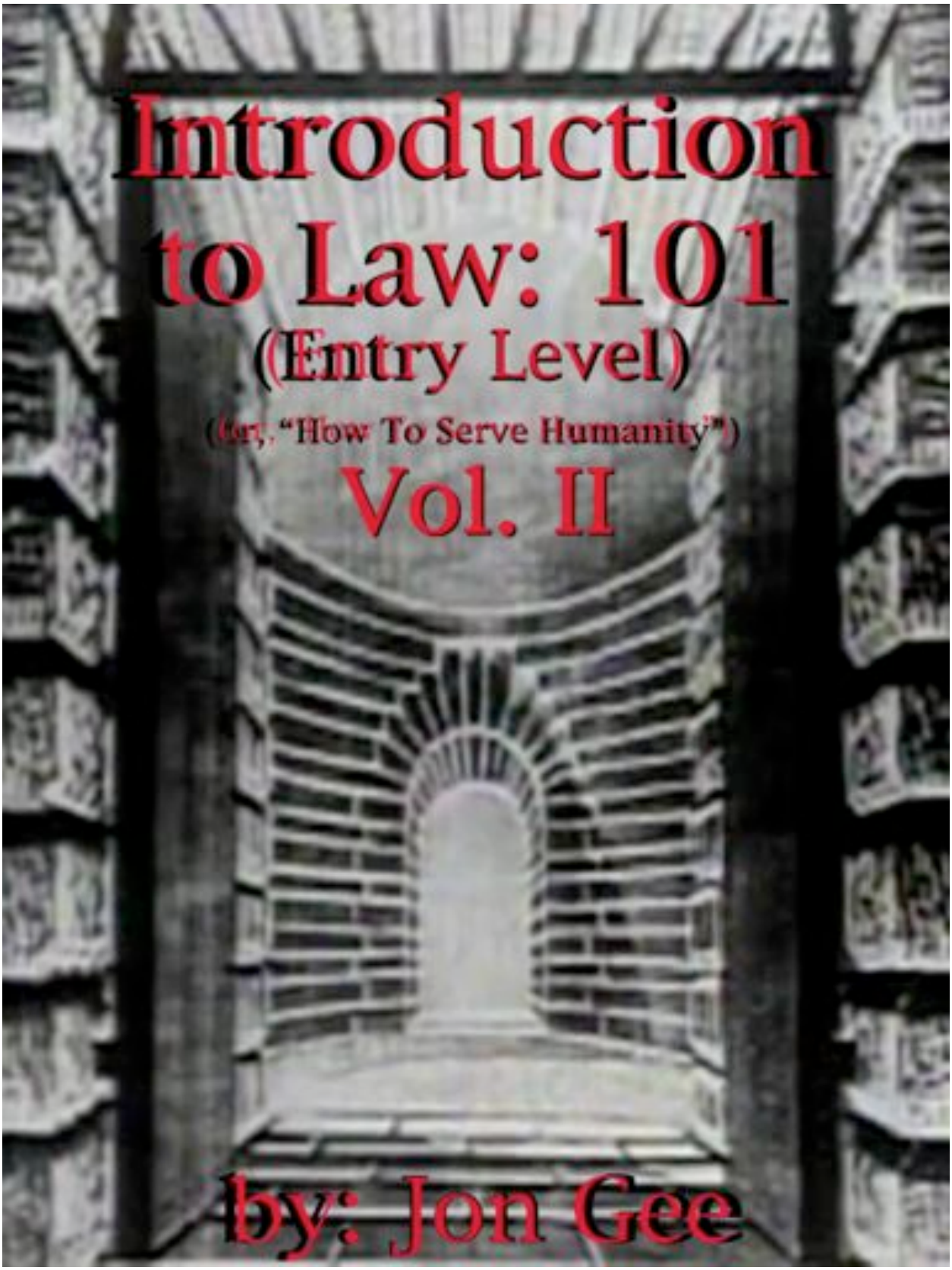
Introduction
to Law: 101
(Entry Level)
(or; "How To Serve Humanity")
Vol. II
by: Jon Gee

"Introduction to Law 101: Entry Level
(or "How To Serve Humanity")

by Jonathan Barlow Gee *(Jon Gee)*

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this 2014 edition of Law 101: incl.

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3A. historical background

The Art of War is an ancient Chinese military treatise attributed to Sun Tzu, a high-ranking military general, strategist and tactician. The text is composed of 13 chapters, each of which is devoted to one aspect of warfare. It is commonly known to be the definitive work on military strategy and tactics of its time. It has been the most famous and influential of China's Seven Military Classics, and "for the last two thousand years it remained the most important military treatise in Asia, where even the common people knew it by name." It has had an influence on Eastern and Western military thinking, business tactics, legal strategy and beyond.

The book was first translated into the French language in 1772 by French Jesuit Jean Joseph Marie Amiot and a partial translation into English was attempted by British officer Everard Ferguson Calthrop in 1905. The first annotated English language translation was completed and published by Lionel Giles in 1910. Leaders as diverse as Mao Zedong, General Vo Nguyen Giap, General Douglas MacArthur and leaders of Imperial Japan have drawn inspiration from the work.

Themes
Sun Tzu considered war as a necessary evil that must be avoided whenever possible. The war should be fought swiftly to avoid economic losses: "No long war ever profited any country: 100 victories in 100 battles is simply ridiculous. Anyone who excels in defeating his enemies triumphs before his enemy's threats become real". According to the book, one must avoid massacres and atrocities because this can provoke resistance and possibly allow an enemy to turn the war in his favor. For the victor, "the best policy is to capture the state intact; it should be destroyed only if no other options are available".

Sun Tzu emphasized the importance of positioning in military strategy. The decision to position an army must be based on both objective conditions in the physical environment and the subjective beliefs of other, competitive actors in that environment. He thought that strategy was not planning in the sense of working through an established list, but rather that it requires quick and appropriate responses to changing conditions. Planning works in a controlled environment; but in a changing environment, competing plans collide, creating unexpected situations.

The 13 chapters
The Art of War is divided into 13 chapters (or *pi'n*); the collection is referred to as being one *zhuàn* ("whole" or alternatively "chronicle").

The Art of War **chapter names in translations by Giles, Wing, Sawyer, and Chow-Hou**

Chapter	Lionel Giles (1910)	R.L. Wing (1988)	Ralph D. Sawyer (1996)	Chow-Hou Wee (2003)
I	Laying Plans	The Calculations	Initial Estimations	Detail Assessment and Planning

(Chinese: 始計，始计)

II
Waging War
The Challenge
Waging War
Waging War
(Chinese: 作戰，作战)

III
Attack by Stratagem
The Plan of Attack
Planning Offensives
Strategic Attack
(Chinese: 謀攻，谋攻)

IV
Tactical Dispositions
Positioning
Military Disposition
Disposition of the Army
(Chinese: 軍形，军形)

V
Energy
Directing
Strategic Military Power
Forces
(Chinese: 兵勢，兵势)

VI
Weak Points and Strong
Illusion and Reality
Vacuity and Substance
Weaknesses and Strengths
(Chinese: ?實，虚实)

VII
Maneuvering
Engaging The Force
Military Combat
Military Maneuvers
(Chinese: 軍爭，军争)

VIII
Variation of Tactics
The Nine Variations
Nine Changes
Variations and Adaptability
(Chinese: 九變，九变)

IX
The Army on the March
Moving The Force
Maneuvering the Army
Movement and Development of Troops
(Chinese: 行軍，行军)

X
Terrain
Situational Positioning

Configurations of Terrain
Terrain
(Chinese: 地形)

XI
The Nine Situations
The Nine Situations
Nine Terrains
The Nine Battlegrounds
(Chinese: 九地)

XII
The Attack by Fire
The Fiery Attack
Incendiary Attacks
Attacking with Fire
(Chinese: 火攻)

XIII
The Use of Spies
The Use of Intelligence
Employing Spies
Intelligence and Espionage
(Chinese: 用間，用间)

Chapter summary
The beginning of *The Art of War* in a classical bamboo book from the reign of the Qianlong Emperor

1. **Laying Plans/The Calculations** explores the five fundamental factors (the Way, seasons, terrain, leadership and management) and seven elements that determine the outcomes of military engagements. By thinking, assessing and comparing these points, a commander can calculate his chances of victory. Habitual deviation from these calculations will ensure failure via improper action. The text stresses that war is a very grave matter for the state and must not be commenced without due consideration.
2. **Waging War/The Challenge** explains how to understand the economy of warfare and how success requires winning decisive engagements quickly. This section advises that successful military campaigns require limiting the cost of competition and conflict.
3. **Attack by Stratagem/The Plan of Attack** defines the source of strength as unity, not size, and discusses the five factors that are needed to succeed in any war. In order of importance, these critical factors are: Attack, Strategy, Alliances, Army and Cities.
4. **Tactical Dispositions/Positioning** explains the importance of defending existing positions until a commander is capable of advancing from those positions in safety. It teaches commanders the importance of recognizing strategic opportunities, and teaches not to create opportunities for the enemy.
5. **Energy/Directing** explains the use of creativity and timing in building an army's momentum.
6. **Weak Points & Strong/Illusion and Reality** explains how an army's opportunities come from the openings in the environment caused by the relative weakness of the enemy and how to respond to changes in the fluid battlefield over a given area.
7. **Maneuvering/Engaging The Force** explains the dangers of direct

conflict and how to win those confrontations when they are forced upon the commander.

8. **Variation in Tactics/The Nine Variations** focuses on the need for flexibility in an army's responses. It explains how to respond to shifting circumstances successfully.

9. **The Army on the March/Moving The Force** describes the different situations in which an army finds itself as it moves through new enemy territories, and how to respond to these situations. Much of this section focuses on evaluating the intentions of others.

10. **Terrain/Situational Positioning** looks at the three general areas of resistance (distance, dangers and barriers) and the six types of ground positions that arise from them. Each of these six field positions offer certain advantages and disadvantages.

11. **The Nine Situations/Nine Terrains** describes the nine common situations (or stages) in a campaign, from scattering to deadly, and the specific focus that a commander will need in order to successfully navigate them.

12. **The Attack by Fire/Fiery Attack** explains the general use of weapons and the specific use of the environment as a weapon. This section examines the five targets for attack, the five types of environmental attack and the appropriate responses to such attacks.

13. **The Use of Spies/The Use of Intelligence** focuses on the importance of developing good information sources, and specifies the five types of intelligence sources and how to best manage each of them.

Historical annotations

Before the bamboo scroll version was discovered by archaeologists in April 1972, a commonly cited version of *The Art of War* was the *Annotation of Sun Tzu's Strategies* by Cao Cao, the founder of the Kingdom of Wei. In the preface, he wrote that previous annotations were not focused on the essential ideas.

After the movable type printer was invented, *The Art of War* (with Cao Cao's annotations) was published in a military textbook along with six other strategy books, collectively known as the Seven Military Classics (武經七書 / 武经七书). As required reading in military textbooks since the Song Dynasty, more than 30 differently annotated versions of these books exist today.

The *Book of Sui* documented seven books named after Sun Tzu. An annotation by Du Mu also includes Cao Cao's annotation. Li Jing's *The Art of War* is said to be a revision of Master Sun's strategies. Annotations by Cao Cao, Du Mu and Li Quan were translated into the Tangut language before year 1040. Other annotations cited in official history books include Shen You's (176-204) *Sun Tzu's Military Strategy*, Jia Xu's *Copy of Sun Tzu's Military Strategy*, and Cao Cao and Wang Ling's *Sun Tzu's Military Strategy*.

3B. extent source text

The Art of War
By Sun Tzu

I. Laying Plans

1. Sun Tzu said: The art of war is of vital importance to the State.

2. It is a matter of life and death, a road either to safety or to ruin. Hence it is a subject of inquiry which can on no account be neglected.

3. The art of war, then, is governed by five constant factors, to be taken into account in one's deliberations, when seeking to determine the conditions obtaining in the field.

4. These are: (1) The Moral Law; (2) Heaven; (3) Earth; (4) The Commander; (5) Method and discipline.

5,6. The Moral Law causes the people to be in complete accord with their ruler, so that they will follow him regardless of their lives, undismayed by any danger.

7. Heaven signifies night and day, cold and heat, times and seasons.

8. Earth comprises distances, great and small; danger and security; open ground and narrow passes; the chances of life and death.

9. The Commander stands for the virtues of wisdom, sincerely, benevolence, courage and strictness.

10. By method and discipline are to be understood the marshaling of the army in its proper subdivisions, the graduations of rank among the officers, the maintenance of roads by which supplies may reach the army, and the control of military expenditure.

11. These five heads should be familiar to every general: he who knows them will be victorious; he who knows them not will fail.

12. Therefore, in your deliberations, when seeking to determine the military conditions, let them be made the basis of a comparison, in this wise:--

13. (1) Which of the two sovereigns is imbued with the Moral law? (2) Which of the two generals has most ability? (3) With whom lie the advantages derived from Heaven and Earth? (4) On which side is discipline most rigorously enforced? (5) Which army is stronger? (6) On which side are officers and men more highly trained? (7) In which army is there the greater constancy both in reward and punishment?

14. By means of these seven considerations I can forecast victory or defeat.

15. The general that hearkens to my counsel and acts upon it, will conquer: let such a one be retained in command! The general that hearkens not to my counsel nor acts upon it, will suffer defeat:--let such a one be dismissed!

16. While heading the profit of my counsel, avail yourself also of any helpful circumstances over and beyond the ordinary rules.

17. According as circumstances are favorable, one should modify one's plans.

18. All warfare is based on deception.

19. Hence, when able to attack, we must seem unable; when using our forces, we must seem inactive; when we are near, we must make the enemy believe we are far away; when far away, we must make him believe we are near.

20. Hold out baits to entice the enemy. Feign disorder, and crush him.

21. If he is secure at all points, be prepared for him. If he is in superior strength, evade him.

22. If your opponent is of choleric temper, seek to irritate him. Pretend to be weak, that he may grow arrogant.

23. If he is taking his ease, give him no rest. If his forces are united, separate them.

24. Attack him where he is unprepared, appear where you are not expected.

25. These military devices, leading to victory, must not be divulged beforehand.

26. Now the general who wins a battle makes many calculations in his temple ere the battle is fought. The general who loses a battle makes but few calculations beforehand. Thus do many calculations lead to victory, and few calculations to defeat: how much more no calculation at all! It is by attention to this point that I can foresee who is likely to win or lose.

II. Waging War

1. Sun Tzu said: In the operations of war, where there are in the field a thousand swift chariots, as many heavy chariots, and a hundred thousand mail-clad soldiers, with provisions enough to carry them a thousand li, the expenditure at home and at the front, including entertainment of guests, small items such as glue and paint, and sums spent on chariots and armor, will reach the total of a thousand ounces of silver per day. Such is the cost of raising an army of 100,000 men.

2. When you engage in actual fighting, if victory is long in coming,

then men's weapons will grow dull and their ardor will be damped. If you lay siege to a town, you will exhaust your strength.

3. Again, if the campaign is protracted, the resources of the State will not be equal to the strain.

4. Now, when your weapons are dulled, your ardor damped, your strength exhausted and your treasure spent, other chieftains will spring up to take advantage of your extremity. Then no man, however wise, will be able to avert the consequences that must ensue.

5. Thus, though we have heard of stupid haste in war, cleverness has never been seen associated with long delays.

6. There is no instance of a country having benefited from prolonged warfare.

7. It is only one who is thoroughly acquainted with the evils of war that can thoroughly understand the profitable way of carrying it on.

8. The skillful soldier does not raise a second levy, neither are his supply-wagons loaded more than twice.

9. Bring war material with you from home, but forage on the enemy. Thus the army will have food enough for its needs.

10. Poverty of the State exchequer causes an army to be maintained by contributions from a distance. Contributing to maintain an army at a distance causes the people to be impoverished.

11. On the other hand, the proximity of an army causes prices to go up; and high prices cause the people's substance to be drained away.

12. When their substance is drained away, the peasantry will be afflicted by heavy exactions.

13,14. With this loss of substance and exhaustion of strength, the homes of the people will be stripped bare, and three-tenths of their income will be dissipated; while government expenses for broken chariots, worn-out horses, breast-plates and helmets, bows and arrows, spears and shields, protective mantles, draught-oxen and heavy wagons, will amount to four-tenths of its total revenue.

15. Hence a wise general makes a point of foraging on the enemy. One cartload of the enemy's provisions is equivalent to twenty of one's own, and likewise a single picul of his provender is equivalent to twenty from one's own store.

16. Now in order to kill the enemy, our men must be roused to anger; that there may be advantage from defeating the enemy, they must have their rewards.

17. Therefore in chariot fighting, when ten or more chariots have been taken, those should be rewarded who took the first. Our own flags

should be substituted for those of the enemy, and the chariots mingled and used in conjunction with ours. The captured soldiers should be kindly treated and kept.

18. This is called, using the conquered foe to augment one's own strength.

19. In war, then, let your great object be victory, not lengthy campaigns.

20. Thus it may be known that the leader of armies is the arbiter of the people's fate, the man on whom it depends whether the nation shall be in peace or in peril.

III. Attack by Stratagem

1. Sun Tzu said: In the practical art of war, the best thing of all is to take the enemy's country whole and intact; to shatter and destroy it is not so good. So, too, it is better to recapture an army entire than to destroy it, to capture a regiment, a detachment or a company entire than to destroy them.

2. Hence to fight and conquer in all your battles is not supreme excellence; supreme excellence consists in breaking the enemy's resistance without fighting.

3. Thus the highest form of generalship is to balk the enemy's plans; the next best is to prevent the junction of the enemy's forces; the next in order is to attack the enemy's army in the field; and the worst policy of all is to besiege walled cities.

4. The rule is, not to besiege walled cities if it can possibly be avoided. The preparation of mantlets, movable shelters, and various implements of war, will take up three whole months; and the piling up of mounds over against the walls will take three months more.

5. The general, unable to control his irritation, will launch his men to the assault like swarming ants, with the result that one-third of his men are slain, while the town still remains untaken. Such are the disastrous effects of a siege.

6. Therefore the skillful leader subdues the enemy's troops without any fighting; he captures their cities without laying siege to them; he overthrows their kingdom without lengthy operations in the field.

7. With his forces intact he will dispute the mastery of the Empire, and thus, without losing a man, his triumph will be complete. This is the method of attacking by stratagem.

8. It is the rule in war, if our forces are ten to the enemy's one, to surround him; if five to one, to attack him; if twice as numerous, to divide our army into two.

9. If equally matched, we can offer battle; if slightly inferior in numbers, we can avoid the enemy; if quite unequal in every way, we can flee from him.

10. Hence, though an obstinate fight may be made by a small force, in the end it must be captured by the larger force.

11. Now the general is the bulwark of the State; if the bulwark is complete at all points; the State will be strong; if the bulwark is defective, the State will be weak.

12. There are three ways in which a ruler can bring misfortune upon his army:--

13. (1) By commanding the army to advance or to retreat, being ignorant of the fact that it cannot obey. This is called hobbling the army.

14. (2) By attempting to govern an army in the same way as he administers a kingdom, being ignorant of the conditions which obtain in an army. This causes restlessness in the soldier's minds.

15. (3) By employing the officers of his army without discrimination, through ignorance of the military principle of adaptation to circumstances. This shakes the confidence of the soldiers.

16. But when the army is restless and distrustful, trouble is sure to come from the other feudal princes. This is simply bringing anarchy into the army, and flinging victory away.

17. Thus we may know that there are five essentials for victory: (1) He will win who knows when to fight and when not to fight. (2) He will win who knows how to handle both superior and inferior forces. (3) He will win whose army is animated by the same spirit throughout all its ranks. (4) He will win who, prepared himself, waits to take the enemy unprepared. (5) He will win who has military capacity and is not interfered with by the sovereign.

18. Hence the saying: If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.

IV. Tactical Dispositions

1. Sun Tzu said: The good fighters of old first put themselves beyond the possibility of defeat, and then waited for an opportunity of defeating the enemy.

2. To secure ourselves against defeat lies in our own hands, but the opportunity of defeating the enemy is provided by the enemy himself.

3. Thus the good fighter is able to secure himself against defeat, but cannot make certain of defeating the enemy.

4. Hence the saying: One may know how to conquer without being able to do it.

5. Security against defeat implies defensive tactics; ability to defeat the enemy means taking the offensive.

6. Standing on the defensive indicates insufficient strength; attacking, a superabundance of strength.

7. The general who is skilled in defense hides in the most secret recesses of the earth; he who is skilled in attack flashes forth from the topmost heights of heaven. Thus on the one hand we have ability to protect ourselves; on the other, a victory that is complete.

8. To see victory only when it is within the ken of the common herd is not the acme of excellence.

9. Neither is it the acme of excellence if you fight and conquer and the whole Empire says, "Well done!"

10. To lift an autumn hair is no sign of great strength; to see the sun and moon is no sign of sharp sight; to hear the noise of thunder is no sign of a quick ear.

11. What the ancients called a clever fighter is one who not only wins, but excels in winning with ease.

12. Hence his victories bring him neither reputation for wisdom nor credit for courage.

13. He wins his battles by making no mistakes. Making no mistakes is what establishes the certainty of victory, for it means conquering an enemy that is already defeated.

14. Hence the skillful fighter puts himself into a position which makes defeat impossible, and does not miss the moment for defeating the enemy.

15. Thus it is that in war the victorious strategist only seeks battle after the victory has been won, whereas he who is destined to defeat first fights and afterwards looks for victory.

16. The consummate leader cultivates the moral law, and strictly adheres to method and discipline; thus it is in his power to control success.

17. In respect of military method, we have, firstly, Measurement; secondly, Estimation of quantity; thirdly, Calculation; fourthly, Balancing of chances; fifthly, Victory.

18. Measurement owes its existence to Earth; Estimation of quantity to Measurement; Calculation to Estimation of quantity; Balancing of chances to Calculation; and Victory to Balancing of chances.

19. A victorious army opposed to a routed one, is as a pound's weight placed in the scale against a single grain.

20. The onrush of a conquering force is like the bursting of pent-up waters into a chasm a thousand fathoms deep.

V. Energy

1. Sun Tzu said: The control of a large force is the same principle as the control of a few men: it is merely a question of dividing up their numbers.

2. Fighting with a large army under your command is nowise different from fighting with a small one: it is merely a question of instituting signs and signals.

3. To ensure that your whole host may withstand the brunt of the enemy's attack and remain unshaken-- this is effected by maneuvers direct and indirect.

4. That the impact of your army may be like a grindstone dashed against an egg--this is effected by the science of weak points and strong.

5. In all fighting, the direct method may be used for joining battle, but indirect methods will be needed in order to secure victory.

