions on the business of the state *in itself*, for their role in this respect is purely accessory (see § 301). On the contrary, they have the distinctive function [*Bestimmung*] of ensuring that, through their participation in [the government's] knowledge, deliberations, and decisions on matters of universal concern, the moment of *formal* freedom attains its right in relation to those members of civil society who have no share in the government. In this way, it is first and foremost the moment of

universal knowledge [*Kenntnis*] which is extended by the *publicity* with which the proceedings of the Estates are conducted.

§ 315

The provision of this opportunity of [acquiring] knowledge [*Kenntnis-sen*] has the more universal aspect of permitting *public opinion* to arrive for the first time at *true thoughts* and *insight* with regard to the condition and concept of the state and its affairs, thereby *enabling it to form more rational judgements on the latter*. In this way, the public also becomes familiar with, and learns to respect, the functions, abilities, virtues, and skills of the official bodies and civil servants. And just as such publicity provides a signal opportunity for these abilities to develop, and offers them a platform on which they may attain high honours, so also does it constitute a remedy for the self-conceit of individuals and of the mass, and a means – indeed one of the most important means – of educating them.

Addition (H,G). If the Estates hold their assemblies in public, they afford a great spectacle of outstanding educational value to the citizens, and it is from this above all that the people can learn the true nature of their interests. As a rule, it is accepted that everyone already knows what is good for the state, and that the assembly of the Estates merely discusses this knowledge. But in fact, precisely the opposite is the case, for it is only in such assemblies that those virtues, abilities, and skills are developed which must serve as models [for others]. These assemblies are, of course, tiresome for ministers, who must themselves be armed with wit and eloquence if they are to counter the attacks which are here directed against them. Nevertheless, such publicity is the most important means of education as far as the interests of the state in general are concerned. In a nation where this publicity exists, there is a much more lively attitude towards the state than in one where the Estates have no assembly or where such assemblies are not held in public. It is only by informing the public of every move they make that the two houses remain in touch with the wider implications of *public opinion*. It then becomes evident that a man's imaginings at home in the company of his wife or friends are very different from events in a great assembly, where one ingenious idea [*Gescheitheit*] devours another.

§ 316

Formal subjective freedom, whereby individuals as such entertain and express their *own* judgements, opinions, and counsels on matters of universal concern, makes its collective appearance in what is known as *public opinion*. In the latter, the universal in and for itself, the *substantial* and the *true*, is linked with its opposite, with what is *distinct* in itself [*dem für sich Eigentümlichen*] as the *particular opinions* of the many. This existence [*Existenz*] [of public opinion] is therefore a manifest self-contradiction, an *appearance* of cognition; in it, the essential is just as immediately present as the inessential.

Addition (G). Public opinion is the unorganized way in which the will and opinions of the people make themselves known. Whatever actually gains recognition within the state must, of course, perform an organic function, as is the case with the constitution. But public opinion has been a major force in all ages, and this is particularly so in our own times, in which the principle of subjective freedom has such importance and significance. Whatever is to achieve recognition today no longer achieves it by force, and only to a small extent through habit and custom, but mainly through insight and reasoned argument.

§ 317

Public opinion therefore embodies not only the eternal and substantial principles of justice – the true content and product of the entire constitution and legislation and of the universal condition in general – in the form of *common sense* [*des gesunden Menschenverstandes*] (the ethical foundation which is present in everyone in the shape of prejudices), but also the true needs and legitimate [*richtigen*] tendencies of actuality. – As soon as this inner content attains consciousness and is represented [*zur Vorstellung kommt*] in general propositions (either in its own right [*für sich*] or for the purpose of concrete reasoning [*Räsonnieren*] on felt needs and on events, dispensations, and circumstances within the state), all the contingencies of opinion, with its ignorance and perverseness, its false information and its errors of judgement, come on the scene. Since what is at issue here is the consciousness of the *distinctive nature* [*Eigentümlichkeit*] of the views and knowledge [*Kenntnis*] [of individuals], the worse the content of an opinion is, the more distinctive it will be; for the bad is that

whose content is entirely particular and distinctive, whereas the rational is that which is universal in and for itself, and the *distinctive* is that on which opinion *prides itself*.

It must therefore not be regarded as a subjective difference of views if we are told on the one hand that the voice of the people is the voice of God [*Vox populi, vox dei*], and on the other (by Ariosto, for example):†

Che'l Volgare ignorante ogn' un riprenda
E parli più di quel che meno intenda.^{a1}

Public opinion contains these two qualities simultaneously, and if truth and endless error are so closely united within it, it cannot be genuinely *serious* about them both. It may seem difficult to decide which to take seriously, and this will in fact be the case even if we stick to the *immediate expression* of public opinion. But since the substantial is its inner content, only this can be taken completely seriously. The substantial cannot be known [*erkannt*] from public opinion itself, however; its very substantiality means that it can be recognized only in and from itself [*aus und für sich*]. No matter how passionately an opinion is held or how seriously it is asserted or attacked or contested, this is no criterion of what is really at issue; but the last thing which this opinion can be made to realize is that its seriousness is not serious at all. – A leading spirit [*ein großer Geist*] set as the theme of an essay competition the question ‘whether it is permissible to deceive a people’³ The only possible answer was that it is impossible to deceive a people about its substantial basis, about the *essence* and specific character of its spirit, but that the people is deceived *by itself* about the way in which this character is known to it and in which it consequently passes judgement on events, its own actions, etc.

†Hegel's note: Or as Goethe puts it:

Zuschlagen kann die Masse

Da ist sie respektabel;

Urteilen gelingt ihr miserabel.^{b2}

^aTranslator's note: ‘That the ignorant mass finds fault with everyone and talks most of what it understands least’.

^bTranslator's note: ‘The masses can fight respectably, but their judgements are miserable.’

Addition (H). The principle of the modern world requires that whatever is to be recognized by everyone must be seen by everyone as entitled to such recognition. But in addition, each individual wishes to be consulted and to be given a hearing. Once he has fulfilled this responsibility and had his say, his subjectivity is satisfied and he will put up with a great deal. In France, freedom of speech was always^a regarded as less dangerous than silence, for if people remained silent, it was feared that they were keeping their opposition to something to themselves, whereas argument [*Raisonnement*] gives them an outlet and some degree of satisfaction, which also facilitates the progress of the matter [*Sache*] in question.

^aTranslator's note: The word *immer* (‘always’) does not appear in Hotho's notes, from which Gans compiled this *Addition*.

§ 318

Public opinion therefore deserves to be *respected* as well as *despised* – despised for its concrete consciousness and expression, and respected for its essential basis, which appears in that concrete consciousness only in a more or less obscure manner. Since it contains no criterion of discrimination and lacks the ability to raise its own substantial aspect to [the level of] determinate knowledge, the first formal condition of achieving anything great or rational, either in actuality or in science, is to be independent of public opinion. Great achievement may in turn be assured that public opinion will subsequently accept it, recognize it, and adopt it as one of its prejudices.

Addition (H). Every kind of falsehood and truth is present in public opinion, but it is the prerogative [*Sache*] of the great man to discover the truth within it. He who expresses the will of his age, tells it what its will is, and accomplishes this will,^b is the great man of the age.^c What he does is the essence and inner content of the age, and he gives the latter actuality; and no one can achieve anything great, unless he is able to despise public opinion as he here and there encounters it.

^bTranslator's note: I translate directly from Hotho's notes (VPR III, 821) which, in Gans's (inaccurate) transcription, would yield the translation ‘He who tells his age, and accomplishes, what it wills and expresses’.

§ 319

Freedom of public communication (of whose two modes the *press* has a wider range of contact than the spoken word, although it lacks the

latter's vitality), the satisfaction of the burning urge to express one's opinion and to have expressed it, is directly guaranteed by those laws and ordinances, as upheld by the police, which prevent or punish its excesses. It is indirectly guaranteed, however, by its innocuous character, which it owes chiefly to the rationality of the constitution and the stability of the government, but also to the publicity of the assemblies of the Estates. It is rendered innocuous by the latter because these assemblies give expression to sound [*gediegene*] and educated insights concerning the interests of the state, leaving little of significance for others to say, and above all denying them the opinion that what they have to say is of distinctive importance and effectiveness. But it is also guaranteed by the indifference and scorn which shallow and malicious talk quickly and inevitably brings down upon itself.