6. Indirect tactics, efficiently applied, are inexhaustible as Heaven and Earth, unending as the flow of rivers and streams; like the sun and moon, they end but to begin anew; like the four seasons, they pass away to return once more.

7. There are not more than five musical notes, yet the combinations of these five give rise to more melodies than can ever be heard.

8. There are not more than five primary colors (blue, yellow, red, white, and black), yet in combination they produce more hues than can ever been seen.

9. There are not more than five cardinal tastes (sour, acrid, salt, sweet, bitter), yet combinations of them yield more flavors than can ever be tasted.

10. In battle, there are not more than two methods of attack--the direct and the indirect; yet these two in combination give rise to an endless series of maneuvers.

11. The direct and the indirect lead on to each other in turn. It is like moving in a circle--you never come to an end. Who can exhaust the possibilities of their combination?

12. The onset of troops is like the rush of a torrent which will even roll stones along in its course.

13. The quality of decision is like the well-timed swoop of a falcon which enables it to strike and destroy its victim.

14. Therefore the good fighter will be terrible in his onset, and

prompt in his decision.

15. Energy may be likened to the bending of a crossbow; decision, to the releasing of a trigger.

16. Amid the turmoil and tumult of battle, there may be seeming disorder and yet no real disorder at all; amid confusion and chaos, your array may be without head or tail, yet it will be proof against defeat.

17. Simulated disorder postulates perfect discipline, simulated fear postulates courage; simulated weakness postulates strength.

18. Hiding order beneath the cloak of disorder is simply a question of subdivision; concealing courage under a show of timidity presupposes a fund of latent energy; masking strength with weakness is to be effected by tactical dispositions.

19. Thus one who is skillful at keeping the enemy on the move maintains deceitful appearances, according to which the enemy will act. He sacrifices something, that the enemy may snatch at it.

20. By holding out baits, he keeps him on the march; then with a body of picked men he lies in wait for him.

21. The clever combatant looks to the effect of combined energy, and does not require too much from individuals. Hence his ability to pick out the right men and utilize combined energy.

22. When he utilizes combined energy, his fighting men become as it were like unto rolling logs or stones. For it is the nature of a log or stone to remain motionless on level ground, and to move when on a slope; if four-cornered, to come to a standstill, but if round-shaped, to go rolling down.

23. Thus the energy developed by good fighting men is as the momentum of a round stone rolled down a mountain thousands of feet in height. So much on the subject of energy.

VI. Weak Points and Strong

1. Sun Tzu said: Whoever is first in the field and awaits the coming of the enemy, will be fresh for the fight; whoever is second in the field and has to hasten to battle will arrive exhausted.

2. Therefore the clever combatant imposes his will on the enemy, but does not allow the enemy's will to be imposed on him.

3. By holding out advantages to him, he can cause the enemy to approach of his own accord; or, by inflicting damage, he can make it impossible for the enemy to draw near.

4. If the enemy is taking his ease, he can harass him; if well supplied with food, he can starve him out; if quietly encamped, he can force him to move.

5. Appear at points which the enemy must hasten to defend; march swiftly to places where you are not expected.

6. An army may march great distances without distress, if it marches through country where the enemy is not.

7. You can be sure of succeeding in your attacks if you only attack places which are undefended.You can ensure the safety of your defense if you only hold positions that cannot be attacked.

8. Hence that general is skillful in attack whose opponent does not know what to defend; and he is skillful in defense whose opponent does not know what to attack.

9. O divine art of subtlety and secrecy! Through you we learn to be invisible, through you inaudible; and hence we can hold the enemy's fate in our hands.

10. You may advance and be absolutely irresistible, if you make for the enemy's weak points; you may retire and be safe from pursuit if your movements are more rapid than those of the enemy.

11. If we wish to fight, the enemy can be forced to an engagement even though he be sheltered behind a high rampart and a deep ditch. All we need do is attack some other place that he will be obliged to relieve.

12. If we do not wish to fight, we can prevent the enemy from engaging us even though the lines of our encampment be merely traced out on the ground. All we need do is to throw something odd and unaccountable in his way.

13. By discovering the enemy's dispositions and remaining invisible ourselves, we can keep our forces concentrated, while the enemy's must be divided.

14. We can form a single united body, while the enemy must split up into fractions. Hence there will be a whole pitted against separate parts of a whole, which means that we shall be many to the enemy's few.

15. And if we are able thus to attack an inferior force with a superior one, our opponents will be in dire straits.

16. The spot where we intend to fight must not be made known; for then the enemy will have to prepare against a possible attack at several different points; and his forces being thus distributed in many directions, the numbers we shall have to face at any given point will be proportionately few.

17. For should the enemy strengthen his van, he will weaken his rear; should he strengthen his rear, he will weaken his van; should he strengthen his left, he will weaken his right; should he strengthen his right,

he will weaken his left. If he sends reinforcements everywhere, he will everywhere be weak.

18. Numerical weakness comes from having to prepare against possible attacks; numerical strength, from compelling our adversary to make these preparations against us.

19. Knowing the place and the time of the coming battle, we may concentrate from the greatest distances in order to fight.

20. But if neither time nor place be known, then the left wing will be impotent to succor the right, the right equally impotent to succor the left, the van unable to relieve the rear, or the rear to support the van. How much more so if the furthest portions of the army are anything under a hundred LI apart, and even the nearest are separated by several LI!

21. Though according to my estimate the soldiers of Yueh exceed our own in number, that shall advantage them nothing in the matter of victory. I say then that victory can be achieved.

22. Though the enemy be stronger in numbers, we may prevent him from fighting. Scheme so as to discover his plans and the likelihood of their success.

23. Rouse him, and learn the principle of his activity or inactivity. Force him to reveal himself, so as to find out his vulnerable spots.

24. Carefully compare the opposing army with your own, so that you may know where strength is superabundant and where it is deficient.

25. In making tactical dispositions, the highest pitch you can attain is to conceal them; conceal your dispositions, and you will be safe from the prying of the subtlest spies, from the machinations of the wisest brains.

26. How victory may be produced for them out of the enemy's own tactics--that is what the multitude cannot comprehend.

27. All men can see the tactics whereby I conquer, but what none can see is the strategy out of which victory is evolved.

28. Do not repeat the tactics which have gained you one victory, but let your methods be regulated by the infinite variety of circumstances.

29. Military tactics are like unto water; for water in its natural course runs away from high places and hastens downwards.

30. So in war, the way is to avoid what is strong and to strike at what is weak.

31. Water shapes its course according to the nature of the ground over which it flows; the soldier works out his victory in relation to the foe whom he is facing.

32. Therefore, just as water retains no constant shape, so in warfare there are no constant conditions.

33. He who can modify his tactics in relation to his opponent and thereby succeed in winning, may be called a heaven-born captain.

34. The five elements (water, fire, wood, metal, earth) are not always equally predominant; the four seasons make way for each other in turn. There are short days and long; the moon has its periods of waning and waxing.

VII. Maneuvering

1. Sun Tzu said: In war, the general receives his commands from the sovereign.

2. Having collected an army and concentrated his forces, he must blend and harmonize the different elements thereof before pitching his camp.

3. After that, comes tactical maneuvering, than which there is nothing more difficult. The difficulty of tactical maneuvering consists in turning the devious into the direct, and misfortune into gain.

4. Thus, to take a long and circuitous route, after enticing the enemy out of the way, and though starting after him, to contrive to reach the goal before him, shows knowledge of the artifice of deviation.

5. Maneuvering with an army is advantageous; with an undisciplined multitude, most dangerous.

6. If you set a fully equipped army in march in order to snatch an advantage, the chances are that you will be too late. On the other hand, to detach a flying column for the purpose involves the sacrifice of its baggage and stores.

7. Thus, if you order your men to roll up their buff-coats, and make forced marches without halting day or night, covering double the usual distance at a stretch, doing a hundred LI in order to wrest an advantage, the leaders of all your three divisions will fall into the hands of the enemy.

8. The stronger men will be in front, the jaded ones will fall behind, and on this plan only one-tenth of your army will reach its destination.

9. If you march fifty LI in order to outmaneuver the enemy, you will lose the leader of your first division, and only half your force will reach the goal.

10. If you march thirty LI with the same object, two-thirds of your army will arrive.

11. We may take it then that an army without its baggage-train is lost; without provisions it is lost; without bases of supply it is

lost.

12. We cannot enter into alliances until we are acquainted with the designs of our neighbors.

13. We are not fit to lead an army on the march unless we are familiar with the face of the country--its mountains and forests, its pitfalls and precipices, its marshes and swamps.

14. We shall be unable to turn natural advantage to account unless we make use of local guides.

15. In war, practice dissimulation, and you will succeed.

16. Whether to concentrate or to divide your troops, must be decided by circumstances.

17. Let your rapidity be that of the wind, your compactness that of the forest.

18. In raiding and plundering be like fire, is immovability like a mountain.

19. Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt.

20. When you plunder a countryside, let the spoil be divided amongst your men; when you capture new territory, cut it up into allotments for the benefit of the soldiery.

21. Ponder and deliberate before you make a move.

22. He will conquer who has learnt the artifice of deviation. Such is the art of maneuvering.

23. The Book of Army Management says: On the field of battle, the spoken word does not carry far enough: hence the institution of gongs and drums. Nor can ordinary objects be seen clearly enough: hence the institution of banners and flags.

24. Gongs and drums, banners and flags, are means whereby the ears and eyes of the host may be focused on one particular point.

25. The host thus forming a single united body, is it impossible either for the brave to advance alone, or for the cowardly to retreat alone. This is the art of handling large masses of men.

26. In night-fighting, then, make much use of signal-fires and drums, and in fighting by day, of flags and banners, as a means of influencing the ears and eyes of your army.

27. A whole army may be robbed of its spirit; a commander-in-chief may be robbed of his presence of mind.

28. Now a soldier's spirit is keenest in the morning; by noonday it has begun to flag; and in the evening, his mind is bent only on returning to camp.

29. A clever general, therefore, avoids an army when its spirit is keen, but attacks it when it is sluggish and inclined to return. This is the art of studying moods.

30. Disciplined and calm, to await the appearance of disorder and hubbub amongst the enemy:--this is the art of retaining self-possession.

31. To be near the goal while the enemy is still far from it, to wait at ease while the enemy is toiling and struggling, to be well-fed while the enemy is famished:--this is the art of husbanding one's strength.

32. To refrain from intercepting an enemy whose banners are in perfect order, to refrain from attacking an army drawn up in calm and confident array:--this is the art of studying circumstances.

33. It is a military axiom not to advance uphill against the enemy, nor to oppose him when he comes downhill.

34. Do not pursue an enemy who simulates flight; do not attack soldiers whose temper is keen.

35. Do not swallow bait offered by the enemy. Do not interfere with an army that is returning home.

36. When you surround an army, leave an outlet free. Do not press a desperate foe too hard.

37. Such is the art of warfare.

VIII. Variation in Tactics

1. Sun Tzu said: In war, the general receives his commands from the sovereign, collects his army and concentrates his forces

2. When in difficult country, do not encamp. In country where high roads intersect, join hands with your allies. Do not linger in dangerously isolated positions. In hemmed-in situations, you must resort to stratagem. In desperate position, you must fight.

3. There are roads which must not be followed, armies which must be not attacked, towns which must be besieged, positions which must not be contested, commands of the sovereign which must not be obeyed.

4. The general who thoroughly understands the advantages that accompany variation of tactics knows how to handle his troops.

5. The general who does not understand these, may be well acquainted with the configuration of the country, yet he will not be able to turn his knowledge to practical account.

6. So, the student of war who is unversed in the art of war of varying his plans, even though he be acquainted with the Five Advantages, will fail to make the best use of his men.

7. Hence in the wise leader's plans, considerations of advantage and of disadvantage will be blended together.

8. If our expectation of advantage be tempered in this way, we may succeed in accomplishing the essential part of our schemes.

9. If, on the other hand, in the midst of difficulties we are always ready to seize an advantage, we may extricate ourselves from misfortune.

10. Reduce the hostile chiefs by inflicting damage on them; and make trouble for them, and keep them constantly engaged; hold out specious allurements, and make them rush to any given point.

11. The art of war teaches us to rely not on the likelihood of the enemy's not coming, but on our own readiness to receive him; not on the chance of his not attacking, but rather on the fact that we have made our position unassailable.

12. There are five dangerous faults which may affect a general: (1) Recklessness, which leads to destruction; (2) cowardice, which leads to capture; (3) a hasty temper, which can be provoked by insults; (4) a delicacy of honor which is sensitive to shame; (5) over-solicitude for his men, which exposes him to worry and trouble.

13. These are the five besetting sins of a general, ruinous to the conduct of war.

14. When an army is overthrown and its leader slain, the cause will surely be found among these five dangerous faults. Let them be a subject of meditation.

IX. The Army on the March

1. Sun Tzu said: We come now to the question of encamping the army, and observing signs of the enemy. Pass quickly over mountains, and keep in the neighborhood of valleys.

2. Camp in high places, facing the sun. Do not climb heights in order to fight. So much for mountain warfare.

3. After crossing a river, you should get far away from it.

4. When an invading force crosses a river in its onward march, do not advance to meet it in mid-stream. It will be best to let half the army get across, and then deliver your attack.

5. If you are anxious to fight, you should not go to meet the invader near a river which he has to cross.

6. Moor your craft higher up than the enemy, and facing the sun. Do not move up-stream to meet the enemy. So much for river warfare.

7. In crossing salt-marshes, your sole concern should be to get over them quickly, without any delay.

8. If forced to fight in a salt-marsh, you should have water and grass near you, and get your back to a clump of trees. So much for operations in salt-marches.

9. In dry, level country, take up an easily accessible position with rising ground to your right and on your rear, so that the danger may be in front, and safety lie behind. So much for campaigning in flat country.

10. These are the four useful branches of military knowledge which enabled the Yellow Emperor to vanquish four several sovereigns.

11. All armies prefer high ground to low and sunny places to dark.

12. If you are careful of your men, and camp on hard ground, the army will be free from disease of every kind, and this will spell victory.

13. When you come to a hill or a bank, occupy the sunny side, with the slope on your right rear. Thus you will at once act for the benefit of your soldiers and utilize the natural advantages of the ground.

14. When, in consequence of heavy rains up-country, a river which you wish to ford is swollen and flecked with foam, you must wait until it subsides.

15. Country in which there are precipitous cliffs with torrents running between, deep natural hollows, confined places, tangled thickets, quagmires and crevasses, should be left with all possible speed and not approached.

16. While we keep away from such places, we should get the enemy to approach them; while we face them, we should let the enemy have them on his rear.

17. If in the neighborhood of your camp there should be any hilly country, ponds surrounded by aquatic grass, hollow basins filled with reeds, or woods with thick undergrowth, they must be carefully routed out and searched; for these are places where men in ambush or insidious spies are likely to be lurking.

18. When the enemy is close at hand and remains quiet, he is relying on the natural strength of his position.

19. When he keeps aloof and tries to provoke a battle, he is anxious for the other side to advance.

20. If his place of encampment is easy of access, he is tendering a bait.

21. Movement amongst the trees of a forest shows that the enemy is advancing. The appearance of a number of screens in the midst of thick grass means that the enemy wants to make us suspicious.

22. The rising of birds in their flight is the sign of an ambuscade. Startled beasts indicate that a sudden attack is coming.

23. When there is dust rising in a high column, it is the sign of chariots advancing; when the dust is low, but spread over a wide area, it betokens the approach of infantry. When it branches out in different directions, it shows that parties have been sent to collect firewood. A few clouds of dust moving to and fro signify that the army is encamping.

24. Humble words and increased preparations are signs that the enemy is about to advance. Violent language and driving forward as if to the attack are signs that he will retreat.

25. When the light chariots come out first and take up a position on the wings, it is a sign that the enemy is forming for battle.

26. Peace proposals unaccompanied by a sworn covenant indicate a plot.

27. When there is much running about and the soldiers fall into rank, it means that the critical moment has come.

28. When some are seen advancing and some retreating, it is a lure.

29. When the soldiers stand leaning on their spears, they are faint from want of food.

30. If those who are sent to draw water begin by drinking themselves, the army is suffering from thirst.

31. If the enemy sees an advantage to be gained and makes no effort to secure it, the soldiers are exhausted.

32. If birds gather on any spot, it is unoccupied. Clamor by night betokens nervousness.

33. If there is disturbance in the camp, the general's authority is weak. If the banners and flags are shifted about, sedition is afoot. If the officers are angry, it means that the men are weary.

34. When an army feeds its horses with grain and kills its cattle for food, and when the men do not hang their cooking-pots over the camp-fires, showing that they will not return to their tents, you may know that they are determined to fight to the death.

35. The sight of men whispering together in small knots or speaking in subdued tones points to disaffection amongst the rank and file.

36. Too frequent rewards signify that the enemy is at the end of his resources; too many punishments betray a condition of dire distress.

37. To begin by bluster, but afterwards to take fright at the enemy's numbers, shows a supreme lack of intelligence.

38. When envoys are sent with compliments in their mouths, it is a sign that the enemy wishes for a truce.

39. If the enemy's troops march up angrily and remain facing ours for a long time without either joining battle or taking themselves off again, the situation is one that demands great vigilance and circumspection.

40. If our troops are no more in number than the enemy, that is amply sufficient; it only means that no direct attack can be made. What we can do is simply to concentrate all our available strength, keep a close watch on the enemy, and obtain reinforcements.

41. He who exercises no forethought but makes light of his opponents is sure to be captured by them.

42. If soldiers are punished before they have grown attached to you, they will not prove submissive; and, unless submissive, then will be practically useless. If, when the soldiers have become attached to you, punishments are not enforced, they will still be unless.

43. Therefore soldiers must be treated in the first instance with humanity, but kept under control by means of iron discipline. This is a certain road to victory.

44. If in training soldiers commands are habitually enforced, the army will be well-disciplined; if not, its discipline will be bad.

45. If a general shows confidence in his men but always insists on his orders being obeyed, the gain will be mutual.

X. Terrain

1. Sun Tzu said: We may distinguish six kinds of terrain, to wit: (1) Accessible ground; (2) entangling ground; (3) temporizing ground; (4) narrow passes; (5) precipitous heights; (6) positions at a great distance from the enemy.

2. Ground which can be freely traversed by both sides is called accessible.

3. With regard to ground of this nature, be before the enemy in occupying the raised and sunny spots, and carefully guard your line of supplies. Then you will be able to fight with advantage.

4. Ground which can be abandoned but is hard to re-occupy is called entangling.

5. From a position of this sort, if the enemy is unprepared, you may sally forth and defeat him. But if the enemy is prepared for your coming, and you fail to defeat him, then, return being impossible, disaster will ensue.

6. When the position is such that neither side will gain by making the first move, it is called temporizing ground.

7. In a position of this sort, even though the enemy should offer us an attractive bait, it will be advisable not to stir forth, but rather to retreat, thus enticing the enemy in his turn; then, when part of his army has come out, we may deliver our attack with advantage.

8. With regard to narrow passes, if you can occupy them first, let them be strongly garrisoned and await the advent of the enemy.

9. Should the army forestall you in occupying a pass, do not go after him if the pass is fully garrisoned, but only if it is weakly garrisoned.

10. With regard to precipitous heights, if you are beforehand with your adversary, you should occupy the raised and sunny spots, and there wait for him to come up.

11. If the enemy has occupied them before you, do not follow him, but retreat and try to entice him away.

12. If you are situated at a great distance from the enemy, and the strength of the two armies is equal, it is not easy to provoke a battle, and fighting will be to your disadvantage.

13. These six are the principles connected with Earth. The general who has attained a responsible post must be careful to study them.

14. Now an army is exposed to six several calamities, not arising from natural causes, but from faults for which the general is responsible. These are: (1) Flight; (2) insubordination; (3) collapse; (4) ruin; (5) disorganization; (6) rout.

15. Other conditions being equal, if one force is hurled against another ten times its size, the result will be the flight of the former.

16. When the common soldiers are too strong and their officers too weak, the result is insubordination. When the officers are too strong and the common soldiers too weak, the result is collapse.

17. When the higher officers are angry and insubordinate, and on meeting the enemy give battle on their own account from a feeling of resentment, before the commander-in-chief can tell whether or no he is in a position to fight, the result is ruin.

18. When the general is weak and without authority; when his orders are not clear and distinct; when there are no fixes duties assigned to officers and men, and the ranks are formed in a slovenly haphazard manner, the result is utter disorganization.

19. When a general, unable to estimate the enemy's strength, allows an inferior force to engage a larger one, or hurls a weak detachment against a powerful one, and neglects to place picked soldiers in the

front rank, the result must be rout.

20. These are six ways of courting defeat, which must be carefully noted by the general who has attained a responsible post.

21. The natural formation of the country is the soldier's best ally; but a power of estimating the adversary, of controlling the forces of victory, and of shrewdly calculating difficulties, dangers and distances, constitutes the test of a great general.

22. He who knows these things, and in fighting puts his knowledge into practice, will win his battles. He who knows them not, nor practices them, will surely be defeated.

23. If fighting is sure to result in victory, then you must fight, even though the ruler forbid it; if fighting will not result in victory, then you must not fight even at the ruler's bidding.

24. The general who advances without coveting fame and retreats without fearing disgrace, whose only thought is to protect his country and do good service for his sovereign, is the jewel of the kingdom.

25. Regard your soldiers as your children, and they will follow you into the deepest valleys; look upon them as your own beloved sons, and they will stand by you even unto death.

26. If, however, you are indulgent, but unable to make your authority felt; kind-hearted, but unable to enforce your commands; and incapable, moreover, of quelling disorder: then your soldiers must be likened to spoilt children; they are useless for any practical purpose.

27. If we know that our own men are in a condition to attack, but are unaware that the enemy is not open to attack, we have gone only halfway towards victory.

28. If we know that the enemy is open to attack, but are unaware that our own men are not in a condition to attack, we have gone only halfway towards victory.

29. If we know that the enemy is open to attack, and also know that our men are in a condition to attack, but are unaware that the nature of the ground makes fighting impracticable, we have still gone only halfway towards victory.

30. Hence the experienced soldier, once in motion, is never bewildered; once he has broken camp, he is never at a loss.

31. Hence the saying: If you know the enemy and know yourself, your victory will not stand in doubt; if you know Heaven and know Earth, you may make your victory complete.

XI. The Nine Situations

1. Sun Tzu said: The art of war recognizes nine varieties of ground:

(1) Dispersive ground; (2) facile ground; (3) contentious ground; (4) open ground; (5) ground of intersecting highways; (6) serious ground; (7) difficult ground; (8) hemmed-in ground; (9) desperate ground.