To define freedom of the press as freedom to say and write *whatever one pleases* is equivalent to declaring that freedom in general means freedom *to do whatever one pleases*. – Such talk is the product of completely uneducated, crude, and superficial thinking [*Vorstellens*]. Besides, it is in the nature of the case [*Sache*] that formalistic thinking [*Formalismus*] is nowhere so stubborn and uncompromising as it is with this matter, for the subject in question is the most fleeting, contingent, and particular aspect of opinion in the infinite variety of its content and modulations. Beyond direct incitement to theft, murder, rebellion, etc. lie the art and cultivation [*Bildung*] of its expression, which seems in itself [*für sich*] quite general and indeterminate yet at the same time conceals another quite specific meaning, or leads to consequences which are not actually expressed and of which it is impossible to determine whether they follow legitimately [*richtig*] from it and whether they were meant to be drawn from it or not. This indeterminacy of the material and its form makes it impossible for laws on such matters to attain that determinacy which the law requires; and since any misdemeanour, wrong, or injury [*Verletzung*] here assumes the most particular and *subjective* shape, judgement on it likewise becomes a wholly *subjective* decision. Besides, such an injury will be directed at the thoughts, opinion, and will of others, and they are the element in which it attains

actuality. But this element is part of the freedom of others, and it will therefore depend on them whether or not the injurious action constitutes an actual deed. – Laws in this area are therefore open to criticism on account of their indeterminacy, and also because turns of phrase and forms of expression can be devised in order to circumvent the law or to maintain that the judicial decision is a subjective judgement. It can further be argued, if the [offending] expression is treated as an *injurious act*, that it is not an act at all, but only *opinion* and *thought* on the one hand and *talk* on the other. Thus, it is argued in one breath that mere opinion and talk should be *exempt from punishment* because their form and content are purely subjective and because they are *insignificant* and *unimportant*, and that this same opinion and talk should be *highly respected* and *esteemed* on the grounds that the former is personal property of the *most spiritual kind*, and that the latter is the expression and use of this personal property. – But the substantial [issue here] is and remains the fact that all injuries to the honour of individuals, slander, abuse, vilification of the government, of its official bodies and civil servants, and in particular of the sovereign in person, contempt for the laws, incitement to rebellion, etc., are crimes and misdemeanours of widely varying degrees of gravity. The fact that such actions become more indeterminable as a result of the element in which they are expressed does not annul [*hebt nicht auf*] this substantial character, and its effect is therefore simply [to ensure] that the *subjective* sphere [*Boden*] in which they are committed also determines the *nature* and *shape* of the *reaction*. It is this very sphere in which the misdemeanour is committed which necessarily leads to subjectivity of view, contingency, etc., in the reaction to it, whether this reaction consists of measures taken by the police to prevent crime, or of punishment proper. Here as always, formalistic thinking [*Formalismus*] endeavours to rationalize away [*wegzuräsonnieren*] the substantial and concrete nature of the thing [*Sache*] in favour of *individual* aspects which belong to its external appearance and of abstractions which it derives from these. – The *sciences*, however – that is, if they really are sciences – have no place at all in the sphere of opinion and subjective views, nor does

their presentation consist in the art of allusions, turns of phrase, half-utterances and semi-concealment, but in the unambiguous, determinate, and open expression of their meaning and sense. Consequently, they do not come under the category of public opinion (see § 316).¹ – Besides, as I have already pointed out, the element in which views and their modes of expression as such become *completed actions* and attain actual existence [*Existenz*] is the intelligence, principles, and opinions of *others*. Consequently, this aspect of actions – i.e. their proper effect and the *danger* they hold for individuals, society, and the state (cf. § 218) – likewise depends on the nature of this element [*Boden*], just as a spark thrown on to a powderkeg is far more dangerous than if it falls on solid ground, where it disappears without trace. – Thus, just as scientific utterances have their right and safeguard in their material and content, so also is there a safeguard, or at least [an element of] toleration, for wrongful utterances in the contempt which they bring upon themselves. Some misdeemeanours of this kind, which may even be legally punishable in themselves, are attributable to that variety of *nemesis* which inner impotence, when it feels oppressed by superior talents and virtues, is impelled to exact in order to reassert itself in the face of such superiority and to give renewed self-consciousness to its own nullity. Thus, the Roman soldiers used to inflict a relatively harmless *nemesis* on their emperors by singing satirical songs during triumphal processions in order to compensate for their arduous service and obedience, and especially for the fact that their names were not included in the roll of honour; in this way, the balance was to some extent redressed.² The former base and spiteful variety of *nemesis* is rendered ineffectual by the contempt which it incurs, and, like the public which may provide an audience for such activities, it is confined to empty malice and to the self-condemnation which is implicit within it.