2. When a chieftain is fighting in his own territory, it is dispersive ground.

3. When he has penetrated into hostile territory, but to no great distance, it is facile ground.

4. Ground the possession of which imports great advantage to either side, is contentious ground.

5. Ground on which each side has liberty of movement is open ground.

6. Ground which forms the key to three contiguous states, so that he who occupies it first has most of the Empire at his command, is a ground of intersecting highways.

7. When an army has penetrated into the heart of a hostile country, leaving a number of fortified cities in its rear, it is serious ground.

8. Mountain forests, rugged steeps, marshes and fens--all country that is hard to traverse: this is difficult ground.

9. Ground which is reached through narrow gorges, and from which we can only retire by tortuous paths, so that a small number of the enemy would suffice to crush a large body of our men: this is hemmed in ground.

10. Ground on which we can only be saved from destruction by fighting without delay, is desperate ground.

11. On dispersive ground, therefore, fight not. On facile ground, halt not. On contentious ground, attack not.

12. On open ground, do not try to block the enemy's way. On the ground of intersecting highways, join hands with your allies.

13. On serious ground, gather in plunder. In difficult ground, keep steadily on the march.

14. On hemmed-in ground, resort to stratagem. On desperate ground, fight.

15. Those who were called skillful leaders of old knew how to drive a wedge between the enemy's front and rear; to prevent co-operation between his large and small divisions; to hinder the good troops from rescuing the bad, the officers from rallying their men.

16. When the enemy's men were united, they managed to keep them in disorder.

17. When it was to their advantage, they made a forward move; when otherwise, they stopped still.

18. If asked how to cope with a great host of the enemy in orderly array and on the point of marching to the attack, I should say: "Begin by seizing something which your opponent holds dear; then he will be amenable to your will."

19. Rapidity is the essence of war: take advantage of the enemy's unreadiness, make your way by unexpected routes, and attack unguarded spots.

20. The following are the principles to be observed by an invading force: The further you penetrate into a country, the greater will be the solidarity of your troops, and thus the defenders will not prevail against you.

21. Make forays in fertile country in order to supply your army with food.

22. Carefully study the well-being of your men, and do not overtax them. Concentrate your energy and hoard your strength. Keep your army continually on the move, and devise unfathomable plans.

23. Throw your soldiers into positions whence there is no escape, and they will prefer death to flight. If they will face death, there is nothing they may not achieve. Officers and men alike will put forth their uttermost strength.

24. Soldiers when in desperate straits lose the sense of fear. If there is no place of refuge, they will stand firm. If they are in hostile country, they will show a stubborn front. If there is no help for it, they will fight hard.

25. Thus, without waiting to be marshaled, the soldiers will be constantly on the qui vive; without waiting to be asked, they will do your will; without restrictions, they will be faithful; without giving orders, they can be trusted.

26. Prohibit the taking of omens, and do away with superstitious doubts. Then, until death itself comes, no calamity need be feared.

27. If our soldiers are not overburdened with money, it is not because they have a distaste for riches; if their lives are not unduly long, it is not because they are disinclined to longevity.

28. On the day they are ordered out to battle, your soldiers may weep, those sitting up bedewing their garments, and those lying down letting the tears run down their cheeks. But let them once be brought to bay, and they will display the courage of a Chu or a Kuei.

29. The skillful tactician may be likened to the shuai-jan. Now the shuai-jan is a snake that is found in the ChUng mountains. Strike at its head, and you will be attacked by its tail; strike at its tail,

and you will be attacked by its head; strike at its middle, and you will be attacked by head and tail both.

30. Asked if an army can be made to imitate the shuai-jan, I should answer, Yes. For the men of Wu and the men of Yueh are enemies; yet if they are crossing a river in the same boat and are caught by a storm, they will come to each other's assistance just as the left hand helps the right.

31. Hence it is not enough to put one's trust in the tethering of horses, and the burying of chariot wheels in the ground

32. The principle on which to manage an army is to set up one standard of courage which all must reach.

33. How to make the best of both strong and weak--that is a question involving the proper use of ground.

34. Thus the skillful general conducts his army just as though he were leading a single man, willy-nilly, by the hand.

35. It is the business of a general to be quiet and thus ensure secrecy; upright and just, and thus maintain order.

36. He must be able to mystify his officers and men by false reports and appearances, and thus keep them in total ignorance.

37. By altering his arrangements and changing his plans, he keeps the enemy without definite knowledge. By shifting his camp and taking circuitous routes, he prevents the enemy from anticipating his purpose.

38. At the critical moment, the leader of an army acts like one who has climbed up a height and then kicks away the ladder behind him. He carries his men deep into hostile territory before he shows his hand.

39. He burns his boats and breaks his cooking-pots; like a shepherd driving a flock of sheep, he drives his men this way and that, and nothing knows whither he is going.

40. To muster his host and bring it into danger:--this may be termed the business of the general.

41. The different measures suited to the nine varieties of ground; the expediency of aggressive or defensive tactics; and the fundamental laws of human nature: these are things that must most certainly be studied.

42. When invading hostile territory, the general principle is, that penetrating deeply brings cohesion; penetrating but a short way means dispersion.

43. When you leave your own country behind, and take your army across neighborhood territory, you find yourself on critical ground. When

there are means of communication on all four sides, the ground is one of intersecting highways.

44. When you penetrate deeply into a country, it is serious ground. When you penetrate but a little way, it is facile ground.

45. When you have the enemy's strongholds on your rear, and narrow passes in front, it is hemmed-in ground. When there is no place of refuge at all, it is desperate ground.

46. Therefore, on dispersive ground, I would inspire my men with unity of purpose. On facile ground, I would see that there is close connection between all parts of my army.

47. On contentious ground, I would hurry up my rear.

48. On open ground, I would keep a vigilant eye on my defenses. On ground of intersecting highways, I would consolidate my alliances.

49. On serious ground, I would try to ensure a continuous stream of supplies. On difficult ground, I would keep pushing on along the road.

50. On hemmed-in ground, I would block any way of retreat. On desperate ground, I would proclaim to my soldiers the hopelessness of saving their lives.

51. For it is the soldier's disposition to offer an obstinate resistance when surrounded, to fight hard when he cannot help himself, and to obey promptly when he has fallen into danger.

52. We cannot enter into alliance with neighboring princes until we are acquainted with their designs. We are not fit to lead an army on the march unless we are familiar with the face of the country--its mountains and forests, its pitfalls and precipices, its marshes and swamps. We shall be unable to turn natural advantages to account unless we make use of local guides.

53. To be ignored of any one of the following four or five principles does not befit a warlike prince.

54. When a warlike prince attacks a powerful state, his generalship shows itself in preventing the concentration of the enemy's forces. He overawes his opponents, and their allies are prevented from joining against him.

55. Hence he does not strive to ally himself with all and sundry, nor does he foster the power of other states. He carries out his own secret designs, keeping his antagonists in awe. Thus he is able to capture their cities and overthrow their kingdoms.

56. Bestow rewards without regard to rule, issue orders without regard to previous arrangements; and you will be able to handle a whole army as though you had to do with but a single man.

57. Confront your soldiers with the deed itself; never let them know your design. When the outlook is bright, bring it before their eyes; but tell them nothing when the situation is gloomy.

58. Place your army in deadly peril, and it will survive; plunge it into desperate straits, and it will come off in safety.

59. For it is precisely when a force has fallen into harm's way that is capable of striking a blow for victory.

60. Success in warfare is gained by carefully accommodating ourselves to the enemy's purpose.

61. By persistently hanging on the enemy's flank, we shall succeed in the long run in killing the commander-in-chief.

62. This is called ability to accomplish a thing by sheer cunning.

63. On the day that you take up your command, block the frontier passes, destroy the official tallies, and stop the passage of all emissaries.

64. Be stern in the council-chamber, so that you may control the situation.

65. If the enemy leaves a door open, you must rush in.

66. Forestall your opponent by seizing what he holds dear, and subtly contrive to time his arrival on the ground.

67. Walk in the path defined by rule, and accommodate yourself to the enemy until you can fight a decisive battle.

68. At first, then, exhibit the coyness of a maiden, until the enemy gives you an opening; afterwards emulate the rapidity of a running hare, and it will be too late for the enemy to oppose you.

XII. The Attack by Fire

1. Sun Tzu said: There are five ways of attacking with fire. The first is to burn soldiers in their camp; the second is to burn stores; the third is to burn baggage trains; the fourth is to burn arsenals and magazines; the fifth is to hurl dropping fire amongst the enemy.

2. In order to carry out an attack, we must have means available. The material for raising fire should always be kept in readiness.

3. There is a proper season for making attacks with fire, and special days for starting a conflagration.

4. The proper season is when the weather is very dry; the special days are those when the moon is in the constellations of the Sieve, the Wall, the Wing or the Cross-bar; for these four are all days of rising wind.

5. In attacking with fire, one should be prepared to meet five possible

developments:

6. (1) When fire breaks out inside to enemy's camp, respond at once with an attack from without.

7. (2) If there is an outbreak of fire, but the enemy's soldiers remain quiet, bide your time and do not attack.

8. (3) When the force of the flames has reached its height, follow it up with an attack, if that is practicable; if not, stay where you are.

9. (4) If it is possible to make an assault with fire from without, do not wait for it to break out within, but deliver your attack at a favorable moment.

10. (5) When you start a fire, be to windward of it. Do not attack from the leeward.

11. A wind that rises in the daytime lasts long, but a night breeze soon falls.

12. In every army, the five developments connected with fire must be known, the movements of the stars calculated, and a watch kept for the proper days.

13. Hence those who use fire as an aid to the attack show intelligence; those who use water as an aid to the attack gain an accession of strength.

14. By means of water, an enemy may be intercepted, but not robbed of all his belongings.

15. Unhappy is the fate of one who tries to win his battles and succeed in his attacks without cultivating the spirit of enterprise; for the result is waste of time and general stagnation.

16. Hence the saying: The enlightened ruler lays his plans well ahead; the good general cultivates his resources.

17. Move not unless you see an advantage; use not your troops unless there is something to be gained; fight not unless the position is critical.

18. No ruler should put troops into the field merely to gratify his own spleen; no general should fight a battle simply out of pique.

19. If it is to your advantage, make a forward move; if not, stay where you are.

20. Anger may in time change to gladness; vexation may be succeeded by content.

21. But a kingdom that has once been destroyed can never come again into being; nor can the dead ever be brought back to life.

22. Hence the enlightened ruler is heedful, and the good general full of caution. This is the way to keep a country at peace and an army intact.

XIII. The Use of Spies

1. Sun Tzu said: Raising a host of a hundred thousand men and marching them great distances entails heavy loss on the people and a drain on the resources of the State. The daily expenditure will amount to a thousand ounces of silver. There will be commotion at home and abroad, and men will drop down exhausted on the highways. As many as seven hundred thousand families will be impeded in their labor.

2. Hostile armies may face each other for years, striving for the victory which is decided in a single day. This being so, to remain in ignorance of the enemy's condition simply because one grudges the outlay of a hundred ounces of silver in honors and emoluments, is the height of inhumanity.

3. One who acts thus is no leader of men, no present help to his sovereign, no master of victory.

4. Thus, what enables the wise sovereign and the good general to strike and conquer, and achieve things beyond the reach of ordinary men, is foreknowledge.

5. Now this foreknowledge cannot be elicited from spirits; it cannot be obtained inductively from experience, nor by any deductive calculation.

6. Knowledge of the enemy's dispositions can only be obtained from other men.

7. Hence the use of spies, of whom there are five classes: (1) Local spies; (2) inward spies; (3) converted spies; (4) doomed spies; (5) surviving spies.

8. When these five kinds of spy are all at work, none can discover the secret system. This is called "divine manipulation of the threads." It is the sovereign's most precious faculty.

9. Having local spies means employing the services of the inhabitants of a district.

10. Having inward spies, making use of officials of the enemy.

11. Having converted spies, getting hold of the enemy's spies and using them for our own purposes.

12. Having doomed spies, doing certain things openly for purposes of deception, and allowing our spies to know of them and report them to the enemy.

13. Surviving spies, finally, are those who bring back news from the

enemy's camp.

14. Hence it is that which none in the whole army are more intimate relations to be maintained than with spies. None should be more liberally rewarded. In no other business should greater secrecy be preserved.

15. Spies cannot be usefully employed without a certain intuitive sagacity.

16. They cannot be properly managed without benevolence and straightforwardness.

17. Without subtle ingenuity of mind, one cannot make certain of the truth of their reports.

18. Be subtle! be subtle! and use your spies for every kind of business.

19. If a secret piece of news is divulged by a spy before the time is ripe, he must be put to death together with the man to whom the secret was told.

20. Whether the object be to crush an army, to storm a city, or to assassinate an individual, it is always necessary to begin by finding out the names of the attendants, the aides-de-camp, and door-keepers and sentries of the general in command. Our spies must be commissioned to ascertain these.

21. The enemy's spies who have come to spy on us must be sought out, tempted with bribes, led away and comfortably housed. Thus they will become converted spies and available for our service.

22. It is through the information brought by the converted spy that we are able to acquire and employ local and inward spies.

23. It is owing to his information, again, that we can cause the doomed spy to carry false tidings to the enemy.

24. Lastly, it is by his information that the surviving spy can be used on appointed occasions.

25. The end and aim of spying in all its five varieties is knowledge of the enemy; and this knowledge can only be derived, in the first instance, from the converted spy. Hence it is essential that the converted spy be treated with the utmost liberality.

26. Of old, the rise of the Yin dynasty was due to I Chih who had served under the Hsia. Likewise, the rise of the Chou dynasty was due to Lu Ya who had served under the Yin.

27. Hence it is only the enlightened ruler and the wise general who will use the highest intelligence of the army for purposes of spying and thereby they achieve great results. Spies are a most important element in water, because on them depends an army's ability to move.

THE END

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4A. historical background

The Book of Five Rings (五輪書 *Go Rin No Sho*) is a text on kenjutsu and the martial arts in general, written by the swordsman Miyamoto Musashi circa 1645. There have been various translations made over the years, and it enjoys an audience considerably broader than only that of martial artists: for instance, some business leaders find its discussion of conflict and taking the advantage to be relevant to their work. The modern-day Hy?h? Niten Ichi-ry? employs it as a manual of technique and philosophy.

Musashi establishes a "no-nonsense" theme throughout the text. For instance, he repeatedly remarks that technical flourishes are excessive, and contrasts worrying about such things with the principle that all technique is simply a method of cutting down one's opponent. He also continually makes the point that the understandings expressed in the book are important for combat on any scale, whether a one-on-one duel or a massive battle. Descriptions of principles are often followed by admonitions to "investigate this thoroughly" through practice rather than trying to learn them by merely reading.

Musashi describes and advocates a two-sword style (nitnjutsu): that is, wielding both katana and wakizashi, contrary to the more traditional method of wielding the katana two-handed. However, he only explicitly describes wielding two swords in a section on fighting against many adversaries. The stories of his many duels rarely refer to Musashi himself wielding two swords, although, since they are mostly oral traditions, their details may be rather inaccurate. Some suggest that Musashi's meaning was not so much wielding two swords "simultaneously", but rather acquiring the proficiency to (singly) wield either sword in either hand as the need arose. However, Musashi states within the volume that one should train with a long sword in each hand, thereby training the body and improving one's ability to use two blades simultaneously, though the aim of this was only for training purposes and wasn't meant to be a viable fighting style.

The five books
Although it is difficult to grasp it from the book, *Go Rin No Sho*, these books are actually the teachings which Musashi preached to his students in his own d?j?. Despite taking some ideas from others, the books are not based on any other school of teaching.

The five "books" refer to the idea that there are different elements of battle, just as there are different physical elements in life, as described by Buddhism, Shinto, and other Eastern religions. The five books below are Musashi's descriptions of the exact methods or techniques which are described by such elements.

The term "Ichi School" is referred to in the book, *Go Rin No Sho*. When referring to such books, it refers to "Niten No Ichi Ryu" or "Ni Ten Ichi Ryu", which means, when literally translated, "Two heaven, one school", although many could see the translation as "Two Swords, One spirit", or "Two Swords, One Entity". However, the translation of "Two Swords, one Dragon" was thought to be a transliteral misinterpretation of the Kanji word *Ryu*.

- The Book of Earth chapter serves as an introduction, and metaphorically discusses martial arts, leadership, and training as building a house.
- The Book of Water chapter describes Musashi's style, *Ni-ten ichi-ryu*, or

"Two Heavens, One Style". It describes some basic technique and fundamental principles.

- The Book of Fire chapter refers to the heat of battle, and discusses matters such as different types of timing.
- The Book of Wind chapter is something of a pun, since the Japanese character can mean both "wind" and "style" (e.g., of martial arts). It discusses what Musashi considers to be the failings of various contemporary schools of swordfighting.
- The Book of the Void chapter is a short epilogue, describing, in more esoteric terms, Musashi's probably Zen-influenced thoughts on consciousness and the correct mindset.

The Book of Earth

The Earth book, according to *Go Rin No Sho*, is mentioned as the book that refers expressly to the strategy taught by Musashi at the Ichi School, and it is said to be how to distinguish the way through "Sword-Fencing", or "Swordsmanship". The idea of strategy would be encouraged to be very astute in their study and strategy:

Know the smallest things and the biggest things, the shallowest things and the deepest things. As if it were a straight road mapped out on the ground ... These things cannot be explained in detail. From one thing, know ten thousand things. When you attain the Way of strategy there will not be one thing you cannot see. You must study hard.

Upon their mastery of the strategy and timing listed in the five books, Musashi states that you will be able to defeat ten men as easily as you could defeat one, and asks: "When you have reached this point, will it not mean that you are invincible?"

The strategies listed in this discipline or book relate to situations requiring different weapons and tactics, such as indoor weapons. Musashi states that the use of halberd-like naginata and spears are purely for on the field, whereas the longsword and accompanying short-sword can be used in most environments, such as on horseback or in fierce battle.

Musashi also mentions the gun as having no equal on the battlefield. It is the supreme weapon on the battlefield, until swords clash—then it becomes useless. He also notes that the gun is somewhat lesser than the bow, since at that time guns were not very accurate at ranges any longer than point-blank in addition to the disadvantage of being unable to see the bullet and adjust your aim as you would with a bow. Not to mention, in the 17th century, the gap in reloading speeds between skilled archers and skilled gunmen was rather large.

One of the principles of the Niten Ichi-ry? is that one should be versed in many weaponry skills. Musashi indicates that during battle you should not overuse one weapon—this is as bad as using the weapon poorly since it becomes easy for an enemy to find a weakness in your style after countless uses of the same weapon.
Timing, as explained by Musashi, is the core principle in strategy which is listed in the *Earth Book*. The idea of timing as explained within the Earth book is that you must be able to adapt your strategy to timing with your skill, in that you must know when to attack and when not to attack.

In *The Book of Five Rings* he writes on timing:
"Timing is important in dancing and pipe or string music, for they are in rhythm only if timing is good. Timing and rhythm are also involved in the military arts,

shooting bows and guns, and riding horses. In all skills and abilities there is timing.... There is timing in the whole life of the warrior, in his thriving and declining, in his harmony and discord. Similarly, there is timing in the Way of the merchant, in the rise and fall of capital. All things entail rising and falling timing. You must be able to discern this. In strategy there are various timing considerations. From the outset you must know the applicable timing and the inapplicable timing, and from among the large and small things and the fast and slow timings find the relevant timing, first seeing the distance timing and the background timing. This is the main thing in strategy. It is especially important to know the background timing, otherwise your strategy will become uncertain."

The Book of Water

The water book concerns strategy, but it also includes various other factors which perhaps a warrior reading the book should take into consideration, such as spirituality, religion, and one's outlook on life. The meaning of *water* in relation to life is *flexibility*. Water demonstrates natural flexibility as it changes to conform with the boundaries which contain it, seeking the most efficient and productive path. So also should one possess the ability to change in accordance with one's own situation to easily shift between disciplines, methods, and options when presented with new information. A person should master many aspects of life allowing them to possess both balance and flexibility.

The spiritual bearing in strategy, which Musashi writes about concerns your temperament and spirituality whilst in the midst of, or in formulation of a battle. Being a buddhist, most of what is written in the section concerning spirituality refers to principles of calmness, tranquility and spiritual balance;

In strategy your spiritual bearing must not be any different from normal. Both in fighting and in everyday life you should be determined though calm.

This balance refers to what could be thought of as yin and yang within yourself. The over-familiarity or over-use of one weapon is discouraged by Musashi, as it would be seen to reveal your spirituality to your enemy. The idea is that a perfectly balanced spirit is also a perfectly balanced physical presence, and neither creates weakness nor reveals it to your enemy.

During battle, the spirituality and balance is something of which Musashi notes that you should take advantage. Since small people know the spirituality of big people, they can thus note differences and weaknesses between each other. This is something which seems easy, but it is said to change when you are on the battlefield, as then you must know to both adjust your spiritual balance according to what is around you, and to perceive the balance of those around you to take advantage accordingly.

Just as your spirit should be balanced, your various techniques be honed to a perfectly balanced demeanour. In terms of stance, much like balance within the trooper, Musashi notes that stance is an important part of strategy, or battle: *Adopt a stance with the head erect, neither hanging down, nor looking up, nor twisted.* This is part of what Musashi notes as *wedging in*.

In regards to the gaze of someone, he notes that a person must be able to perceive that which is all around him without moving their eyeballs noticeably, which is said to be a skill which takes an enormous amount of practice to perfect. He notes that this is again one of the most important parts of strategy, as well as being able to see

things which are close to you, such as the technique of an enemy. It is also used to perceive things far away, such as arriving troops or enemies, as that is the precursor to battle. You can then change your actions according to what you see.

Attitudes of swordsmanship

1. Upper
2. Middle
3. Lower
4. Right Side
5. Left Side

The five attitudes of swordsmanship are referred to as the five classifications of areas for attack on the human body. These are areas which are noted for their advantages when striking at an enemy, and the strategist is said to think of them when in situations where, for any reason, you should not be able to strike them. Then his mind should adjust accordingly.

Your attitude should be large or small according to the situation. Upper, Lower and Middle attitudes are decisive. Left Side and Right Side attitudes are fluid. Left and Right attitudes should be used if there is an obstruction overhead or to one side. The decision to use Left or Right depends on the place.

As each is thought of as an attitude, it could be thought of that Musashi means to practice with each "attitude" so that you do not become over-reliant upon one, something which Musashi repeatedly notes as being worse than bad technique.

"No Attitude" refers to those strategists who do not go with the use of the "Five Attitudes" and prefer to simply go without the attitudes of the long sword to focus entirely on technique, as opposed to focusing on both technique and the five attitudes. This is similar to taking chances as opposed to making chances.

The attitude of "Existing - Non Existing", mixes the Five Attitudes with the Attitude of "No Attitude", meaning that the user of the longsword uses the techniques and principles of both at whichever moment he or she finds most opportune.

"In-One Timing" refers to the technique of biding your time until you can find a suitable gap in the enemies' defense, to which you will deliver one fatal blow to the enemy. Although this is said to be difficult, Musashi notes that masters of this technique are usually masters of the five attitudes because they must be perceptive of weaknesses. It is rumoured that Musashi disgraced a former sword master by using such a technique with a Bokken, but there are no descriptions mentioning "In one" timing.

"Abdomen Timing of Two" refers to feinting an attack, then striking an enemy as they are retreating from the attack, hitting them in the abdomen with the correct timing of either two moves or two seconds. Although the technique seems relatively simple, Musashi lists this as one of the hardest techniques to time correctly.

"No Design, No Conception" refers to *When word and actions are spontaneously the same*. Aside from this philosophical approach to the meaning, the technique is relatively simple to explain: if you are in a deadlock with the enemy, using the force from the cut, you push with your body and use the disciplines outlined in the *Void Book* to knock the enemy over.

This is the most important method of hitting. It is often used. You must train hard to understand it.

"Flowing Water Cut" technique refers to if you come into a fight with an enemy of a similar level to you in swordsmanship. When attacking fast, Musashi notes that you will always be at stalemate, so like Stagnant water, you must cut as slowly as possible with your long sword. At the beginning of this technique you and your opponent will be searching for an opening within each other's defense. When your opponent either tries to push off your sword, or to hasten back as to disengage it, you must first expand your whole body and your mind. By moving your body first and then that of your sword, you will be able to strike powerfully and broadly with a movement that seems to reflect the natural flow of water. Ease and confidence will be attained when this technique is continuously practiced upon.

"Continuous Cut" refers to when you are again faced with stalemate within a duel, where your swords are clasped together. In one motion, when your sword springs away from theirs, Musashi says to use a continuous motion to slash their head, body, and legs.

"Fire and Stone's Cut" refers to when your swords clash together. Without raising your sword, you cut as strongly as possible. This means cutting quickly with hands, body, and legs.

"Red Leafs Cut" refers to knocking down the enemy's long sword in the spirit of the "No Design, No Conception" cut.

The Book of Fire

The *Fire Book* refers to fighting methods unlike the specific fighting techniques listed in the *Water Book*. It goes into a broader scope in terms of hints as to assess a situation, as well as specific situational instructions.

He notes obvious advantages of armor and preparedness before a duel or battle as it applies to one man or a whole group of men:

As one man can defeat ten men, so can one thousand men defeat ten thousand. However, you can become a master of strategy by training alone with a sword, so that you can understand the enemy's stratagems, his strength and resources, and come to appreciate how to apply strategy to beat ten thousand enemies.

The dependence of location according to the *Go Rin No Sho* is crucial. You must be in a place where man-made objects such as buildings, towers, castles, and such do not obstruct your view, as well as facing or standing in a position where the sun or moon does not affect your vision. This is purely so that your vision is focused on nothing but the enemy, and thus there is more concentration upon the enemy's stratagems. Musashi also seems to note the age old strategy of the High Ground:

You must look down on the enemy, and take up your attitude on slightly higher places.

Other kinds of tactics which of Musashi tells are way of ensuring that the enemy is at a disadvantage. Forcing yourself on the non-dominant side of a trooper is one way because the left side is difficult for a right-handed soldier. Other disadvantages, such as forcing enemies into footholds, swamps, ditches, and other difficult terrain, force the enemy to be uncertain of his situation.

These things cannot be clearly explained in words. You must research what is written here. In these three ways of forestalling, you must judge the situation. This does not mean that you always attack first; but if the enemy attacks first you can lead him around. In strategy, you have effectively won when you forestall the enemy, so you must train well to attain this.

Ken No Sen (Attacking) is the most obvious method of forestalling an enemy because a head on collision forces both parties to a standstill. Although it is not mentioned, Musashi must have been well aware that this method would also be the most likely to have a higher death count than the others due to the sheer mass of enemies because more than one enemy could then attack a single soldier or trooper.

As the name suggests, *Tai No Sen* (Waiting for the Initiative) is invented for very opportunistic and decided battles between parties. The main idea being to feign weakness as to open a weak spot, or Achilles' heel, in the opposing force, and then regrouping to exploit such a hole by attacking deep within the enemy's party. Although it is not mentioned, this would most likely be to kill the officer of the highest rank as an attempt to remove the tactical centre of a group of soldiers. A method particularly useful for Musashi or others, if attacking a general directly would signal the end of the battle upon his defeat.

Only a small amount of text is written about *Tai Tai No Sen* (Accompanying and Forestalling). Albeit very confusing, the idea of Tai Tai No Sen is circumventing an ambush or quick attack from the enemy by taking the initiative and attacking in full force. Musashi admits himself that this is a difficult thing to explain.

Although there are other methods, they are mostly situational methods relating to the crossing of rough terrain, and battling within such rough terrain. Although it spreads over two or more paragraphs, most information is common sense, relating to caution and avoidance of such situations.

The idea of timing, as with singular battles, is known as the most important part of attacking next to the skill of participants. However, the type of timing in this instance is somewhat different from the timing noted in *The Ground Book* since this variety of timing requires looking at the various physical factors which affect an enemy during battle, such as determining if strength is waning or rising within a group of troopers.

The idea of treading down the sword is a very simple technique. Squashing an enemy's attack before it starts by using a form of charging and then attacking under the veil of gunpowder smoke, and arrow fire, the initial attacks used when starting battles can be highly effective. Individually, it refers to attacking the enemy's sword, breaking it, removing it from play, and a technique of controlling it through direct blade on blade contact.

Like Musashi mentions in his philosophical style, there is a cause for a collapse. As there is collapse within an enemy, such as waning in his numbers, Musashi notes that one must observe such events and use them to his advantage.

Interestingly, he notes that an enemy's formation can fall if they lose rhythm. It was known that in such battles, drummers drummed a tune for their other fellow soldiers to march to; and, if the rhythm was lost, it led to a "collapse when their rhythm becomes deranged".

The Book of Wind
Whereas most of the information given in the previous books is useful in such a way that it could still be applicable today, this book is primarily concerned with the specific details about other strategies that existed at the time. The broader lesson from this book is that an important part of understanding your own way is to understand the way of your opponent as precisely as possible.

Musashi notes that although most schools have secret and ancient strategies, most forms are derivative of other martial arts. Their similarities and differences evolved through situational factors, such as indoor or outdoor duelling, and the style adapted to the school. He indicates that his appraisal may be one sided because the only school he had interest for was his own, and, in a way, he does not see parallels to his own creation and work. However, he still admits that without basic understanding of these alternate techniques, you will not be able to learn *Ni Ten Ichi Ryu*, probably for reasons of finding the wrongs in other techniques, and righting them within yourself in *Ni Ten Ichi Ryu*.

The main difference that Musashi notes between the Ichi School and other strategists and schools is that other schools do not teach the "broader" meaning of strategy. There is a strategy above sword-fencing: "Some of the world's strategists are concerned only with sword-fencing, and limit their training to flourishing the long sword and carriage of the body." The book has many paragraphs on the subject of other schools' techniques, and much of the text lists the ways that other schools do not conform to the ideals which he himself writes about in the *Book of Five Rings*, such as footwork, sight, and over-reliance or over-familiarity with a weapon.

The Book of Void
Although short, the void book lists, philosophically, the nature of both human knowledge and other things. The void book expressly deals with "That which cannot be seen".

"By knowing things that exist, you can know that which does not exist."

The *Book of Nothing*, according to Musashi, is the true meaning of the strategy of *Ni Ten Ichi Ryu*. It seems very esoteric in nature because he emphasizes that you must learn to perceive that which you cannot understand or comprehend. He notes that in this Void, what can be comprehended are things which we do and see, such as the way of the warrior, martial arts, and *Ni Ten Ichi Ryu*. At the same time, in the Void, things we do not do or see (which he calls *Spirit*) are part of the information which we perceive on a conscious level, but with which we have no physical relationship. It is arguable whether Musashi is referring to religious spirituality or if he is actually explaining a way to live a life and to process thoughts.

"*In the void is virtue, and no evil. Wisdom has existence, principle has existence, the Way has existence, spirit is nothingness."*

In the above quote, Musashi speaks of "virtue and no evil". This may mean "goodness and banishment of evil" or "purpose and non-existence of good and evil", and the exact meaning is open to debate.

Philosophical methods
Crimson-Leaves Strike

With this method, you will cause your adversary's sword to drop through a strike from your sword, then bring yourself immediately back to a readiness to strike. This method is combined with The Strike of Nonthought, in which you will always strike with true force by swinging your sword toward the ground when your opponent's sword is about to drop.

Autumn Monkey's Body

With this method, you are to start off by assuming a posture in which you are not to use your hands. You are to think of getting your body close to your opponent before striking him. However, if you think of reaching out both of your hands, your body will remain distant. This is why you must always think of quickly getting your body close to the enemy. When you are distant, you will exchange blows of the sword, and it will be rather easy to move closer to your opponent.

Thomas Cleary translates this technique as "Body of the Short-Armed Monkey".

Blow Like a Spark from a Stone

If you are currently within a situation in which you and your opponent's swords are to clash, you must strike extremely hard without raising your sword to any extent. This is *The Blow Like a Spark from a Stone* technique. If you are to perform this technique, you must first strike quickly with the three combined forces of your legs, your hands, and your body. This blow will be rather difficult to perform if you do not train it at frequent times. If you diligently train yourself, you will be able to increase the overall force of the technique's impact.

Body of Lacquer and Paste

With this technique, one's objective is to get close to the opponent and stick to him. When one is to do this, one must first behave as though one had been strongly glued to him with one's feet, head, and body. It is generally known that during combat, most fighters will have a tendency to have their body hang back while their heads and feet are extended forward. One must attempt to paste one's body against the opponent's without leaving any area in which the bodies are not touching.

Chance-Opening Blow

When you first start off by striking, your opponent will try to parry by hitting or by blocking your sword. At this point in time, you need to completely equip yourself into the action of striking with your sword, and strike whenever you may see an opening, whether it may be the legs, arms, or head. Following the single way of the sword and performing a strike such as this is known as the Chance-Opening Blow. This technique will be useful at moment while fighting, so it should be trained regularly.

Strike of Non-thought

You should always make your mind into a mind that is striking, and your body into a body that is striking when you and your adversary are about to launch an attack. If this method is followed, your hand will attain movement through emptiness, with speed and power, without taking note of any point in which movement had begun.

4B. extent source text

go rin no sho

The Book of Five Rings
The Classic Masterpiece by Miyamoto Musashi

I have been many years training in the Way of strategy, called Ni Ten Ichi Ryu, and now I think I will explain it in writing for the first time. It is now during the first ten days of the tenth month in the twentieth year of Kanei (1645). I have climbed mountain Iwato of Higo in Kyushu to pay homage to heaven, pray to Kwannon, and kneel before Buddha. I am a warrior of Harima province, Shinmen Musashi No Kami Fujiwara No Geshin, age sixty years.

From youth my heart has been inclined toward the Way of strategy. My first duel was when I was thirteen, I struck down a strategist of the Shinto school, one Arima Kihei. When I was sixteen I struck down an able strategist, Tadashima Akiyama. When I was twenty-one I went up to the capital and met all manner of strategists, never once failing to win in many contests.

After that I went from province to province duelling with strategists of various schools, and not once failed to win even though I had as many as sixty encounters. This was between the ages of thirteen and twenty-eight or twenty-nine.

When I reached thirty I looked back on my past. The previous victories were not due to my having mastered strategy. Perhaps it was natural ability, or the order of heaven, or that other schools' strategy was inferior. After that I studied morning and evening searching for the principle, and came to realise the Way of strategy when I was fifty.

Since then I have lived without following any particular Way. Thus with the virtue of strategy I practice many arts and abilities - all things with no teacher. To write this book I did not use the law of Buddha or the teachings of Confucius, neither old war chronicles nor books on martial tactics. I take up my brush to explain the true spirit of this Ichi school as it is mirrored in the Way of heaven and Kwannon. The time is the night of the tenth day of the tenth month, at the hour of the tiger (3-5 a.m.)

THE EARTH BOOK

Strategy is the craft of the warrior. Above all someone in a commander's position must practice it, and even troopers should know this Way. Yet today there is no warrior in the world who really understands the Way of strategy. [The term hyoho, here rendered as strategy, has a variety of meanings in Japanese, from large-scale military strategy, to martial arts or sword-fencing, and even - through play of words - the arts of peace and proper government. 'Strategy' is used as the translation largely for convenience, this should not be taken to imply that the other meanings are less appropriate - Musashi may even be referring to all of them at once.]

First let us illustrate the idea of a Way. There are various Ways. There is the Way of salvation by the law of Buddha, the Way of Kon Fu Tzu governing learning, the Way of healing as a physician, as a poet teaching the Way of Waka, [a type of poem]. Others follow the way of tea, archery, and many arts and skills. Each man practices as he feels inclined. Few are those that prefer the Way of martial strategy.

First, as is often said, a samurai must have both literary and martial skills: to be versed in the two is his duty. Even if he has no natural ability, a samurai must train assiduously in both skills to a degree appropriate to his status. On the whole, if you are to assess the samurai's mind, you may think it is simply attentiveness to the manner of dying. When it comes to the manner of dying, of course, there is no

difference between the samurai, priests, women, and even peasants; everyone must know his obligations, think of what would be disgraceful, and be prepared for death when the moment comes. The samurai pursues martial strategy, however, in order to excel in everything, be it winning a duel or winning a combat with several men, be it for the benefit of your master or to establish your own reputation and distinguish yourself. The samurai does these things through the virtue of strategy. Some people may think that even if you learn martial arts, they will be useless in actual battles. That may be so, but the true spirit of martial strategy requires that you train to be useful at any moment and teach men so that they may become useful in everything.

The Way of Strategy [Hyoho no michi]

In China and Japan, practitioners of the Way have been known as "masters of strategy". Warriors should all learn this Way.

Recently people making a living as strategists are usually just teachers of sword techniques. The attendants of the Kashima and Katori shrines of the Hitachi province claim they received instruction from the Gods, and established schools based on this teaching, traveling from province to province to pass on their instruction. But this is only a recent meaning of the term strategy. [The Kashima shrine is dedicated to the warrior deity Takemikazuchi no Mikoto, the Katori shrine to his colleague Futsunushi no Kami. The Tenshin Shoden Katori Shinto ryu is documented to have existed in Musashi's time.]

Since ancient times Strategy [Hyoho] has been included among the juno [ten skills] and hachigei [eight arts] as rikata [profitable measures - divine favour in Buddhist Law, in other words the way benefiting oneself and others]. Truly, rikata is one of the arts, although it is not just limited to standard sword techniques. The true value of swordsmanship cannot be seen solely by means of sword techniques. Needless to say swordsmanship limited to techniques alone can never rival the principles of Strategy.

Today we see the arts for sale. Men sell their own selves as commodities. As with the nut and the flower, the nut has become less important than the flower. In this kind of strategy, both those teaching and those learning the way are concerned with flamboyant style and showing off their technique, trying to hasten the bloom of the flower with commercial popularization. They speak of "this Dojo" and "that Dojo". They are looking only for quick benefits. Someone once said "Amateuristic strategy is the cause of serious grief". That was a true saying.

Generally speaking, there are four Ways in which men pass through life: as warriors, farmers, artisans and merchants.

The Way of the farmer is in using agricultural instruments; he sees springs through to autumns with an eye on the changes of season.

Second is the Way of the merchant. The Sake brewer obtains his ingredients and puts them to use, making his living from the profit he gains according to the quality of the product. Whatever the business, the merchant exists only by taking profit. This is the Way of the merchant.

Third is the gentleman warrior, carrying the weaponry of his Way. The warrior has to master the various properties and virtues of his different weapons. If a gentleman dislikes martial arts he will not appreciate the specific advantages of each weapon. For a member of a warrior house this shows a lack of culture.

Fourth is the Way of the artisan. The Way of the carpenter [architect and builder, all buildings were of wood] is to become proficient in the construction and use of his tools, to lay his plans correctly using the square and ruler, and then perform his work diligently according to the plan. Thus he passes through life.

These are the four Ways of life, of the warrior, the farmer, the artisan and the merchant.

I will now illustrate the way of strategy by likening it to the way of the craftsman.

The comparison with carpentry is a metaphor in reference to the notion of houses.

We speak of houses of the nobility, houses of warriors, the Four houses [there are also four different schools of tea], ruin of houses, thriving of houses, the style of the house, the tradition of the house, and the name of the house. Since we refer to houses all the time, I have chosen the carpenter as a metaphor.
The word for carpenter is written as "great skill" or "master plan", and the Way of strategy is similar in that it requires great skill and masterful planning.
If you want to learn the art of strategy, ponder over this book. Let the teacher be as a needle, the student as a thread. You must practice constantly.
Comparing the Way of the carpenter to strategy
[In the following section, Musashi demonstrates his detailed knowledge of carpentry in comparing a command structure to the carpenters' guild. However, comparing samurai to carpenters appears to have been common in his days.]
The master carpenter is the organizer and director of the carpenters and it is his duty to understand the regulations of the country and the locality, and to abide by the rules of his guild.
The master carpenter must know the architectural theory of towers and temples, the plans of palaces and all sorts of structures, and must employ people to raise up houses. In this way, the Way of the master carpenter is comparable to the Way of the commander of a warrior house.
In the construction of houses, careful selection of woods is made. Straight unknotted timber of good appearance is used for the revealed pillars, straight timber with small defects is used for the inner pillars. Timbers of the finest appearance, even if a little weak, is used for the thresholds, lintels, doors, and sliding screens. Good strong timber, though it be gnarled and knotted, can always be used thoughtfully in consideration of the strengths of the other members of the house. Then the house will last a long time.
Even timber which is weak or knotted and crooked can be used as scaffolding, and later for firewood.
The master carpenter distributes the work among his men according to their levels of skill. Some are floor layers, others makers of sliding doors, thresholds and lintels, ceilings and so on. Those of poor ability lay the floor joists, and those of even lesser ability can carve wedges and do such miscellaneous work. If the master knows and deploys his men well the work will progress smoothly and the result will be good.
The master carpenter should take into account the abilities and limitations of his men. Circulating among them, he can know their spirit and different levels of morale, encourage them when necessary, understand what can and cannot be realized, and thus ask nothing unreasonable. The principle of strategy is like this.
The Way of Strategy
Like a soldier, the carpenter sharpens his own tools. He carries his equipment in his tool box, and works under the direction of his foreman. He makes columns and girders with an axe, shapes floorboards and shelves with a plane, cuts fine openwork and bas reliefs accurately, giving as excellent a finish as his skill will allow. This is the craft of the carpenters. When the carpenter becomes skilled, he works efficiently and according to correct measures. When he has developed practical knowledge of all the skills of the craft, he can become a master carpenter himself.
The carpenter will make it a habit of maintaining his tools sharp so they will cut well. Using these sharp tools masterfully, he can make miniature shrines, writing shelves, tables, paper lanterns, chopping boards and pot-lids. These are the specialties of the carpenter. Things are similar for the soldier. You ought to think deeply about this.
The attainment of the carpenter is that his work is not warped, that the joints are not misaligned, and that the work is truly planed so that it meets well together and is not merely finished in disjoint sections. This is essential.
If you want to learn this Way, deeply consider all the things written in this book one

at a time. You must do sufficient research.

Outline of the Five Volumes of this Book of Strategy

In order to explain different aspects of the Way in individual sections, I have written this book in five volumes. These are entitled Earth, Water, Fire, Wind, and Void. [the void, or Nothingness, is a Buddhist term for the illusionary nature of worldly things.]

In the Earth book, I give an overall picture of the art of fighting and my own approach. It is difficult to know the true Way through swordsmanship alone. From large places one knows small places, from the shallows one goes to the depths. Because a straight road is made by leveling the earth and hardening it with gravel, I call the first volume Earth, as if it were a straight road mapped out on the ground.

Second, the Water volume. We make water our model and turn our spirit into water. Water adjusts itself to a square or round vessel with ease, turns itself into a single droplet or into a vast ocean. [Possibly a reference to Lao Tzu: Supreme good is like water. Water benefits everything, yet doesn't compete]. It has the color of aquamarine depths. With that clarity I will write out my approach in this volume.

Once you definitely understand the principle of swordsmanship, the ability to defeat a single person at will means the ability to defeat all the people of the world. The spirit of defeating one man is the same for defeating ten million men. A commander's strategy, which requires him to make something large out of something small, is comparable to the making of a giant Buddhist statue from a foot-high scale model. I cannot write in detail how this is done. The principle of strategy is to know ten thousand things by having one thing. A few things of My Niten Ichi School are explained in this Water book.

Third is the Fire volume. This book is about fighting. The spirit of fire is fierce, whether the fire be small or big; and so it is with battles. The Way to do battle is the same for man to man fights and for the clash of armies of ten thousands. You must appreciate that the spirit can become big or small. Big things are easy to see: small things are difficult to see. In other words, it is difficult for large numbers of men to change position, so their movements can be easily predicted. An individual can change his mind so quickly that his movements are difficult to predict. You must appreciate this. You must train day and night in order to get used to the quick changes of the mind in battle, until you begin to perceive them naturally. It is necessary to treat your training as part of everyday life. Then your spirit will remain unchanging.

Thus combat in battle is described in the Fire volume.

Fourthly the Wind volume (also the schools volume). This book is not concerned with my own Niten Ichi school but with other schools of strategy. By the term Wind I mean style or tradition, as in old traditions, present-day traditions, and family traditions of strategy. Here I clearly explain the strategies of the various schools in the world. This is tradition. It is difficult to know yourself if you do not know others [a possible reference to Sun Tzu: If you know your enemy and yourself, you will not be in danger in a hundred battles]. To all Ways there are side-tracks. Even if you study your Way daily, if your spirit diverges, objectively it is not the true Way, even though you may think you are following a good Way. What may be a little divergence in the beginning will later become a large divergence. You must realize this.

Strategy has come to be thought of as mere sword-fencing, and it is not unreasonable that this should be so. The benefit of my strategy, although it includes sword-fencing, lies in a different matter entirely. I have explained what is commonly meant by strategy in other schools in the Wind (Tradition) book.

Fifthly, the book of the Void. By void I mean that which has no beginning and no end. What can you call its innermost depths or its entrance? Attaining this principle means letting go of principles. The Way of strategy is the Way of nature. It has its own freedom. Once you detach from principles, you will acquire exceptional skill spontaneously and independently. Once you know the power of nature, you will

discern the rhythm of any situation, and you will hit the enemy naturally with your every strike. All this is the Way of the Void. I intend to show how to enter the true Way naturally in the book of the Void.