§ 320

Subjectivity, whose *most external* manifestation is the dissolution of the existing life of the state by opinion and ratiocination as they seek to

assert their contingent character and thereby destroy themselves, has its true actuality in its own opposite, i.e. in *subjectivity* as identical with the substantial will, the subjectivity which constitutes the concept of the power of the sovereign and which, as the *ideality* of the whole, has not up till now attained its right and its existence [*Dasein*].

Addition (H). We have considered subjectivity once already in connection with the monarch as the apex of the state. Its other aspect is its arbitrary appearance in public opinion as its most external^a manifestation. The subjectivity of the monarch is in itself abstract, but it should be concrete in character as the ideality which pervades the whole. The peaceful state is that in which all branches of civil life subsist, while their collective and separate subsistence proceeds from the Idea of the whole. This process [*Hervorgehen*] must also make its *appearance* as the ideality of the whole.

^a*Translator's note:* Gans here uses the adjective *äußersten* ('most extreme'), which should in fact be *äußerlichsten* ('most external'), as in Hotho's original notes (VPR III, 826) and in § 320 itself.

II External Sovereignty

§ 321

Internal sovereignty (see § 278) is this ideality in so far as the moments of the spirit and of its actuality, the state, have *developed* in their *necessity* and *subsist* as *members* of the state. But the spirit, which in its freedom is *infinitely negative reference to itself*, is just as essentially *being-for-itself* which has *incorporated* the subsistent differences *into itself* and is accordingly exclusive. In this determination, the state has *individuality*, which is [present] essentially as an individual and, in the sovereign [*Souverän*], as an actual and immediate individual (see § 279).

§ 322

Individuality, as exclusive being-for-itself, appears *as the relation* [of the state] *to other states*, each of which is independent [*selbständig*] in relation to the others. Since the *being-for-itself* of the actual spirit has its *existence* [*Dasein*] in this independence, the latter is the primary freedom and supreme dignity of a nation [*eines Volkes*].

Those who speak of the wishes of a totality [*Gesamtheit*] which constitutes a more or less independent state with its own centre to abandon this focal point and its own independence in order to form a whole with another state know little of the nature of a totality and of the self-awareness which an autonomous nation possesses.¹ – Hence, the primary authority [*Gewalt*] which states possess when they make their appearance in history is quite simply this independence, even if it is completely abstract and without any inner development. It is therefore in keeping with this original appearance that the head of state should be an individual, such as a patriarch or a tribal chief.

§ 323

In *existence* [*Dasein*] this *negative* relation [*Beziehung*] of the state to itself thus appears as the relation of *another* to *another*, as if the negative were something *external*. The existence [*Existenz*] of this negative relation therefore assumes the shape of an event, of an involvement with contingent occurrences coming *from without*. Nevertheless, this negative relation is the state's *own* highest moment – its actual infinity as the ideality of everything finite within it. It is that aspect whereby the substance, as the state's absolute power over everything individual and particular, over life, property, and the latter's rights, and over the wider circles within it, gives the nullity of such things an existence [*Dasein*] and makes it present to the consciousness.

§ 324

This determination whereby the interests and rights of individuals [*der Einzelnen*] are posited as a transient moment is at the same time their *positive* aspect, i.e. that aspect of their individuality [*Individualität*] which is not contingent and variable, but has *being in and for itself*. This relation and its recognition are therefore the substantial duty of individuals – their duty to preserve this substantial individuality – i.e. the independence and sovereignty of the state – even if their own life and property, as well as their opinions and all that naturally falls within the province of life, are endangered or sacrificed.