Two Swords as One

Samurai, both commanders and troopers, carry two swords at their belt. In olden times these were called the tachi [long sword] and the katana [sword]; nowadays they are known as the katana [sword] and the wakizashi [companion sword]. I don't need to explain this in detail. Let it suffice to say that in Japan, a warrior carries two swords as a matter of duty, whether he knows how to use them or not. It is the Way of the warrior.

I have decided to call my approach "Nito Ichi Ryu" [two swords as one] to show the advantages of using both swords.

As for the spear and the halberd, and so on, these are considered additional weapons.

Students of the Nito Ichi School of strategy should train from the start with the sword and the long sword in either hand. This is a truth: when you sacrifice your life, you would want to make fullest use of your available weaponry. It is unnatural not to do so, and to die with a weapon yet undrawn.

If you hold a sword with both hands, it is difficult to wield it freely to the left and to the right, so my method is to get used to wielding the sword in one hand. This does not apply to large weapons such as the spear or halberd, but swords and companion swords can be used in one hand. It is encumbering to hold a sword in both hands when you are on horseback, when running on uneven roads, on swampy ground, muddy rice fields, stony ground, or in a crowd of people. To hold the long sword in both hands is not the true Way, for if you carry a bow or spear or other arms in your left hand you have only one hand free for the long sword. If or when you find it difficult to cut an enemy down with one hand, then by all means use both hands. There is nothing complicated about this.

It is not difficult to wield a sword in one hand; the Way to learn this is to train with two long swords, one in each hand. It will seem difficult at first, but everything is difficult at first. Bows are difficult to draw, halberds are difficult to wield. In each case, you get used to the tool: as you become accustomed to the bow your pull will become stronger, and as you become used to wielding the long sword, you will gain the power of the Way and wield the sword easily.

As I will explain in the second book, the Water Book, there is no fast way of wielding the long sword. The long sword should be wielded broadly and the companion sword closely. This is the basic idea for the beginner.

In my school, you can win with a long weapon, and yet you can also win with a short weapon. For this reason I don't specify the length of the sword but regard the essence of my approach as the resolve to gain victory by any means, whatever the weapon and whatever its size.

It is better to use two swords rather than one when you are fighting a mob, and especially if you want to take a prisoner.

These things need not be explained in detail. From each point, ten thousand things can be inferred. When you attain the Way of strategy there will be nothing you cannot see. You must study hard.

The Principles behind the Characters reading "Strategy"

Masters of the long sword are traditionally known as heihosha [strategists]. As for the other military arts, those who master the bow are called archers, those who master the spear are called spearmen, those who master the gun are called marksmen, and those who master the halberd are called halberdiers. But we do not call masters of the long sword "long swordsmen", nor do we speak of "short swordsmen". Bows, guns, spears and halberds are all tools of the warriors and each should be a way to master strategy.

Nevertheless, the sword alone is associated with mastery of strategy. There is a reason

for this. To master the virtue of the long sword is to govern the world and oneself, thus the long sword is the basis of strategy [this observation is based on ancient Japanese sword worship]. The principle is "strategy by means of the long sword". If he attains the virtue of the long sword, one man can beat ten men. Just as one man can beat ten, so a hundred men can beat a thousand, and a thousand can beat ten thousand. In my strategy, things are no different for one man or for ten thousand. This strategy is the complete warrior's craft.

The Way of the warrior does not include other Ways, such as Confucianism, Buddhism, tea, artistic accomplishments and dancing. But even though these are not part of your Way, if you know the Way broadly you will see it in everything. It is essential for each of us as human beings to polish our individual Way.

The Advantages of Weapons in Strategy

There is an appropriate time and place for the use of the various weapons.

The companion sword is most useful in a confined space, or when you are engaged at close quarters with an opponent. The long sword can generally be used effectively in any situation.

The halberd is inferior to the spear on the battlefield. With the spear you take the initiative, the halberd is more defensive. In the hands of men of equal ability, the spear gives a little extra strength. Spear and halberd both have their uses depending on the situation, but neither is very helpful in a confined space. They are also not appropriate for taking a prisoner. They are essentially weapons for the field.

Anyway, if you only learn to use weapons indoors, you will narrow your focus to unimportant details and forget the true way. Thus you will have difficulty in actual encounters.

The bow is tactically strong in both charges and retreats, especially during battles on an open field, as it is possible to shoot quickly from among the ranks of the spearmen or others. However, it is inadequate in sieges, or when the enemy is more than forty yards away. Nowadays the schools of archery as well as other arts have more flowers than fruit. In times of real need such kind of skill is useless.

From inside fortifications, the gun has no equal among weapons. It is the supreme weapon on the field before the ranks clash, but once swords are crossed the gun becomes inadequate.

One of the virtues of the bow is that you can see the arrows in flight and correct your aim accordingly, whereas the path of a bullet cannot be seen. You must appreciate the importance of this.

Your horse should have good endurance and no defects. To summarize the essentials on weapons, horses should walk strongly, and swords and short swords should cut strongly. Spears and halberds must penetrate strongly and stand up to heavy use, bows and guns must be strong and accurate. Weapons should be sturdy rather than decorative.

You should not have a favorite weapon, or any other exaggerated preference for that matter. To become overly attached to one weapon is as bad as not knowing it sufficiently well. You should not imitate others, but use those weapons which suit you, and which you can handle properly. It is bad for both commanders and troopers to entertain likes and dislikes. Pragmatic thinking is essential. These are things you must learn thoroughly.

Rhythm in strategy

There is rhythm in everything, however, the rhythm in strategy, in particular, cannot be mastered without a great deal of hard practice.

Among the rhythms readily noticeable in our lives are the exquisite rhythms in dancing and accomplished pipe or string playing. Timing and rhythm are also involved in the military arts, shooting bows and guns, and riding horses. In all skills and abilities there is timing.

There is also rhythm in the Void.

There is a rhythm in the whole life of the warrior, in his thriving and declining, in his harmony and discord. Similarly, there is a rhythm in the Way of the merchant, of becoming rich and of losing one's fortune, in the rise and fall of capital. All things entail rising and falling rhythm. You must be able to discern this. In strategy there are various considerations. From the outset you must attune to your opponent, then you must learn to disconcert him. It is crucial to know the applicable rhythm and the inapplicable rhythm, and from among the large and small rhythms and the fast and slow rhythms find the relevant rhythm. You must see the rhythm of distance, and the rhythm of reversal. This is the main thing in strategy. It is especially important to understand the rhythms of reversal; otherwise your strategy will be unreliable.

In combat, you must learn the rhythm of each opponent, and use the rhythms that your opponents don't expect. You win by creating formless rhythms out of the rhythm of the Void.

All the five books are chiefly concerned with rhythm. You must train sufficiently to appreciate this.

If you practice diligently day and night in the strategy outlined above, your spirit will naturally broaden. Thus you will come to comprehend large scale strategy and the strategy of one on one combat. This is recorded for the first time in these five volumes of Earth, Water, Fire, Wind, and Void.

Those who sincerely desire to learn my way of strategy will follow these rules for learning the art:

1. Do not harbor sinister designs. Think honestly and truthfully.
2. The Way is in training. One must continue to train.
3. Cultivate a wide range of interests in the ten skills and ten arts. Then one can definitely find the benefits of hyoho and develop oneself.
4. Be knowledgeable in a variety of occupations, and learn the thinking of people who work in them.
5. Know the difference between loss and gain in worldly matters.
6. Nurture the ability to perceive the truth in all matters. It is important to build up an intuitive judgment and understand true values.
7. Be aware of those things which cannot be easily seen with the eye. Develop intuitive judgment and a mind that freely controls one's body.
8. Do not be negligent, but pay attention even to the smallest details. Keep them in mind all the time, so as to avoid unexpected failure.
9. Do not engage in useless activity. Do not argue about useless things. Concentrate on your duties.

It is important to start by setting these broad principles in your heart, and train in the Way of strategy. If you do not look at things in a larger context it will be difficult for you to master strategy. If you learn and attain these principles, you will never lose even in individual combat against twenty or thirty enemies. First of all, you must set your heart on strategy and work earnestly while sticking to the Way. With time you will be able to beat men with your hands, and to defeat people by using your eyes. When through training you become able to freely control your own body, you can conquer men with your body. And because strategy develops the mind, with sufficient training you will be able to beat people with your spirit. When you have reached this point, will it not mean that you are invincible?

Moreover, in large scale strategy the superior man will attract and keep able subordinates, bear himself correctly, govern the country and care for the people, thus preserving the ruler's discipline.

The Way of strategy is to be self-reliant, not losing at anything, to guide others, to gain benefits and honor, and to make peace with others.

THE WATER BOOK

The spirit of the Ni Ten Ichi school of strategy is based on Water, and this Water Book explains methods of victory as the long-sword form of the Niten Ichi school. Language does not suffice to explain the Way in detail, but it can be grasped intuitively. Study this book; read a word then ponder on it. If you interpret the meaning loosely you will mistake the Way.

The principles of strategy are written down here in terms of single combat, but you must think broadly, so that you attain an understanding for ten-thousand-a-side battles.

Strategy is different from other things in that if you mistake the Way even a little you will become bewildered and fall into bad ways.

You will not reach the Way of strategy by merely reading this book. Absorb the things written in this book. Do not just read, memorize or imitate, but make sure that you realize the principle from within your own heart. Study hard to absorb these things into your body.

Spiritual Bearing in Strategy

In strategy your spiritual bearing must not be any different from normal. In normal times, and in times of combat, try to be no different: Keep your mind broad and straight; do not stretch it taut; do not allow it to grow in the least lax; do not make it lean to one side but hold it at the center; keep it quietly fluid, doing your best to maintain it in a fluid state even while it is fluid.

When you are quiet, your mind shouldn't be quiet; when you are moving fast, your mind shouldn't at all be moving fast. Even when your mind is calm do not let your body relax, and when your body is relaxed do not let your mind slacken. Do not let your spirit be influenced by your body, nor your body be influenced by your spirit. Your mind should lack nothing while having no excess. An elevated spirit is weak and a low spirit is weak. Superficially you may have your mind appear weak, but you must keep it strong inwardly, lest people can tell what you really are. Do not let the enemy see your spirit.

If you have a small body, you must know whatever there is to know about having a large body; if you have a large body, you must know all about having a small body. Whatever your size, you must keep your mind straight and not be misled by knowing only your own body. With your spirit open and unconstricted, look at things from a high point of view. You must cultivate your wisdom and spirit. Polish your wisdom: learn public justice, learn to distinguish between right and wrong, study the Ways of different arts one by one to experience what is sought in each. When you cannot be deceived by anyone you will have acquired judgment in strategy.

The wisdom of strategy is different from other things. On the battlefield, even when you are hard-pressed, you should ceaselessly research the principles of strategy so that you can develop a steady spirit.

Physical Bearing in Strategy

In holding your body, your face shouldn't be downcast or upturned, tilted or twisted. Do not allow your eyes to be distracted easily. Do not knit your brow, but keep the space between your eyebrows wrinkled, lest your eyes roll. Taking care not to blink, narrow your eyes a little. With your face relaxed, keep your nose straight with a feeling of slightly flaring your nostrils, your lower jaw a little forward. As for your head, keep the muscles in back straight, your nape tight. Treat your body from shoulders down as one. Hold both shoulders down, your spine erect. Do not stick your buttocks out. Put strength into your legs from knees to toes. Thrust your belly out lest you bend at the hips. There is something called "wedging-in": you put the weight of your belly on the scabbard of your short sword lest your belt slacken.

On the whole, in strategy it is most important that you regard your normal bearing as the same as your bearing at a time of fighting, and your bearing at a time of fighting as the same as your normal bearing. You must research this well.

The Gaze in Strategy

You eye things in a sweeping, broad fashion. As for the two manners of seeing things, kan [observing] and ken [seeing], the eye for kan is strong, the eye for ken weak; seeing distant things as if they are close at hand and seeing close things as if they are distant is special to the art of fighting. Knowing your opponent's sword and yet not in the least seeing it [not being distracted by insignificant movements] is important in the art of fighting. You must study this. The gaze is the same for single combat and for large-scale strategy.

It is necessary in strategy to be able to look to both sides without moving the eyeballs. You cannot master this ability quickly. Learn what is written here; use this gaze in everyday life and do not vary it whatever happens.

Holding the Long Sword

Grip the long sword lightly with your thumb and forefinger, with the middle finger neither tight nor slack, and with the last two fingers tight. It is bad to leave slack in your hands.

When you take up a sword, you must do it with the intent of cutting the enemy. As you cut an enemy you must not change your grip, and your hands must not flinch. When you dash the enemy's sword aside, or ward it off, or force it down, you may only change your thumb and forefinger a little. Above all, you must grip the sword with the intent of cutting the enemy.

The grip for combat and for sword-testing is the same, you always grip the sword as if you want to kill a man.

Generally speaking, stiffness is to be avoided, in both sword and hands. Stiffness leads to death. A living hand is flexible. [Another possible reference to Lao Tzu] You must bear this in mind.

Footwork

With the tips of your toes somewhat floating, tread firmly with your heels. Whether you move fast or slow, with large or small steps, your feet should always move naturally as in normal walking. Avoid jumping steps, floating steps and stomping.

An important concept in my school is called complementary ("Yin-Yang") stepping: this means that you do not move one foot alone. You should always move your feet in complementary steps, left-right and right-left when cutting, withdrawing, or warding off a cut. You should not move on one foot alone.

The Five Attitudes

The five attitudes are: Upper, Middle, Lower, Right Side, and Left Side. Although attitude has these five divisions, the one purpose of all of them is to cut the enemy. There are none but these five attitudes.

[Kamae (attitude), from the verb kamaeru: to build, set up, adopt a stance, posture or defensive attitude]

Whatever attitude you are in, do not be conscious of adopting the attitude; think only of cutting.

Your attitude should be large or small according to the situation. Upper, Lower and Middle attitudes are decisive. Left Side and Right Side attitudes are fluid. Left and Right attitudes should be used if there is an obstruction overhead or to one side. The decision to use Left or Right depends on the place.

To understand the essence of the Way, you must thoroughly understand the middle attitude. The middle attitude is the heart of attitudes. If we look at strategy on a broad scale, the middle attitude is the seat of the commander, with the other four attitudes following the commander. You must appreciate this.

The Way of the Long Sword

If we know the Way of the long sword well, we can easily wield the sword we usually carry, even with two fingers.

If you try to wield the long sword unnaturally fast, you are mistaken. To wield the long sword well you must wield it calmly. If you try to wield it quickly, like a folding

fan or a short sword, you will deviate from the Way by using what is called "knife whittling". The long sword is hard to wield this way, and you cannot cut down a man efficiently with a long sword in this manner.
When you have cut downwards with the long sword, lift it straight back up along a natural path; when you have cut sideways, return the sword naturally along a sideways path. Always return the sword in a reasonable way. Extend the elbows broadly in a comfortable way, and wield the sword powerfully. This is the Way of the long sword.
If you learn to use the five approaches of my strategy, you will be able to wield a sword well. You must train constantly.
The Five Approaches
1. The first approach is the Middle attitude. Confront the enemy with the point of your sword against his face. When he attacks, dash his sword to the right and "ride" it. Or, when the enemy attacks, deflect the point of his sword by hitting downwards, keep your long sword where it is, and as the enemy renews his attack cut his arms from below. This is the first method.
The five approaches are this kind of thing. You must train repeatedly using a long sword in order to learn them. When you master my Way of the long sword, you will be able to control any attack the enemy makes. I assure you, there are no attitudes other than the five attitudes of the long sword of Ni To.
2. In the second approach with the long sword, from the Upper attitude cut the enemy just as he attacks. If the enemy evades the cut, keep your sword where it is and, scooping up from below, cut him as he renews the attack. It is possible to repeat the cut from here.
In this method there are various changes in timing and spirit. You will be able to understand this by training in the Niten Ichi school. You will always win with the five long sword methods. You must train repetitively.
3. In the third approach, adopt the Lower attitude, anticipating scooping up. When the enemy attacks, hit his hands from below. As you do so he may try to hit your sword down. If this is the case, cut his upper arm(s) horizontally with a feeling of "crossing". This means that from the lower attitudes you hit the enemy at the instant that he attacks.
You will encounter this method often, both as a beginner and in later strategy. You must train holding a long sword.
4. In this fourth approach, adopt the Left Side attitude. As the enemy attacks hit his hands from below. If as you hit his hands he attempts to dash down your sword, with the feeling of hitting his hands, parry the path of his long sword and cut across from above your shoulder.
This is the Way of the long sword. Through this method you win by parrying the line of the enemy's attack. You must research this.
5. In the fifth approach, the sword is in the Right Side attitude. In accordance with the enemy's attack, cross your long sword from below at the side to the Upper attitude. Then cut straight from above.
This method is essential for knowing the Way of the long sword well. If you can use this method, you can freely wield a heavy long sword.
I cannot describe in detail how to use these five approaches. You must become well acquainted with my "in harmony with the long sword" Way, learn large-scale timing, understand the enemy's long sword, and become used to the five approaches from the outset. You will always win by using these five methods, with various timing considerations discerning the enemy's spirit. You must consider all this carefully.
Attitude No-Attitude
"Attitude No-Attitude" means that you should not intentionally take specific long sword attitudes. Though the attitudes are differentiated into five types, they are all meant only to cut the enemy.

Even though you can't help holding your sword in one of the five ways of holding the long sword, you must hold the sword in such a way that it is easy to cut the enemy well, in accordance with the situation, the place, and the move of the enemy. You may start from the Upper attitude, but if you lower your sword a bit you adopt the Middle attitude, and from the Middle attitude you can raise the sword a little in your technique and adopt the Upper attitude. From the lower attitude you can raise the sword and adopt the Middle attitudes as the occasion demands. According to the situation, if you turn your sword from either the Left Side or Right Side attitude towards the center, the Middle or the Lower attitude results.
This is why I say you are taking an attitude without taking an attitude. The principle of this is called "Existing Attitude - Nonexisting Attitude".
In any event, once you take a sword in your hands, you must be prepared to cut apart the enemy, whatever the means. Whenever you parry, hit, catch, strike or block the enemy's attacking sword, you must know the opportunities to cut the enemy in the same movement. It is essential to attain this. If you think only of catching, blocking, striking or tying up the enemy, you will not be able to actually kill him. More than anything, you must be thinking of carrying your every movement through to the kill. You must thoroughly research this.
Attitude in strategy on a larger scale is called "Battle Array". Such attitudes are all aimed at winning the battle. Fixed formation is bad. Study this well.

To Hit the Enemy In One Timing

"In One Timing" means, when you have closed with the enemy, to hit him as quickly and directly as possible, without moving your body or settling your spirit, while you see that he is still undecided. The timing of hitting before the enemy decides to withdraw, break or hit, is this "In One Timing".
You must train to achieve this timing, to be able to hit in the timing of an instant.

The Body Timing of Two

When you attack and the enemy quickly retreats, as you see him tense you must feint a cut. Then, as he relaxes, follow up and hit him. This is the "Body Timing of Two".
It is very difficult to attain this by merely reading this book, but you will soon understand with a little instruction.

No Design, No Conception

[Munen musou, when word and actions are spontaneously the same, is the ultimate state of consciousness in Buddhism. Musou is equivalent to the Sanskrit animitta]
In this method, when the enemy attacks and you also decide to attack, your body and mind turn into a single striking movement and your hands strike out of the Void naturally, swiftly and strongly. This is the "No Design, No Conception" cut.
This is the most important method of hitting. It is often used. You must train hard to understand it.

The Flowing Water Cut

The "Flowing Water Cut" is used when you are struggling blade to blade with the enemy. When he breaks and quickly withdraws trying to spring with his long sword, expand your body and spirit and cut him as slowly as possible with your long sword, following your body like stagnant water. You can cut with certainty if you learn this. You must discern the enemy's grade.

Continuous Cut

When you attack and the enemy also attacks and your swords spring together, in one action cut his head, hands and legs. When you cut several places with one sweep of the long sword, it is the "Continuous Cut". You must practice this cut; it is often used. With detailed practice you should be able to understand it.

The Fire and Stones Cut

The Fires and Stones Cut means that when the enemy's long sword and your long sword clash together you cut as strongly as possible without raising the sword even a little. This means cutting quickly with the hands, body and legs - all three cutting

strongly. If you train well enough you will be able to strike strongly.

The Red Leaves Cut

The Red Leaves Cut [allusion to falling, dying leaves] means knocking down the enemy's long sword. The spirit should be getting control of his sword. When the enemy is in a long sword attitude in front of you and intent on cutting, hitting and parrying, you strongly hit the enemy's long sword with the Fire and Stones Cut, perhaps in the spirit of the "No Design, No Conception" Cut. If you then beat down the point of his sword with a sticky feeling, he will necessarily drop the sword. If you practice this cut it becomes easy to make the enemy drop his sword. You must train repetitively.

The Body in Place of the Long Sword

Also "the long sword in place of the body". Usually we move the body and the sword at the same time to cut the enemy. However, according to the enemy's cutting method, you can dash against him with your body first, and afterwards cut with the sword. If his body is immovable, you can cut first with the long sword, but generally you hit first with the body and then cut with the long sword. You must research this well and practice hitting with your body.

Cut and Slash

To cut and to slash are two different things. Cutting, whatever form of cutting it is, is decisive, with a resolute spirit. Slashing is nothing more than touching the enemy. Even if you slash strongly, and even if the enemy dies instantly, it is still slashing. When you cut, your spirit is resolved. You must appreciate this. If you first slash the enemy's hands or legs, you must then cut strongly. Slashing is in spirit the same as touching. When you realize this, they become indistinguishable. Learn this well.

Chinese Monkey's Body

The Chinese Monkey's Body [short-armed monkey] is the spirit of not stretching out your arms. The spirit is to get in quickly, without in the least extending your arms, before the enemy cuts. If you are intent upon not stretching out your arms you are effectively far away, the spirit is to go in with your whole body. When you come to within arm's reach it becomes easy to move your body in. You must research this well.

Glue and Lacquer Emulsion Body

The spirit of "Glue and Lacquer Emulsion Body" is to stick to the enemy and not separate from him. When you approach the enemy, stick firmly with your head, body and legs. People tend to advance their head and legs quickly, but their body lags behind. You should stick firmly so that there is not the slightest gap between the enemy's body and your body. You must consider this carefully.

To Strive for Height

By "to strive for height" is meant, when you close with the enemy, to strive with him for superior height without cringing. Stretch your legs, stretch your hips, and stretch your neck face to face with him. When you think you have won, and you are the higher, thrust in strongly. You must learn this.

To Apply Stickiness

When the enemy attacks and you also attack with the long sword, you should go in with a sticky feeling and fix your long sword against the enemy's as you receive his cut. The spirit of stickiness is not hitting very strongly, but hitting so that the long swords do not separate easily. It is best to approach as calmly as possible when hitting the enemy's long sword with stickiness. The difference between "Stickiness" and "Entanglement" is that stickiness is firm and entanglement is weak. You must appreciate this.

The Body Strike

The Body Strike means to approach the enemy through a gap in his guard. The spirit is to strike him with your body. Turn your face a little aside and strike the enemy's breast with your left shoulder thrust out. Approach with the spirit of bouncing the

enemy away, striking as strongly as possible in time with your breathing. If you achieve this method of closing with the enemy, you will be able to knock him ten or twenty feet away. It is possible to strike the enemy until he is dead. Train well.

Three Ways to Parry His Attack

There are three methods to parry a cut:

First, by dashing the enemy's long sword to your right, as if thrusting at his eyes, when he makes an attack.

Or, to parry by thrusting the enemy's long sword towards his right eye with the feeling of snipping his neck.

Or, when you have a short "long sword", without worrying about parrying the enemy's long sword, to close with him quickly, thrusting at his face with your left hand.

These are the three methods of parrying. You must bear in mind that you can always clench your left hand and thrust at the enemy's face with your fist. For this it is necessary to train well.

To Stab at the Face

To stab at the face means, when you are in confrontation with the enemy, that your spirit is intent of stabbing at his face, following the line of the blades with the point of your long sword. If you are intent on stabbing at his face, his face and body will become readable. When the enemy becomes as if readable, there are various opportunities for winning. You must concentrate on this. When fighting and the enemy's body becomes as if readable, you can win quickly, so you ought not to forget to stab at the face. You must pursue the value of this technique through training.

To Stab at the Heart

To stab at the heart means, when fighting and there are obstructions above, or to the sides, and whenever it is difficult to cut, to thrust at the enemy. You must stab the enemy's breast without letting the point of your long sword waver, showing the enemy the ridge of the blade square-on, and with the spirit of deflecting his long sword. The spirit of this principle is often useful when we become tired or for some reason our long sword will not cut. You must understand the application of this method.

To Scold

"Scold" means that, when the enemy tries to counter-cut as you attack; you counter-cut again, coming up from below as if thrusting at him. Both strikes should follow in rapid succession, scolding the enemy. Thrust upwards, "Tut!", then cut "TUT!" This move can be used time and time again in a duel. The way to scold is to raise your sword as if to thrust the enemy, then to slash simultaneously. You should study this rhythm through repetitive practice.

The Smacking Parry

By "smacking parry" is meant that when you clash swords with the enemy, you meet his attacking cut on your long sword with a tee-dum, tee-dum rhythm, smacking his sword and cutting him. The spirit of the smacking parry is not parrying, or smacking strongly, but smacking the enemy's long sword in accordance with his attacking cut, primarily intent on quickly cutting him. If you understand the timing of smacking, however hard your long swords clash together, your sword point will not be knocked back even a little. You must research sufficiently to realize this.

Facing Many Enemies

Facing Many Enemies applies when you must fight alone against many enemies. Draw both the long and short swords, and spread them wide to the left and right in a horizontal attitude.

Even though they come from all four directions, your aim is to chase the enemies to one place. Observe their attacking order, and advance quickly to meet him who attack first. Sweep your eyes around broadly to remain aware of the overall situation, carefully examining the stances of the enemies and their attacking order, and cut

left and right simultaneously in different directions, swinging both swords without mutual interference. It is not good to pause after cutting to different directions. You must quickly re-assume your original attitudes to both sides. Cut the next enemies down as they advance, crushing them in the direction from which they attack. Do your best to drive the enemy together, as if tying a line of fishes, and when they are seen to be piled up and entangled, cut them down strongly without giving them room to move.

If you frontally attack a crowd, you can hardly make progress. On the other hand, if you intend to cut one at the time each one that will advance first, you will be in a waiting attitude and not make progress. Respond to your enemies' rhythm, know their weakness and take advantage of it. Then you win.

If you practice with your friends often until you learn to force the whole group into a single file, you can deal as easily with one enemy as with ten or twenty. It requires thorough practice and examination.

The Advantage in Dueling

You can learn how to win a duel with the long sword through strategy, but it cannot be clearly explained in writing. You must practice diligently in order to understand how to win.

The true Way of strategy is revealed in the long sword. This is transmitted orally.

One Cut

You can win with certainty with the spirit of a single cut. It is difficult to attain this if you do not learn strategy well. If you practice this well, strategy will come from your heart and you will be able to win at will. You must train diligently.

Direct Penetration

The spirit of Direct Penetration is handed down in the true Way of the Ni To Ichi School.

Teach your body strategy. You must practice well. This is transmitted orally.

Epilogue

Recorded in the above book is an outline of my school of sword-fighting.

To learn how to win with the long sword in strategy, first learn the five approaches and the five attitudes, then absorb the Way of the long sword naturally in your body. You must sharpen the spirit to understand rhythm, handle the long sword naturally, and move your body with total freedom in harmony with your spirit. Whether beating one man or two, you will then know what is good or bad in strategy.

Study the contents of this book, practice one item at a time, and through fighting with enemies you will gradually come to know the principle of the Way of Strategy.

Deliberately, with a patient spirit, absorb the virtue of all this, from time to time raising your hand in combat. Maintain this spirit whenever you cross swords with and enemy.

Even a thousand-mile road is walked one step at a time. It is the duty of a warrior to study this art without hurry and practice it over the years. Try to defeat today what you were yesterday, defeat lesser men tomorrow, and stronger men the day after.

Train according to this book, not allowing your heart to be swayed along a side-track. Even if you defeat an enemy, if you do so in a way contrary to what you have learned, you are not following the true Way. If you grasp this principle, you will be able to defeat fifty or sixty men single-handedly. When that happens, you will have reached enlightenment in the way of strategy through swordsmanship, for large battles as well as individual combat. I call practice for a thousand days *tan* [hardening], practice for ten thousand days *ren* [practice. Musashi here divides the word *tanren* or drill. One thousand days refers to three years and ten thousand to thirty. Musashi's intention is explaining that one must continue to seek the way].

THE FIRE BOOK

In this Fire Book of the Ni To Ichi school of strategy I describe fighting as fire.
In the first place, people think narrowly about the benefit of strategy. By using only their fingertips, they only know the benefit of three of the five inches of the wrist. They let a contest be decided, as with the folding fan, merely by the span of their forearms. They specialize in the small matter of dexterity, learning such trifles as hand and leg movements with the bamboo practice sword.
In my strategy, the training for killing enemies is by way of many contests, fighting for survival, discovering the meaning of life and death, learning the Way of the sword, judging the strength of attacks and understanding the Way of the "edge and ridge" of the sword.
You cannot profit from small techniques particularly when full armor is worn. ["Roku Gu" (six pieces): body amour, helmet, mask, thigh pieces, gauntlets and leg pieces.] My way of strategy is the sure method to win when fighting for your life one man against five or ten. There is nothing wrong with the principle "one man can beat ten, so a thousand men can beat ten thousand". You must research this. Of course you cannot assemble a thousand or ten thousand men for everyday training. But you can become a master of strategy by training alone with a sword, so that you can understand the enemy's stratagems, his strength and resources, and come to appreciate how to apply strategy to beat ten thousand enemies.
Any man who wants to master the essence of my strategy must research diligently, training morning and evening. Thus can he polish his skill, become free from self, and realize extraordinary ability. He will come to possess miraculous power.
This is the practical result of strategy.
Depending on the Place
Examine your environment.
Stand in the sun; that is, take up an attitude with the sun behind you. If the situation does not allow this, you must try to keep the sun on your right side. In buildings, you must stand with the entrance behind you or to your right. Make sure that your rear is unobstructed, and that there is free space on your left, your right side being occupied with your side attitude. At night, if the enemy can be seen, keep the fire behind you and the entrance to your right, and otherwise take up your attitude as above. You must look down on the enemy, and take up your attitude on slightly higher places. For example, the Kamiza [residence of the ancestral spirit of a house; often a slightly raised recess in a wall (with ornaments) in a house is thought of as a high place.
When the fight comes, always endeavor to chase the enemy around to your left side. Chase him towards awkward places, and try to keep him with his back to awkward places. When the enemy gets into an inconvenient position, do not let him look around, but conscientiously chase him around and pin him down. In houses, chase the enemy into the thresholds, lintels, doors, verandas, pillars, and so on, again not letting him see his situation.
Always chase the enemy into bad footholds, obstacles at the side, and so on, using the virtues of the place to establish predominant positions from which to fight. You must research and train diligently in this.
The Three Methods to Forestall the Enemy
The first is to forestall him by attacking. This is called Ken No Sen (to set him up).
Another method is to forestall him as he attacks. This is called Tai No Sen (to wait for the initiative).
The other method is when you and the enemy attack together. This is called Tai Tai No Sen (to accompany him and forestall him).
There are no methods of taking the lead other than these three. Because you can win quickly by taking the lead, it is one of the most important things in strategy. There are several things involved in taking the lead. You must make the best of the

situation, see through the enemy's spirit so that you grasp his strategy and defeat him. It is impossible to write about this in detail.

The First - Ken No Sen

When you decide to attack, keep calm and dash in quickly, forestalling the enemy. Or you can advance seemingly strongly but with a reserved spirit, forestalling him with the reserve.

Alternatively, advance with as strong a spirit as possible, and when you reach the enemy move with your feet a little quicker than normal, unsettling him and overwhelming him sharply.

Or, with your spirit calm, attack with a feeling of constantly crushing the enemy, from first to last. The spirit is to win in the depths of the enemy.

These are all Ken No Sen.

The Second - Tai No Sen

When the enemy attacks, remain undisturbed but feign weakness. As the enemy reaches you, suddenly move away indicating that you intend to jump aside, then dash in attacking strongly as soon as you see the enemy relax. This is one way.

Or, as the enemy attacks, attack still more strongly, taking advantage of the resulting disorder in his timing to win.

This is the Tai No Sen Principle.

The Third - Tai Tai No Sen

When the enemy makes a quick attack, you must attack strongly and calmly, aim for his weak point as he draws near, and strongly defeat him.

Or, if the enemy attacks calmly, you must observe his movements and, with your body rather floating, join in with his movements as he draws near. Move quickly and cut him strongly.

This is Tai Tai No Sen.

These things cannot be clearly explained in words. You must research what is written here. In these three ways of forestalling, you must judge the situation. This does not mean that you always attack first; but if the enemy attacks first you can lead him around. In strategy, you have effectively won when you forestall the enemy, so you must train well to attain this.

To Hold Down a Pillow

"To Hold Down a Pillow" means not allowing the enemy's head to rise.

In contests of strategy it is bad to be led about by the enemy. You must always be able to lead the enemy about. Obviously the enemy will also be thinking of doing this, but he cannot forestall you if you do not allow him to come out. In strategy, you must stop the enemy as he attempts to cut; you must push down his thrust, and throw off his hold when he tries to grapple. This is the meaning of "to hold down a pillow". When you have grasped this principle, whatever the enemy tries to bring about in the fight you will see in advance and suppress it. The spirit is to check his attack at the syllable "at...", when he jumps check his jump at the syllable "ju...", and check his cut at "cu...".

The important thing in strategy is to suppress the enemy's useful actions but allow his useless actions. However, doing this alone is defensive. First, you must act according to the Way, suppressing the enemy's techniques, foiling his plans and thence command him directly. When you can do this you will be a master of strategy. You must train well and research "holding down a pillow".

Crossing at a Ford

"Crossing at a ford" means, for example, crossing the sea at a strait, or crossing over a hundred miles of broad sea at a crossing place. I believe this "crossing at a ford" occurs often in man's lifetime. It means setting sail even though your friends stay in harbor, knowing the route, knowing the soundness of your ship and the favor of the day. When all the conditions are met, and there is perhaps a favorable wind, or a tailwind, then set sail. If the wind changes within a few miles of your destination,

you must row across the remaining distance without sail.
If you attain this spirit, it applies to everyday life. You must always think of crossing at a ford.
In strategy also it is important to "cross at a ford". Discern the enemy's capability and, knowing your own strong points, "cross the ford" at the advantageous place, as a good captain crosses a sea route. If you succeed in crossing at the best place, you may take your ease. To cross at a ford means to attack the enemy's weak point, and to put yourself in an advantageous position. This is how to win large-scale strategy. The spirit of crossing at a ford is necessary in both large- and small-scale strategy.
You must research this well.

To Know the Times

"To know the times" means to know the enemy's disposition in battle. Is it flourishing or waning? By observing the spirit of the enemy's men and getting the best position, you can work out the enemy's disposition and move your men accordingly. You can win through this principle of strategy, fighting from a position of advantage.
When in a duel, you must forestall the enemy and attack when you have first recognized his school of strategy, perceived his quality and his strong and weak points. Attack in an unsuspecting manner, knowing his metre and modulation and the appropriate timing.
Knowing the times means, if your ability is high, seeing right into things. If you are thoroughly conversant with strategy, you will recognize the enemy's intentions and thus have many opportunities to win. You must sufficiently study this.

To Tread Down the Sword

"To tread down the sword" is a principle often used in strategy. First, in large scale strategy, when the enemy first discharges bows and guns and then attacks it is difficult for us to attack if we are busy loading powder into our guns or notching our arrows. The spirit is to attack quickly while the enemy is still shooting with bows or guns. The spirit is to win by "treading down" as we receive the enemy's attack.
In single combat, we cannot get a decisive victory by cutting, with a "tee-dum tee-dum" feeling, in the wake of the enemy's attacking long sword. We must defeat him at the start of his attack, in the spirit of treading him down with the feet, so that he cannot rise again to the attack.
"Treading" does not simply mean treading with the feet. Tread with the body, tread with the spirit, and, of course, tread and cut with the long sword. You must achieve the spirit of not allowing the enemy to attack a second time. This is the spirit of forestalling in every sense. Once at the enemy, you should not aspire just to strike him, but to cling after the attack. You must study this deeply.

To Know Collapse

Everything can collapse. Houses, bodies, and enemies collapse when their rhythm becomes deranged.
In large-scale strategy, when the enemy starts to collapse, you must pursue him without letting the chance go. If you fail to take advantage of your enemies' collapse, they may recover.
In single combat, the enemy sometimes loses timing and collapses. If you let this opportunity pass, he may recover and not be so negligent thereafter. Fix your eye on the enemy's collapse, and chase him, attacking so that you do not let him recover. You must do this. The chasing attack is with a strong spirit. You must utterly cut the enemy down so that he does not recover his position. You must understand how to utterly cut down the enemy.

To Become the Enemy

"To become the enemy" means to think yourself in the enemy's position. In the world people tend to think of a robber trapped in a house as a fortified enemy. However, if we think of "becoming the enemy", we feel that the whole world is against us and that there is no escape. He who is shut inside is a pheasant. He who enters to arrest is

a hawk. You must appreciate this.
In large-scale strategy, people are always under the impression that the enemy is strong, and so tend to become cautious. But if you have good soldiers, and if you understand the principles of strategy, and if you know how to beat the enemy, there is nothing to worry about.
In single combat also you must put yourself in the enemy's position. If you think, "Here is a master of the Way, who knows the principles of strategy", then you will surely lose. You must consider this deeply.

To Release Four Hands

"To release four hands" is used when you and the enemy are contending with the same spirit, and the issue cannot be decided. Abandon this spirit and win through an alternative resource.
In large-scale strategy, when there is a "four hands" spirit, do not give up - it is man's existence. Immediately throw away this spirit and win with a technique the enemy does not expect.
In single combat also, when we think we have fallen into the "four hands" situation, we must defeat the enemy by changing our mind and applying a suitable technique according to his condition. You must be able to judge this.

To Move the Shade

"To move the shade" is used when you cannot see the enemy's spirit.
In large-scale strategy, when you cannot see the enemy's position, indicate that you are about to attack strongly, to discover his resources. It is easy then to defeat him with a different method once you see his resources.
In single combat, if the enemy takes up a rear or side attitude of the long sword so that you cannot see his intention, make a feint attack, and the enemy will show his long sword, thinking he sees your spirit. Benefiting from what you are shown, you can win with certainty. If you are negligent you will miss the timing. Research this well.

To Hold Down a Shadow

"Holding down a shadow" is used when you can see the enemy's attacking spirit.
In large-scale strategy, when the enemy embarks on an attack, if you make a show of strongly suppressing his technique, he will change his mind. Then, altering your spirit, defeat him by forestalling him with a Void spirit.
Or, in single combat, hold down the enemy's strong intention with a suitable timing, and defeat him by forestalling him with this timing. You must study this well.

To Pass On

Many things are said to be passed on. Sleepiness can be passed on, and yawning can be passed on. Time can be passed on also.
In large-scale strategy, when the enemy is agitated and shows an inclination to rush, do not mind in the least. Make a show of complete calmness, and the enemy will be taken by this and will become relaxed. When you see that this spirit has been passed on, you can bring about the enemy's defeat by attacking strongly with a Void spirit.
In single combat, you can win by relaxing your body and spirit and then, catching on to the moment the enemy relaxes attack strongly and quickly, forestalling him.
What is known as "getting someone drunk" is similar to this. You can also infect the enemy with a bored, careless, or weak spirit. You must study this well.

To Cause Loss of Balance

Many things can cause a loss of balance. One cause is danger, another is hardship, and another is surprise. You must research this.
In large-scale strategy it is important to cause loss of balance. Attack without warning where the enemy is not expecting it, and while his spirit is undecided follow up your advantage and, having the lead, defeat him.
Or, in single combat, start by making a show of being slow, then suddenly attack strongly. Without allowing him space for breath to recover from the fluctuation of

spirit, you must grasp the opportunity to win. Get the feel of this.

To Frighten

Fright often occurs, caused by the unexpected.

In large-scale strategy you can frighten the enemy not just by what you present to their eyes, but by shouting, making a small force seem large, or by threatening them from the flank without warning. These things all frighten. You can win by making best use of the enemy's frightened rhythm.

In single combat, also, you must use the advantage of taking the enemy unawares by frightening him with your body, long sword, or voice, to defeat him. You should research this well.

To Soak In

When you have come to grips and are striving together with the enemy, and you realize that you cannot advance, you "soak in" and become one with the enemy. You can win by applying a suitable technique while you are mutually entangled.

In battles involving large numbers as well as in fights with small numbers, you can often win decisively with the advantage of knowing how to "soak" into the enemy, whereas, were you to draw apart, you would lose the chance to win. Research this well.

To Injure the Corners

It is difficult to move strong things by pushing directly, so you should "injure the corners".

In large-scale strategy, it is beneficial to strike at the corners of the enemy's force. If the corners are overthrown, the spirit of the whole body will be overthrown. To defeat the enemy you must follow up the attack when the corners have fallen.

In single combat, it is easy to win once the enemy collapses. This happens when you injure the "corners" of his body, and thus weaken him. It is important to know how to do this, so you must research deeply.

To Throw into Confusion

This means making the enemy lose resolve.

In large-scale strategy we can use our troops to confuse the enemy on the field. Observing the enemy's spirit, we can make him think, "Here? There? Like that? Like this? Slow? Fast?". Victory is certain when the enemy is caught up in a rhythm which confuses his spirit.

In single combat, we can confuse the enemy by attacking with varied techniques when the chance arises. Feint a thrust or cut, or make the enemy think you are going to close with him, and when he is confused you can easily win.

This is the essence of fighting, and you must research it deeply.

The Three Shouts

The three shouts are divided thus: before, during and after. Shout according to the situation. The voice is a thing of life. We shout against fires and so on, against the wind and the waves. The voice shows energy.

In large-scale strategy, at the start of battle we shout as loudly as possible. During the fight, the voice is low-pitched, shouting out as we attack. After the contest, we shout in the wake of our victory. These are the three shouts.

In single combat, we make as if to cut and shout "Ei!" at the same time to disturb the enemy, then in the wake of our shout we cut with the long sword. We shout after we have cut down the enemy - this is to announce victory. This is called "sen go no koe" (before and after voice). We do not shout simultaneously with flourishing the long sword. We shout during the fight to get into rhythm. Research this deeply.

To Mingle

In battles, when the armies are in confrontation, attack the enemy's strong points and, when you see that they are beaten back, quickly separate and attack yet another strong point on the periphery of his force. The spirit of this is like a winding mountain path.

This is an important fighting method for one man against many. Strike down the enemies in one quarter, or drive them back, then grasp the timing and attack further strong points to right and left, as if on a winding mountain path, weighing up the enemies' disposition. When you know the enemies' level attack strongly with no trace of retreating spirit.

What is meant by "mingling" is the spirit of advancing and becoming engaged with the enemy, and not withdrawing even one step. You must understand this.

To Crush

This means to crush the enemy regarding him as being weak.

In large-scale strategy, when we see that the enemy has few men, or if he has many men but his spirit is weak and disordered, we knock the hat over his eyes, crushing him utterly. If we crush lightly, he may recover. You must learn the spirit of crushing as if with a hand-grip.

In single combat, if the enemy is less skillful than ourselves, if his rhythm is disorganized, or if he has fallen into evasive or retreating attitudes, we must crush him straight-away, with no concern for his presence and without allowing him space for breath. It is essential to crush him all at once. The primary thing is not to let him recover his position even a little. You must research this deeply.

The Mountain-Sea Change

The "mountain-sea" spirit means that it is bad to repeat the same thing several times when fighting the enemy. There may be no help but to do something twice, but do not try it a third time. If you once make an attack and fail, there is little chance of success if you use the same approach again. If you attempt a technique which you have previously tried unsuccessfully and fail yet again, then you must change your attacking method.

If the enemy thinks of the mountains, attack like the sea; and if he thinks of the sea, attack like the mountains. You must research this deeply.

To Penetrate the Depths

When we are fighting with the enemy, even when it can be seen that we can win on the surface with the benefit of the Way, if his spirit is not extinguished, he may be beaten superficially yet undefeated in spirit deep inside. With this principle of "penetrating the depths" we can destroy the enemy's spirit in its depths, demoralizing him by quickly changing our spirit. This often occurs.

Penetrating the depths means penetrating with the long sword, penetrating with the body, and penetrating with the spirit. This cannot be understood in a generalization.

Once we have crushed the enemy in the depths, there is no need to remain spirited. But otherwise we must remain spirited. If the enemy remains spirited it is difficult to crush him. You must train in penetrating the depths for large-scale strategy and also single combat.

To Renew

"To renew" applies when we are fighting with the enemy, and an entangled spirit arises where there is no possible resolution. We must abandon our efforts, think of the situation in a fresh spirit then win in the new rhythm. To renew, when we are deadlocked with the enemy, means that without changing our circumstance we change our spirit and win through a different technique.