It is a grave miscalculation if the state, when it requires this sacrifice, is simply equated with civil society, and if its ultimate end is seen merely as the *security of the life and property* of individuals [*Individuen*]. For this security cannot be achieved by the sacrifice of what is supposed to be *secured* – on the contrary. – The ethical *moment of war* is implicit in what was stated above. For war should not be regarded as an absolute evil [*Übel*] and as a purely external contingency whose cause [*Grund*] is therefore itself contingent, whether this cause lies in the passions of rulers or nations [*Völker*], in injustices etc., or in anything else which is not as it should be. Whatever is by nature contingent is subject to contingencies, and this fate is therefore itself a necessity – just as, in all such cases, philosophy and the concept overcome the point of view of mere contingency and recognize it as a *semblance* whose essence is necessity. It is *necessary* that the finite – such as property and life – should be *posited* as contingent, because contingency is the concept of the finite. On the one hand, this necessity assumes the shape of a natural power, and everything finite is mortal and transient. But in the ethical essence, i.e. the state, nature is deprived of this power, and necessity is elevated to a work of freedom, to something ethical in character. The transience of the finite now becomes a *willed* evanescence, and the negativity which underlies it becomes the substantial individuality proper to the ethical essence. – War is that condition in which the vanity of temporal things [*Dinge*] and temporal goods – which tends at other times to be merely a pious phrase – takes on a serious significance, and it is accordingly the moment in which the ideality of the *particular attains its right* and becomes actuality. The higher significance of war is that, through its agency (as I have put it on another occasion), 'the ethical health of nations [*Völker*] is preserved in their indifference towards the permanence of finite determinacies, just as the movement of the winds preserves the sea from that stagnation which a lasting calm would produce – a stagnation which a lasting, not to say perpetual, peace would also produce among nations'.¹ Of the allegation that this is *only* a philosophical Idea or – to use another common expression – a justification of *providence*, and that actual wars

require a further justification as well, more will be said below.² – The ideality which makes its appearance in war in the shape of a contingent external relationship is the same as the ideality whereby the internal powers of the state are organic moments of the whole. This is apparent in various occurrences in history, as when successful wars have averted internal unrest and consolidated the internal power of the state.³ Other phenomena [*Erscheinungen*] of the same kind include the following: nations which are reluctant or afraid to accept internal sovereignty may be subjugated by others, and their failure to attain honour and success in their struggles for independence has been proportionate to their initial failure to organize the power of the state from within (i.e. their freedom has died from the fear of dying); and states whose independence is guaranteed not by their armed strength but by other factors (as in those states which are disproportionately small in relation to their neighbours) have been able to survive [*bestehen*] with an internal constitution which would not on its own have secured either internal or external peace.

Addition (G). In peace, the bounds of civil life are extended, all its spheres become firmly established, and in the long run, people become stuck in their ways. Their particular characteristics [*Partikularitäten*] become increasingly rigid and ossified. But the unity of the body is essential to the health, and if its parts grow internally hard, the result is death. Perpetual peace is often demanded as an ideal to which mankind should approximate. Thus, Kant proposed a league of sovereigns to settle disputes between states, and the Holy Alliance was meant to be an institution more or less of this kind.⁴ But the state is an individual, and negation is an essential component of individuality. Thus, even if a number of states join together as a family, this league, in its individuality, must generate opposition and create an enemy. Not only do peoples emerge from wars with added strength, but nations [*Nationen*] troubled by civil dissension gain internal peace as a result of wars with their external enemies. Admittedly, war makes property insecure, but this *real* insecurity is no more than a necessary movement. We hear numerous sermons on the insecurity, vanity, and instability of temporal things, but all who hear them, however moved they may be, believe that they will none the less retain what is theirs. But if this insecurity should then actually become a serious proposition in the shape of hussars with sabres drawn, the edifying sentiments which predicted all this turn into imprecations against the conquerors.

But wars will nevertheless occur whenever they lie in the nature of the case [*Sache*]; the seeds germinate once more, and talk falls silent in face of the solemn recurrences of history.⁴

Translator's note: This sentence has no counterpart in the corresponding section of Griesheim's notes (VPR iv, 733ff.), on which Gans based this Addition.