It is necessary to consider how "to renew" also applies in large-scale strategy. Research this diligently.

Rat's Head, Ox's Neck

"Rat's head and ox's neck" means that, when we are fighting with the enemy and both he and we have become occupied with small points in an entangled spirit, we must always think of the Way of strategy as being both a rat's head and an ox's neck. Whenever we have become preoccupied with small detail, we must suddenly change into a large spirit, interchanging large with small.

This is one of the essences of strategy. It is necessary that the warrior think in this

spirit in everyday life. You must not depart from this spirit in large-scale strategy nor in single combat.

The Commander Knows the Troops

"The commander knows the troops" applies everywhere in fights in my Way of strategy.

Using the wisdom of strategy, think of the enemy as your own troops. When you think in this way you can move him at will and be able to chase him around. You become the general and the enemy becomes your troops. You must master this.

To Let Go the Hilt

There are various kinds of spirit involved in letting go the hilt.

There is the spirit of winning without a sword. There is also the spirit of holding the long sword but not winning. The various methods cannot be expressed in writing. You must train well.

The Body of a Massive Rock

When you have mastered the Way of strategy, you can suddenly make your body like a rock, and ten thousand things cannot touch you. This is the body of a rock [Iwao no Mi] .

You will not be moved. This is the oral tradition. [Body like a rock means that as soon as a swordsman reaches the utmost world and is awakened spiritually; he is united with natural law. Like a rock, this law does not refer to either objects or materials. The meaning of the massive body of rock is an immovable place, an immovable mind. A mind which is free from other things, a natural, peaceful, free ranging mind].

What is recorded above is what has been constantly on my mind about Niten Ichi school sword fencing, written down as it came to me. This is the first time I have written about my technique, and the order of things is a bit confused. It is difficult to express it clearly.

This book is a spiritual guide for the man who wishes to learn the Way.

My heart has been inclined to the Way of strategy from my youth onwards. I have devoted myself to training my hand, tempering my body, and attaining the many spiritual attitudes of sword fencing. If we watch men of other schools discussing theory, and concentrating on techniques with the hands, even though they seem skillful to watch, they have not the slightest true spirit.

Of course, men who study in this way think they are training the body and spirit, but it is an obstacle to the true Way, and its bad influence remains for ever. Thus the true Way of strategy is becoming decadent and dying out.

The true Way of sword fencing is the craft of defeating the enemy in a fight, and nothing other than this. If you attain and adhere to the wisdom of my strategy, you need never doubt that you will win.

THE WIND BOOK

In strategy you must know the Ways of other schools, so I have written about various other traditions of strategies in this the Wind Book.

Without knowledge of the Ways of other schools, it is difficult to understand the essence of my Niten Ichi school. Looking at other schools we find some that specialize in techniques of strength using extra-long swords. Some schools study the Way of the short sword, known as kodachi. Some schools teach dexterity in large numbers of sword techniques, teaching attitudes of the sword as the "surface" and the Way as the "interior".

That none of these are the true Way I show clearly in the interior of this book - all the vices and virtues and rights and wrongs. My Niten Ichi school is different. Other schools make accomplishments their means of livelihood, growing flowers and decoratively coloring articles in order to sell them. This is definitely not the Way of

strategy.
Some of the world's strategists are concerned only with sword-fencing, and limit their training to flourishing the long sword and carriage of the body. But is dexterity alone sufficient to win? This is not the essence of the Way.
I have recorded the unsatisfactory point of other schools one by one in this book. You must study these matters deeply to appreciate the benefit of my Ni To Ichi school.

Other Schools Using Extra-Long Swords

Some other schools have a liking for extra-long swords. From the point of view of my strategy these must been seen as weak schools. This is because they do not appreciate the principle of cutting the enemy by any means. Their preference is for the extra-long sword and, relying on the virtue of its length, they think to defeat the enemy from a distance.
In this world it is said, "One inch gives the hand advantage", but these are the idle words of one who does not know strategy. It shows the inferior strategy of a weak spirit that men should be dependent on the length of their sword, fighting from a distance without the benefit of strategy.
I expect there is a case for the school in question liking extra-long swords as part of its doctrine, but if we compare this to real life it is unreasonable. Surely we need not necessarily be defeated if we are using a short sword, and have no long sword?
It is difficult for these people to cut the enemy when at close quarters because of the length of the long sword. The blade path is large so the long sword is an encumbrance, and they are at a disadvantage compared to the man armed with a short companion sword.
From olden times it has been said: "Great and small go together.". So do not unconditionally dislike extra-long swords. What I dislike is the inclination towards the long sword. If we consider large-scale strategy, we can think of large forces in terms of long swords, and small forces as short swords. Cannot few men give battle against many? There are many instances of few men overcoming many.
Your strategy is of no account if when called on to fight in a confined space your heart is inclined to the long sword, or if you are in a house armed only with your companion sword. Besides, some men have not the strength of others.
In my doctrine, I dislike preconceived, narrow spirit. You must study this well.

The Strong Long Sword Spirit in Other Schools

You should not speak of strong and weak long swords. If you just wield the long sword in a strong spirit your cutting will be coarse, and if you use the sword coarsely you will have difficulty in winning.
If you are concerned with the strength of your sword, you will try to cut unreasonably strongly, and will not be able to cut at all. It is also bad to try to cut strongly when testing the sword. Whenever you cross swords with an enemy you must not think of cutting him either strongly or weakly; just think of cutting and killing him. Be intent solely upon killing the enemy. Do not try to cut strongly and, of course, do not think of cutting weakly. You should only be concerned with killing the enemy.
If you rely on strength, when you hit the enemy's sword you will inevitably hit too hard. If you do this, your own sword will be carried along as a result. Thus the saying, "The strongest hand wins", has no meaning.
In large-scale strategy, if you have a strong army and are relying on strength to win, but the enemy also has a strong army, the battle will be fierce. This is the same for both sides.
Without the correct principle the fight cannot be won.
The spirit of my school is to win through the wisdom of strategy, paying no attention to trifles. Study this well.

Use of the Shorter Long Sword in Other Schools

Using a shorter long sword is not the true Way to win.

In ancient times, tachi and katana meant long and short swords. Men of superior strength in the world can wield even a long sword lightly, so there is no case for their liking the short sword. They also make use of the length of spears and halberds. Some men use a shorter long sword with the intention of jumping in and stabbing the enemy at the unguarded moment when he flourishes his sword. This inclination is bad.

To aim for the enemy's unguarded moment is completely defensive, and undesirable at close quarters with the enemy. Furthermore, you cannot use the method of jumping inside his defense with a short sword if there are many enemies. Some men think that if they go against many enemies with a shorter long sword they can unrestrictedly frisk around cutting in sweeps, but they have to parry cuts continuously, and eventually become entangled with the enemy. This is inconsistent with the true Way of strategy.

The sure Way to win thus is to chase the enemy around in confusing manner, causing him to jump aside, with your body held strongly and straight. The same principle applies to large-scale strategy. The essence of strategy is to fall upon the enemy in large numbers and bring about his speedy downfall. By their study of strategy, people of the world get used to countering, evading and retreating as the normal thing. They become set in this habit, so can easily be paraded around by the enemy. The Way of strategy is straight and true. You must chase the enemy around and make him obey your spirit.

Other Schools with many Methods of using the Long Sword

Placing a great deal of importance on the attitudes of the long sword is a mistaken way of thinking. What is known in the world as "attitude" applies when there is no enemy. The reason is that this has been a precedent since ancient times, and there should be no such thing as "This is the modern way to do it" in dueling. You must force the enemy into inconvenient situations.

Attitudes are for situations in which you are not to be moved. That is, for garrisoning castles, battle array, and so on, showing the spirit of not being moved even by a strong assault. In the Way of dueling, however, you must always be intent upon taking the lead and attacking. Attitude is the spirit of awaiting an attack. You must appreciate this.

In duels of strategy you must move the opponent's attitude. Attack where his spirit is lax, throw him into confusion, irritate and terrify him. Take advantage of the enemy's rhythm when he is unsettled and you can win.

I dislike the defensive spirit know as "attitude". Therefore, in my Way, there is something called "Attitude-No Attitude".

In large-scale strategy we deploy our troops for battle bearing in mind our strength, observing the enemy's numbers, and noting the details of the battle field. This is at the start of the battle.

The spirit of attacking first is completely different from the spirit of being attacked. Bearing an attack well, with a strong attitude, and parrying the enemy's attack well, is like making a wall of spears and halberds. When you attack the enemy, your spirit must go to the extent of pulling the stakes out of a wall and using them as spears and halberds. You must examine this well.

Fixing the Eyes in Other Schools

Some schools maintain that the eyes should be fixed on the enemy's long sword. Some schools fix the eyes on the hands. Some fix the eyes on the face, and some fix the eyes on the feet, and so on. If you fix the eyes on these places your spirit can become confused and your strategy thwarted.

I will explain this in detail. Footballers do not fix their eyes on the ball, but by good play on the field they can perform well. When you become accustomed to something, you are not limited to the use of your eyes. People such as master musicians have the music score in front of their nose, or flourish swords in several ways when they

have mastered the Way, but this does not mean that they fix their eyes on these things specifically, or that they make pointless movements of the sword. It means that they can see naturally.
In the Way of strategy, when you have fought many times you will easily be able to appraise the speed and position of the enemy's sword, and having mastery of the Way you will see the weight of his spirit. In strategy, fixing the eyes means gazing at the man's heart.
In large-scale strategy the area to watch is the enemy's strength. "Perception" and "sight" are the two methods of seeing. Perception consists of concentrating strongly on the enemy's spirit, observing the condition of the battlefield, fixing the gaze strongly, seeing the progress of the fight and the changes of advantages. This is the sure way to win.
In single combat you must not fix the eyes on the details. As I said before, if you fix your eyes on details and neglect important things, your spirit will become bewildered, and victory will escape you. Research this principle well and train diligently.
Use of the Feet in Other Schools
There are various methods of using the feet: floating foot, jumping foot, springing foot, treading foot, crow's foot, and such nimble walking methods. From the point of view of my strategy, these are all unsatisfactory.
I dislike floating foot because the feet always tend to float during the fight. The Way must be trod firmly.
Neither do I like jumping foot, because it encourages the habit of jumping, and a jumpy spirit. However much you jump, there is no real justification for it; so jumping is bad.
Springing foot causes a springing spirit which is indecisive.
Treading foot is a "waiting" method, and I especially dislike it.
Apart from these, there are various fast walking methods, such as crow's foot, and so on.
Sometimes, however, you may encounter the enemy on marshland, swampy ground, river valleys, stony ground, or narrow roads, in which situations you cannot jump or move the feet quickly.
In my strategy, the footwork does not change. I always walk as I usually do in the street. You must never lose control of your feet. According to the enemy's rhythm, move fast or slowly, adjusting you body not too much and not too little.
Carrying the feet is important also in large-scale strategy. This is because, if you attack quickly and thoughtlessly without knowing the enemy's spirit, your rhythm will become deranged and you will not be able to win. Or, if you advance too slowly, you will not be able to take advantage of the enemy's disorder, the opportunity to win will escape, and you will not be able to finish the fight quickly. You must win by seizing upon the enemy's disorder and derangement, and by not according him even a little hope of recovery. Practice this well.
Speed in Other Schools
Speed is not part of the true Way of strategy. Speed implies that things seem fast or slow, according to whether or not they are in rhythm. Whatever the Way, the master of strategy does not appear fast.
Some people can walk as fast as a hundred or a hundred and twenty miles in a day, but this does not mean that they run continuously from morning till night. Unpracticed runners may seem to have been running all day, but their performance is poor.
In the Way of dance, accomplished performers can sing while dancing, but when beginners try this they slow down and their spirit becomes busy. The "old pine tree" melody beaten on a leather drum is tranquil, but when beginners try this they slow down and their spirit becomes busy. Very skillful people can manage a fast rhythm,

but it is bad to beat hurriedly. If you try to beat too quickly you will get out of time. Of course, slowness is bad. Really skillful people never get out of time, and are always deliberate, and never appear busy. From this example, the principle can be seen.
What is known as speed is especially bad in the Way of strategy. The reason for this is that depending on the place, marsh or swamp and so on, it may not be possible to move the body and legs together quickly. Still less will you be able to cut quickly if you have a long sword in this situation. If you try to cut quickly, as if using a fan or short sword, you will not actually cut even a little. You must appreciate this.
In large-scale strategy also, a fast busy spirit is undesirable. The spirit must be that of holding down a pillow, then you will not be even a little late.
When your opponent is hurrying recklessly, you must act contrarily and keep calm. You must not be influenced by the opponent. Train diligently to attain this spirit.
"Interior" and "Surface" in Other Schools
There is no "interior" nor "surface" in strategy.
The artistic accomplishments usually claim inner meaning and secret tradition, and "interior" and "gate", but in combat there is no such thing as fighting on the surface, or cutting with the interior. When I teach my Way, I first teach by training in techniques which are easy for the pupil to understand, a doctrine which is easy to understand. I gradually endeavor to explain the deep principle, points which it is hardly possible to comprehend, according to the pupil's progress. In any event, because the way to understanding is through experience, I do not speak of "interior" and "gate".
In this world, if you go into the mountains, and decide to go deeper and yet deeper, instead you will emerge at the gate. Whatever the Way, it has an interior, and it is sometimes a good thing to point out the gate. In strategy, we cannot say what is concealed and what is revealed.
Accordingly I dislike passing on my Way through written pledges and regulations. Perceiving the ability of my pupils, I teach the direct Way, remove the bad influence of other schools, and gradually introduce them to the true Way of the warrior.
The method of teaching my strategy is with a trustworthy spirit. You must train diligently.
I have tried to record an outline of the strategy of other schools in the above nine sections. I could now continue by giving a specific account of these schools one by one, from the "gate" to the "interior", but I have intentionally not named the schools or their main points. The reason for this is that different branches of schools give different interpretations of the doctrines. In as much as men's opinions differ, so there must be differing ideas on the same matter. Thus no one man's conception is valid for any school.
I have shown the general tendencies of other schools on nine points. If we look at them from an honest viewpoint, we see that people always tend to like long swords or short swords, and become concerned with strength in both large and small matters. You can see why I do not deal with the "gates" of other schools.
In my Niten Ichi school of the long sword there is neither gate nor interior. There is no inner meaning in sword attitudes. You must simply keep your spirit true to realize the virtue of strategy.

THE BOOK OF THE VOID

[In Buddhism, void does not imply something lacking, but rather the elimination of what is superfluous.]
I will describe the essence of the Ni To Ichi Way of strategy in this book of the Void. What I call the void is where nothing exists. It is about things outside man's knowledge. Of course the void does not exist. By knowing what exist, you can know

that which does not exist. That is the void.
People in this world look at things mistakenly, and think that what they do not understand must be the void. This is not the true void. It is confusion.
In the Way of strategy, also, those who study as warriors may think that whatever they cannot understand in their craft is the void. Someone like that will continue to be distracted by irrelevant things. This is not the true void.
To attain the Way of strategy as a warrior you must study fully other martial arts and not deviate even a little from the Way of the warrior. With your spirit settled on your duty, you must practice day by day, and hour by hour. Polish the twofold spirit of Shin [heart] and I [will], and sharpen the twofold gaze of ken [perception] and kan [intuition]. When your spirit is not in the least confused, when the clouds of bewilderment are cleared away, there is the true void.
Until you realize the true Way, whether in Buddhism or in worldly laws, you may think that your own way is the one correct and in order. However, if we look at things objectively, in the light of the Straight Way of the Heart or in accordance with the Great Square of the World, we see various doctrines departing from the true Way. What you believe in often proves to be contrary to the true way, distorted as it is by tendencies to favor your own thoughts and views. Know this well, and try to act with forthrightness as the foundation and keep the true Heart as the Way. Enact strategy broadly, correctly and openly.
Then you will come to see things in an all-encompassing sense and, taking the void as the Way, you will see the Way as void.
In the void is virtue, and no evil. Wisdom exists, principle exists, the way exists. Spirit is Void.
[The hyoho of the body and the massive rock are both shown in Ku (emptiness). Musashi says to make your emptiness your way, and your way your emptiness. The word Ku is entirely good and contains no evil. It is a world of great wisdom which goes beyond human intellect. It benefits yourself and others, the world of Daijo (the great vehicle). It is a world in which one agrees to the true way, at any time, in any place, and agrees with many people. However, the mind presented in Gorin no Sho is the spiritual mind which frees itself from ego. Musashi called this the hyoho of Jisso-enmon (the ultimate reality and perfection), in which one receives peacefully, thankfully, everything in the world for what it is, good or bad, for the benefit of oneself and others.]
Twelfth day of the fifth month, second year of Shoho (1645)
Teruro Magonojo
SHINMEN MUSASHI

Legal Source Texts
book 1: Ancient and BC texts
section 3. the Mediterranean
Part 1. The Democratic Reforms of Solon
1A. historical background
upon Solon's reforms
Economic and ideological rivalry
Regional rivalry
Rvalry between clans
Solon's reforms themselves
1B. extent source text
The Athenian Constitution (1-69)

1A. historical background

upon Solon's reforms

During Solon's time, many Greek city-states had seen the emergence of tyrants, opportunistic noblemen who had taken power on behalf of sectional interests. In Sicyon, Cleisthenes had usurped power on behalf of an Ionian minority. In Megara, Theagenes had come to power as an enemy of the local oligarchs. The son-in-law of Theagenes, an Athenian nobleman named Cylon, made an unsuccessful attempt to seize power in Athens in 632 BC. Solon was described by Plutarch as having been temporarily awarded autocratic powers by Athenian citizens on the grounds that he had the "wisdom" to sort out their differences for them in a peaceful and equitable manner. According to ancient sources, he obtained these powers when he was elected eponymous archon (594/3 BC). Some modern scholars believe these powers were in fact granted some years after Solon had been archon, when he would have been a member of the Areopagus and probably a more respected statesman by his (aristocratic) peers.

The social and political upheavals that characterised Athens in Solon's time have been variously interpreted by historians from ancient times to the present day. Two contemporary historians have identified three distinct historical accounts of Solon's Athens, emphasizing quite different rivalries: economic and ideological rivalry, regional rivalry and rivalry between aristocratic clans. These different accounts provide a convenient basis for an overview of the issues involved.

- **Economic and ideological rivalry** is a common theme in ancient sources. This sort of account emerges from Solon's poems (e.g. see below Solon the reformer and poet), in which he casts himself in the role of a noble mediator between two intemperate and unruly factions. This same account is substantially taken up about three centuries later by the author of the Aristotelian *Athenaion Politeia* but with an interesting variation:

"...there was conflict between the nobles and the common people for an extended period. For the constitution they were under was oligarchic in every respect and especially in that the poor, along with their wives and children, were in slavery to the rich...All the land was in the hands of a few. And if men did not pay their rents, they themselves and their children were liable to be seized as slaves. The security for all loans was the debtor's person up to the time of Solon. He was the first people's champion."

Here Solon is presented as a partisan in a democratic cause whereas, judged from the viewpoint of his own poems, he was instead a mediator between rival factions. A still more significant variation in the ancient historical account appears in the writing of Plutarch in the late 1st – early 2nd century AD:

"Athens was torn by recurrent conflict about the constitution. The city was divided into as many parties as there were geographical divisions in its territory. For the party of the people of the hills was most in favour of democracy, that of the people of the plain was most in favour of oligarchy, while the third group, the people of the coast, which preferred a mixed form of constitution somewhat between the other two, formed an obstruction and prevented the other groups from gaining control."

- **Regional rivalry** is a theme commonly found among modern scholars.

"The new picture which emerged was one of strife between regional groups, united by local loyalties and led by wealthy landowners. Their goal was control of the central government at Athens and with it dominance over their rivals from other districts of Attika."

Regional factionalism was inevitable in a relatively large territory such as Athens possessed. In most Greek city states, a farmer could conveniently reside in town and travel to and from his fields every day. According to Thucydides, on the other hand,

most Athenians continued to live in rural settlements right up until the Peloponnesian War. The effects of regionalism in a large territory could be seen in Laconia, where Sparta had gained control through intimidation and resettlement of some of its neighbours and enslavement of the rest. Attika in Solon's time seemed to be moving towards a similarly ugly solution with many citizens in danger of being reduced to the status of helots.

- **Rivalry between clans** is a theme recently developed by some scholars, based on an appreciation of the political significance of kinship groupings. According to this account, bonds of kinship rather than local loyalties were the decisive influence on events in archaic Athens. An Athenian belonged not only to a phyle or tribe and one of its subdivisions, the phratry or brotherhood, but also to an extended family, clan or genos. It has been argued that these interconnecting units of kinship reinforced a hierarchic structure with aristocratic clans at the top. Thus rivalries between aristocratic clans could engage all levels of society irrespective of any regional ties. In that case, the struggle between rich and poor was the struggle between powerful aristocrats and the weaker affiliates of their rivals or perhaps even with their own rebellious affiliates.

The historical account of Solon's Athens has evolved over many centuries into a set of contradictory stories or a complex story that might be interpreted in a variety of ways. As further evidence accumulates, and as historians continue to debate the issues, Solon's motivations and the intentions behind his reforms will continue to attract speculation.

Solon's reforms themselves

Solon's laws were inscribed on large wooden slabs or cylinders attached to a series of axles that stood upright in the Prytaneum. These *axones* appear to have operated on the same principle as a Lazy Susan, allowing both convenient storage and ease of access. Originally the axones recorded laws enacted by Draco in the late 7th Century (traditionally 621 BC). Nothing of Draco's codification has survived except for a law relating to homicide, yet there is consensus among scholars that it did not amount to anything like a constitution. Solon repealed all Draco's laws except those relating to homicide. Fragments of the axones were still visible in Plutarch's time but today the only records we have of Solon's laws are fragmentary quotes and comments in literary sources such as those written by Plutarch himself. Moreover, the language of his laws was archaic even by the standards of the fifth century and this caused interpretational problems for ancient commentators. Modern scholars doubt the reliability of these sources and our knowledge of Solon's legislation is therefore actually very limited in its details.

Generally, Solon's reforms appear to have been constitutional, economic and moral in their scope. This distinction, though somewhat artificial, does at least provide a convenient framework within which to consider the laws that have been attributed to Solon. Some short term consequences of his reforms are considered at the end of the section.

1B. extent source text

350 BC
THE ATHENIAN CONSTITUTION
by Aristotle

1

...[They were tried] by a court empanelled from among the noble families, and sworn upon the sacrifices. The part of accuser was taken by Myron. They were found guilty of the sacrilege, and their bodies were cast out of their graves and their race banished for evermore. In view of this expiation, Epimenides the Cretan performed a purification of the city.