§ 325

Since sacrifice for the individuality of the state is the substantial relation of everyone and therefore a *universal duty*, it itself becomes, as *one* aspect of the ideality (as distinct from the reality) of particular subsistence [*Bestehen*], at the same time a particular relation with an estate of its own – the *estate of valour* – attached to it.

§ 326

Disputes between states may have any *particular* aspect of their mutual relations as their object [*Gegenstand*], and therein lies the chief vocation [*Bestimmung*] of the *particular* group to which the defence of the state is entrusted. But in so far as the state as such and its independence are at risk, duty requires all citizens to rally to its defence.¹ If the entire state has thus become an armed power and is wrenched away from its own internal life to act on an external front, the war of defence becomes a war of conquest.

The fact that the armed power of the state becomes a *standing army* and that the vocation [*Bestimmung*] for the particular task of defending it becomes an *estate* is [a result of] the same necessity whereby its other particular moments, interests, and functions become estates such as those of marriage, trade and industry, the civil service, business, etc. Ratiocination, which goes back and forth over the reasons in question, indulges in reflections on the greater advantages or disadvantages of employing standing armies, and opinion readily comes down on the side of the disadvantages, because the concept of a thing [*Sache*] is more difficult to grasp than its individual and external aspects, and also because the interests and ends of particularity (the costs involved and their consequences, higher taxes, etc.) are rated more highly in the consciousness

of civil society than what is necessary in and for itself, which is accordingly regarded only as a means to particular ends.

§ 327

Valour is in itself a *formal* virtue, because it is the highest abstraction of freedom from all particular ends, possessions, pleasure, and life (although the way in which it negates these is *external and actual*), and because the alienation [*Entäußerung*] of these, as the *enactment* of valour, is not in itself of a spiritual nature; besides, the inner disposition [associated with it] may be [the product of] this or that [particular] reason [*Grund*], and its actual result may exist [*sein*] only for others and not *for itself*.

Addition (G). The military estate is the universal estate to which the defence of the realm is entrusted, and its duty is to give existence [*Existenz*] to the ideality within itself, i.e. to sacrifice itself. There are, of course, various kinds of valour. The courage of an animal or a robber, valour for the sake of honour, and knightly valour are not its true forms. The true valour of civilized nations [*Völker*] is their readiness for sacrifice in the service of the state, so that the individual merely counts as one among many. Not personal courage but integration with the universal is the important factor here. In India, five hundred men defeated twenty thousand who were not cowards, but who simply lacked the disposition to act in close association with others.¹

§ 328

The significance [*Gehalt*] of valour as a disposition lies in the true, absolute, and ultimate end, the *sovereignty* of the state. The *actuality* of this ultimate end, as the product of valour, is mediated by [the surrender of personal actuality]. This phenomenon [*Gestalt*] therefore embodies the harshness of extreme opposites: *alienation* [*Entäußerung*] itself, but as the *existence* [*Existenz*] of freedom; the supreme *self-sufficiency of being-for-itself*, which at the same time exists in the mechanical *service* of an *external order*; total obedience and renunciation of personal [*eigenen*] opinion and reasoning [*Räsonieren*], and hence personal *absence* of mind [*des Geistes*], along with the most intense and comprehensive *presence* of mind and decisiveness at a given moment; the most hostile and hence most personal action

against individuals, along with a completely indifferent or even benevolent attitude [*Gesinnung*] towards them as individuals.

To risk one's life is certainly superior to simply fearing death, but it is also purely negative and therefore indeterminate and valueless in itself. [Only a positive end and content can give significance to such courage.] Robbers and murderers whose end is crime, adventurers whose end is a product of their own opinion, etc. also have the courage to risk their lives. – The principle of the modern world – *thought* and the *universal* – has given a higher form [*Gestalt*] to valour, in that its expression seems to be more mechanical and not so much the deed of a *particular* person as that of a *member* of a whole. It likewise appears to be directed not against individual persons, but against a hostile whole in general, so that personal courage appears impersonal. This is why the principle of thought has invented [the *gun*, and this invention, which did not come about by chance, has turned the purely personal form of valour into a more abstract form.] ✕

§ 329

[The outward orientation of the *state* derives from the fact that it is an *individual subject*.] Its relationship with other states therefore comes under the *power of the sovereign*, who therefore has direct and sole responsibility for the command of the armed forces, for the conduct of relations with other states through ambassadors etc., and for making war and peace and concluding treaties of other kinds.

Addition (G). In almost all European countries, the supreme individual authority is the power of the sovereign, who has control of external relations. Where the Estates form part of the constitution, the question may arise whether they should not be responsible for making war and peace, and they will in any case retain their influence on the provision of financial means in particular. In England, for example, no unpopular war can be waged. But if it is imagined that sovereign princes and cabinets are more subject to passion than parliaments are, and if the attempt is accordingly made to transfer responsibility for war and peace into the hands of the latter, it must be replied that *whole nations* are often more prone to enthusiasms and subject to passion than their rulers are. [In England, the entire people has pressed for war on several occasions and has in a sense

compelled the ministers to wage it. The popularity of Pitt arose from the fact that he knew how to comply with the nation's current wishes.^a Only later, when emotions had cooled, did people realize that the war was useless and unnecessary, and that it had been entered into without calculating the cost.² Besides, [the state has relations not just with one other state, but with several; and the complexities of these relations become so delicate that they can be handled only by the supreme authority.] *

^aTranslator's note: The preceding sentence has no equivalent in Griesheim's notes, on which this Addition is based (see VPR IV, 738f.).

B. International Law [Das äußere Staatsrecht]

§ 330

International law [das äußere Staatsrecht] applies to the relations between independent states. What it contains *in and for itself* therefore assumes the form of an [obligation], because its actuality depends on [distinct and sovereign wills].

Addition (H). [States are not private persons but completely independent totalities in themselves] so that the [relations between them are not the same as purely moral relations or relations of private right]. Attempts have often been made to apply private right and morality to states, but the position of private persons is that they are subject to the authority of a court which implements what is right in itself. Now a relationship between states ought also to be inherently governed by right, but in worldly affairs, that which has being in itself ought also to possess power. But [since no power is present to decide what is right in itself in relation to the state and to actualize such decisions, this relation [Beziehung] must always remain one of obligation.] [The relationship between states is a relationship of independent units which make mutual stipulations but at the same time stand above these stipulations.]

§ 331

* [The nation state [das Volk als Staat] is the spirit in its substantial rationality and immediate actuality, and is therefore the absolute power on earth; each state is consequently a sovereign and independent entity in relation to others.] The state has a primary and

absolute entitlement to be a sovereign and independent power *in the eyes of others*, i.e. *to be recognized* by them. At the same time, however, this entitlement is purely formal, and [the requirement that the state should be recognized simply because it is a state is abstract.] Whether the state does in fact have being in and for itself depends on its content – on its constitution and [present] condition; and recognition, which implies that the two [i.e. form and content] are identical, also depends on the perception and will of the other state.

[Without relations [Verhältnis] with other states, the state can no more be an actual individual [Individuum] than an individual [der Einzelne] can be an actual person without a relationship [Relation] with other persons.] (see § 322). On the other hand, [the legitimacy of a state] and more precisely – in so far as it has external relations – of the power of its sovereign, [is a purely internal matter (one state should not interfere in the internal affairs of another)]. On the other hand, [it is equally essential that this legitimacy should be supplemented by recognition on the part of other states.] But this recognition requires a guarantee that the state will likewise recognize those other states which are supposed to recognize it, i.e. that it will respect their independence; accordingly, these other states cannot be indifferent to its internal affairs. – In the case of a nomadic people, for example, or any people at a low level of culture, the question even arises of how far this people can be regarded as a state. The religious viewpoint (as in former times with the Jewish and Mohammedan nations [Völkern]) may further entail a higher opposition which precludes that universal identity that recognition requires.

RELATIONS
AS A COP OF
STATE
"INDIVIDUALITY"
ACTUAL STATE
RECOGNITION
(INTERNAL)

Addition (G). When Napoleon said before the Peace of Campo Formio 'the French Republic is no more in need of recognition than the sun is',^{a1} his words conveyed no more than that strength of existence [Existenz] which itself carries with it a guarantee of recognition, even if this is not expressly formulated.

^aTranslator's note: The remainder of this sentence has no equivalent in Griesheim's notes, on which this Addition is based (see VPR IV, 741).