2

After this event there was contention for a long time between the upper classes and the populace. Not only was the constitution at this time oligarchical in every respect, but the poorer classes, men, women, and children, were the serfs of the rich. They were known as Pelatae and also as Hectemori, because they cultivated the lands of the rich at the rent thus indicated. The whole country was in the hands of a few persons, and if the tenants failed to pay their rent they were liable to be haled into slavery, and their children with them. All loans secured upon the debtor's person, a custom which prevailed until the time of Solon, who was the first to appear as the champion of the people. But the hardest and bitterest part of the constitution in the eyes of the masses was their state of serfdom. Not but what they were also discontented with every other feature of their lot; for, to speak generally, they had no part nor share in anything.

3

Now the ancient constitution, as it existed before the time of Draco, was organized as follows. The magistrates were elected according to qualifications of birth and wealth. At first they governed for life, but subsequently for terms of ten years. The first magistrates, both in date and in importance, were the King, the Polemarch, and the Archon. The earliest of these offices was that of the King, which existed from ancestral antiquity. To this was added, secondly, the office of Polemarch, on account of some of the kings proving feeble in war; for it was on this account that Ion was invited to accept the post on an occasion of pressing need. The last of the three offices was that of the Archon, which most authorities state to have come into existence in the time of Medon. Others assign it to the time of Acastus, and adduce as proof the fact that the nine Archons swear to execute their oaths 'as in the days of Acastus,' which seems to suggest that it was in his time that the descendants of Codrus retired from the kingship in return for the prerogatives conferred upon the Archon. Whichever way it may be, the difference in date is small; but that it was the last of these magistracies to be created is shown by the fact that the Archon has no

part in the ancestral sacrifices, as the King and the Polemarch have, but exclusively in those of later origin. So it is only at a comparatively late date that the office of Archon has become of great importance, through the dignity conferred by these later additions. The Thesmothetae were many years afterwards, when these offices had already become annual, with the object that they might publicly record all legal decisions, and act as guardians of them with a view to determining the issues between litigants. Accordingly their office, alone of those which have been mentioned, was never of more than annual duration.

Such, then, is the relative chronological precedence of these offices. At that time the nine Archons did not all live together. The King occupied the building now known as the Boculium, near the Prytaneum, as may be seen from the fact that even to the present day the marriage of the King's wife to Dionysus takes place there. The Archon lived in the Prytaneum, the Polemarch in the Epilyceum. The latter building was formerly called the Polemarcheum, but after Epilycus, during his term of office as Polemarch, had rebuilt it and fitted it up, it was called the Epilyceum. The Thesmothetae occupied the Thesmotheteum. In the time of Solon, however, they all came together into the Thesmotheteum. They had power to decide cases finally on their own authority, not, as now, merely to hold a preliminary hearing. Such then was the arrangement of the magistracies. The Council of Areopagus had as its constitutionally assigned duty the protection of the laws; but in point of fact it administered the greater and most important part of the government of the state, and inflicted personal punishments and fines summarily upon all who misbehaved themselves. This was the natural consequence of the facts that the Archons were elected under qualifications of birth and wealth, and that the Areopagus was composed of those who had served as Archons; for which latter reason the membership of the Areopagus is the only office which has continued to be a life-magistracy to the present day.

4

Such was, in outline, the first constitution, but not very long after the events above recorded, in the archonship of Aristaichmus, Draco enacted his ordinances. Now his constitution had the following form. The franchise was given to all who could furnish themselves with a military equipment. The nine Archons and the Treasurers were elected by this body from persons possessing an unencumbered property of not less than ten minas, the less important officials from those who could furnish themselves with a military equipment, and the generals [Strategi] and commanders of the cavalry [Hipparchi] from those who could show an unencumbered property of not less than a hundred minas, and had children born in lawful wedlock over ten years of age. These officers were required to hold to bail the Prytanes, the Strategi, and the Hipparchi of the preceding year until their accounts had been audited, taking four securities of the same class as that to which the Strategi and the Hipparchi belonged. There was also to be a Council, consisting of four hundred and one members, elected by

lot from among those who possessed the franchise. Both for this and for the other magistracies the lot was cast among those who were over thirty years of age; and no one might hold office twice until every one else had had his turn, after which they were to cast the lot afresh. If any member of the Council failed to attend when there was a sitting of the Council or of the Assembly, he paid a fine, to the amount of three drachmas if he was a Pentacosiomedimnus, two if he was
a Knight, and One if he was a Zeugites. The Council of Areopagus was guardian of the laws, and kept watch over the magistrates to see that they executed their offices in accordance with the laws. Any person who felt himself wronged might lay an information before the Council of Areopagus, on declaring what law was broken by the wrong done to him. But, as has been said before, loans were secured upon the persons of the debtors, and the land was in the hands of a few.

5

Since such, then, was the organization of the constitution, and the many were in slavery to the few, the people rose against the upper class. The strife was keen, and for a long time the two parties were ranged in hostile camps against one another, till at last, by common consent, they appointed Solon to be mediator and Archon, and committed
the whole constitution to his hands. The immediate occasion of his appointment was his poem, which begins with the words:

I behold, and within my heart deep sadness has claimed its place,
As I mark the oldest home of the ancient Ionian race
Slain by the sword.

In this poem he fights and disputes on behalf of each party in turn against the other, and finally he advises them to come to terms and put an end to the quarrel existing between them. By birth and reputation Solon was one of the foremost men of the day, but in wealth and position he was of the middle class, as is generally agreed, and is, indeed, established by his own evidence in these poems, where he exhorts the wealthy not to be grasping.

But ye who have store of good, who are sated and overflow,
Restrain your swelling soul, and still it and keep it low:
Let the heart that is great within you he trained a lowlier way;
Ye shall not have all at your will, and we will not for ever obey.

Indeed, he constantly fastens the blame of the conflict on the rich; and accordingly at the beginning of the poem he says that he fears' the love of wealth and an overweening mind', evidently meaning that it was through these that the quarrel arose.

6

As soon as he was at the head of affairs, Solon liberated the people once and for all, by prohibiting all loans on the security of the debtor's person: and in addition he made laws by which he cancelled

all debts, public and private. This measure is commonly called the Seisachtheia [= removal of burdens], since thereby the people had their loads removed from them. In connexion with it some persons try to traduce the character of Solon. It so happened that, when he was about to enact the Seisachtheia, he communicated his intention to some members of the upper class, whereupon, as the partisans of the popular party say, his friends stole a march on him; while those who wish to attack his character maintain that he too had a share in the fraud himself. For these persons borrowed money and bought up a large amount of land, and so when, a short time afterwards, all debts were cancelled, they became wealthy; and this, they say, was the origin of the families which were afterwards looked on as having been wealthy from primeval times. However, the story of the popular party is by far the most probable. A man who was so moderate and public-spirited in all his other actions, that when it was within his power to put his fellow-citizens beneath his feet and establish himself as tyrant, he preferred instead to incur the hostility of both parties by placing his honour and the general welfare above his personal aggrandisement, is not likely to have consented to defile his hands by such a petty and palpable fraud. That he had this absolute power is, in the first place, indicated by the desperate condition the country; moreover, he mentions it himself repeatedly in his poems, and it is universally admitted. We are therefore bound to consider this accusation to be false.

7

Next Solon drew up a constitution and enacted new laws; and the ordinances of Draco ceased to be used, with the exception of those relating to murder. The laws were inscribed on the wooden stands, and set up in the King's Porch, and all swore to obey them; and the nine Archons made oath upon the stone, declaring that they would dedicate a golden statue if they should transgress any of them. This is the origin of the oath to that effect which they take to the present day. Solon ratified his laws for a hundred years; and the following was the fashion in which he organized the constitution. He divided the population according to property into four classes, just as it had been divided before, namely, Pentacosiomedimni, Knights, Zeugitae, and Thetes. The various magistracies, namely, the nine Archons, the Treasurers, the Commissioners for Public Contracts (Poletae), the Eleven, and Clerks (Colacretae), he assigned to the Pentacosiomedimni, the Knights, and the Zeugitae, giving offices to each class in proportion to the value of their rateable property. To who ranked among the Thetes he gave nothing but a place in the Assembly and in the juries. A man had to rank as a Pentacosiomedimnus if he made, from his own land, five hundred measures, whether liquid or solid. Those ranked as Knights who made three hundred measures, or, as some say, those who were able to maintain a horse. In support of the latter definition they adduce the name of the class, which may be supposed to be derived from this fact, and also some votive offerings of early times; for in the Acropolis there is a votive offering, a statue of Diphilus, bearing

this inscription:

The son of Diphilus, Athenion hight,
Raised from the Thetes and become a knight,
Did to the gods this sculptured charger bring,
For his promotion a thank-offering.

And a horse stands in evidence beside the man, implying that this was what was meant by belonging to the rank of Knight. At the same time it seems reasonable to suppose that this class, like the Pentacosiomedimni, was defined by the possession of an income of a certain number of measures. Those ranked as Zeugitae who made two hundred measures, liquid or solid; and the rest ranked as Thetes, and were not eligible for any office. Hence it is that even at the present day, when a candidate for any office is asked to what class he belongs, no one would think of saying that he belonged to the Thetes.

8

The elections to the various offices Solon enacted should be by lot, out of candidates selected by each of the tribes. Each tribe selected ten candidates for the nine archonships, and among these the lot was cast. Hence it is still the custom for each tribe to choose ten candidates by lot, and then the lot is again cast among these. A proof that Solon regulated the elections to office according to the property classes may be found in the law still in force with regard to the Treasurers, which enacts that they shall be chosen from the Pentacosiomedimni. Such was Solon's legislation with respect to the nine Archons; whereas in early times the Council of Areopagus summoned suitable persons according to its own judgement and
appointed them for the year to the several offices. There were four tribes, as before, and four tribe-kings. Each tribe was divided into three Trittyes [=Thirds], with twelve Naucraries in each; and the Naucraries had officers of their own, called Naucrari, whose duty it was to superintend the current receipts and expenditure. Hence, among the laws of Solon now obsolete, it is repeatedly written that the Naucrari are to receive and to spend out of the Naucraric fund. Solon also appointed a Council of four hundred, a hundred from each tribe; but he assigned to the Council of the Areopagus the duty of superintending the laws, acting as before as the guardian of the constitution in general. It kept watch over the affairs of the state in most of the more important matters, and corrected offenders, with full powers to inflict either fines or personal punishment. The money received in fines it brought up into the Acropolis, without assigning the reason for the mulct. It also tried those who conspired for the overthrow of the state, Solon having enacted a process of impeachment to deal with such offenders. Further, since he saw the state often engaged in internal disputes, while many of the citizens from sheer indifference accepted whatever might turn up, he made a law with express reference to such persons, enacting that any one who, in a time civil factions, did not take up arms with either party, should lose his rights as a citizen and cease to have any part in the state.

9

Such, then, was his legislation concerning the magistracies. There are three points in the constitution of Solon which appear to be its most democratic features: first and most important, the prohibition of loans on the security of the debtor's person; secondly, the right of every person who so willed to claim redress on behalf of any one to whom wrong was being done; thirdly, the institution of the appeal to the jurycourts; and it is to this last, they say, that the masses have owed their strength most of all, since, when the democracy is master of the voting-power, it is master of the constitution. Moreover, since the laws were not drawn up in simple and explicit terms (but like the one concerning inheritances and wards of state), disputes inevitably occurred, and the courts had to decide in every matter, whether public or private. Some persons in fact believe that Solon deliberately made the laws indefinite, in order that the final decision might be in the hands of the people. This, however, is not probable, and the reason no doubt was that it is impossible to attain ideal perfection when framing a law in general terms; for we must judge of his intentions, not from the actual results in the present day, but from the general tenor of the rest of his legislation.

10

These seem to be the democratic features of his laws; but in addition, before the period of his legislation, he carried through his abolition of debts, and after it his increase in the standards of weights and measures, and of the currency. During his administration the measures were made larger than those of Pheidon, and the mina, which previously had a standard of seventy drachmas, was raised to the full hundred. The standard coin in earlier times was the two-drachma piece. He also made weights corresponding with the coinage, sixty-three minas going to the talent; and the odd three minas were distributed among the staters and the other values.

11

When he had completed his organization of the constitution in the manner that has been described, he found himself beset by people coming to him and harassing him concerning his laws, criticizing here and questioning there, till, as he wished neither to alter what he had decided on nor yet to be an object of ill will to every one by remaining in Athens, he set off on a journey to Egypt, with the combined objects of trade and travel, giving out that he should not return for ten years. He considered that there was no call for him to expound the laws personally, but that every one should obey them just as they were written. Moreover, his position at this time was unpleasant. Many members of the upper class had been estranged from him on account of his abolition of debts, and both parties were alienated through their disappointment at the condition of things which he had created. The mass of the people had expected him to make a complete redistribution of all property, and the upper class

hoped he would restore everything to its former position, or, at any rate, make but a small change. Solon, however, had resisted both classes. He might have made himself a despot by attaching himself to whichever party he chose, but he preferred, though at the cost of incurring the enmity of both, to be the saviour of his country and the ideal lawgiver.

12

The truth of this view of Solon's policy is established alike by common consent, and by the mention he has himself made of the matter in his poems. Thus:

I gave to the mass of the people such rank as befitted their need,
I took not away their honour, and I granted naught to their greed;
While those who were rich in power, who in wealth were glorious and great,
I bethought me that naught should befall them unworthy their splendour and state;
So I stood with my shield outstretched, and both were sale in its sight,
And I would not that either should triumph, when the triumph was not with right.

Again he declares how the mass of the people ought to be treated:

But thus will the people best the voice of their leaders obey,
When neither too slack is the rein, nor violence holdeth the sway;
For indulgence breedeth a child, the presumption that spurns control,
When riches too great are poured upon men of unbalanced soul.

And again elsewhere he speaks about the persons who wished to redistribute the land:

So they came in search of plunder, and their cravings knew no hound,
Every one among them deeming endless wealth would here be found.
And that I with glozing smoothness hid a cruel mind within.
Fondly then and vainly dreamt they; now they raise an angry din,
And they glare askance in anger, and the light within their eyes
Burns with hostile flames upon me. Yet therein no justice lies.
All I promised, fully wrought I with the gods at hand to cheer,
Naught beyond in folly ventured. Never to my soul was dear
With a tyrant's force to govern, nor to see the good and base
Side by side in equal portion share the rich home of our race.

Once more he speaks of the abolition of debts and of those who before were in servitude, but were released owing to the Seisachtheia:

Of all the aims for which I summoned forth
The people, was there one I compassed not?
Thou, when slow time brings justice in its train,
O mighty mother of the Olympian gods,
Dark Earth, thou best canst witness, from whose breast
I swept the pillars broadcast planted there,

And made thee free, who hadst been slave of yore.
And many a man whom fraud or law had sold
For from his god-built land, an outcast slave,
I brought again to Athens; yea, and some,
Exiles from home through debt's oppressive load,
Speaking no more the dear ATHENIAN tongue,
But wandering far and wide, I brought again;
And those that here in vilest slavery
Crouched 'neath a master's frown, I set them free.
Thus might and right were yoked in harmony,
Since by the force of law I won my ends
And kept my promise. Equal laws I gave
To evil and to good, with even hand
Drawing straight justice for the lot of each.
But had another held the goad as
One in whose heart was guile and greediness,
He had not kept the people back from strife.
For had I granted, now what pleased the one,
Then what their foes devised in counterpoise,
Of many a man this state had been bereft.
Therefore I showed my might on every side,
Turning at bay like wolf among the hounds.

And again he reviles both parties for their grumblings in the times that followed:

Nay, if one must lay blame where blame is due,
Wer't not for me, the people ne'er had set
Their eyes upon these blessings e'en in dreams:-
While greater men, the men of wealthier life,
Should praise me and should court me as their friend.

For had any other man, he says, received this exalted post,

He had not kept the people hack, nor ceased
Til he had robbed the richness of the milk.
But I stood forth a landmark in the midst,
And barred the foes from battle.

13

Such then, were Solon's reasons for his departure from the country. After his retirement the city was still torn by divisions. For four years, indeed, they lived in peace; but in the fifth year after Solon's government they were unable to elect an Archon on account of their dissensions, and again four years later they elected no Archon for the same reason. Subsequently, after a similar period had elapsed, Damasias was elected Archon; and he governed for two years and two months, until he was forcibly expelled from his office. After this, it was agreed, as a compromise, to elect ten Archons, five from the Eupatridae, three from the Agroeci, and two from the Demiurgi, and they ruled for the year following Damasias. It is clear from this that the Archon was at the time the magistrate who possessed the greatest power, since it is always in connexion with

this office that conflicts are seen to arise. But altogether they were in a continual state of internal disorder. Some found the cause and justification of their discontent in the abolition of debts, because thereby they had been reduced to poverty; others were dissatisfied with the political constitution, because it had undergone a revolutionary change; while with others the motive was found in personal rivalries among themselves. The parties at this time were three in number. First there was the party of the Shore, led by Megacles the son of Alcmeon, which was considered to aim at a moderate form of government; then there were the men of the Plain, who desired an oligarchy and were led by Lycurgus; and thirdly there were the men of the Highlands, at the head of whom was Pisistratus, who was looked on as an extreme democrat. This latter party was reinforced by those who had been deprived of the debts due to them, from motives of poverty, and by those who were not of pure descent, from motives of personal apprehension. A proof of this is seen in the fact that after the tyranny was overthrown a revision was made of the citizen-roll, on the ground that many persons were partaking in the franchise without having a right to it. The names given to the respective parties were derived from the districts in which they held their lands.

14

Pisistratus had the reputation of being an extreme democrat, and he also had distinguished himself greatly in the war with Megara. Taking advantage of this, he wounded himself, and by representing that his injuries had been inflicted on him by his political rivals, he persuaded the people, through a motion proposed by Aristion, to grant him a bodyguard. After he had got these 'club-bearers', as they were called, he made an attack with them on the people and seized the Acropolis. This happened in the archonship of Comeas, thirty-one years after the legislation of Solon. It is related that, when Pisistratus asked for his bodyguard, Solon opposed the request, and declared that in so doing he proved himself wiser than half the people and braver than the rest,-wiser than those who did not see that Pisistratus designed to make himself tyrant, and braver than those who saw it and kept silence. But when all his words availed nothing he carried forth his armour and set it up in front of his house, saying that he had helped his country so far as lay in his power (he was already a very old man), and that he called on all others to do the same. Solon's exhortations, however, proved fruitless, and Pisistratus assumed the sovereignty. His administration was more like a constitutional government than the rule of a tyrant; but before his power was firmly established, the adherents of Megacles and Lycurgus made a coalition and drove him out. This took place in the archonship of Hegesias, five years after the first establishment of his rule. Eleven years later Megacles, being in difficulties in a party struggle, again opened-negotiations with Pisistratus, proposing that the latter should marry his daughter; and on these terms he brought him back to Athens, by a very primitive and simple-minded device. He first spread abroad a rumour that Athena was bringing back Pisistratus, and then, having found a woman of great stature and beauty, named Phye (according to Herodotus, of the deme of

Paeania, but as others say a Thracian flower-seller of the deme of Collytus), he dressed her in a garb resembling that of the goddess and brought her into the city with Pisistratus. The latter drove in on a chariot with the woman beside him, and the inhabitants of the city, struck with awe, received him with adoration.

15

In this manner did his first return take place. He did not, however, hold his power long, for about six years after his return he was again expelled. He refused to treat the daughter of Megacles as his wife, and being afraid, in consequence, of a combination of the two opposing parties, he retired from the country. First he led a colony to a place called Rhaicelus, in the region of the Thermaic gulf; and thence he passed to the country in the neighbourhood of Mt. Pangaeus. Here he acquired wealth and hired mercenaries; and not till ten years had elapsed did he return to Eretria and make an attempt to recover the government by force. In this he had the assistance of many allies, notably the Thebans and Lygdamis of Naxos, and also the Knights who held the supreme power in the constitution of Eretria. After his victory in the battle at Pallene he captured Athens, and when he had disarmed the people he at last had his tyranny securely established, and was able to take Naxos and set up Lygdamis as ruler there. He effected the disarmament of the people in the following manner. He ordered a parade in full armour in the Theseum, and began to make a speech to the people. He spoke for a short time, until the people called out that they could not hear him, whereupon he bade them come up to the entrance of the Acropolis, in order that his voice might be better heard. Then, while he continued to speak to them at great length, men whom he had appointed for the purpose collected the arms and locked them up in the chambers of the Theseum hard by, and came and made a signal to him that it was done. Pisistratus accordingly, when he had finished the rest of what he had to say, told the people also what had happened to their arms; adding that they were not to be surprised or alarmed, but go home and attend to their private affairs, while he would himself for the future manage all the business of the state.

16

Such was the origin and such the vicissitudes of the tyranny of Pisistratus. His administration was temperate, as has been said before, and more like constitutional government than a tyranny. Not only was he in every respect humane and mild and ready to forgive those who offended, but, in addition, he advanced money to the poorer people to help them in their labours, so that they might make their living by agriculture. In this he had two objects, first that they might not spend their time in the city but might be scattered over all the face of the country, and secondly that, being moderately well off and occupied with their own business, they might have neither the wish nor the time to attend to public affairs. At the same time his revenues were increased by the thorough cultivation of the country, since he imposed a tax of one tenth on all the produce. For the same reasons he instituted the local justices,' and often made

expeditions in person into the country to inspect it and to settle disputes between individuals, that they might not come into the city and neglect their farms. It was in one of these progresses that, as the story goes, Pisistratus had his adventure with the man of Hymettus, who was cultivating the spot afterwards known as 'Tax-free Farm'. He saw a man digging and working at a very stony piece of ground, and being surprised he sent his attendant to ask what he got out of this plot of land. 'Aches and pains', said the man; 'and that's what Pisistratus ought to have his tenth of'. The man spoke without knowing who his questioner was; but Pisistratus was so leased with his frank speech and his industry that he granted him exemption from all taxes. And so in matters in general he burdened the people as little as possible with his government, but always cultivated peace and kept them in all quietness. Hence the tyranny of Pisistratus was often spoken of proverbially as 'the age of gold'; for when his sons succeeded him the government became much harsher. But most important
of all in this respect was his popular and kindly disposition. In all things he was accustomed to observe the laws, without giving himself any exceptional privileges. Once he was summoned on a charge of homicide before the Areopagus, and he appeared in person to make his defence; but the prosecutor was afraid to present himself and abandoned the case. For these reasons he held power long, and whenever
he was expelled he regained his position easily. The majority alike of the upper class and of the people were in his favour; the former he won by his social intercourse with them, the latter by the assistance which he gave to their private purses, and his nature fitted him to win the hearts of both. Moreover, the laws in reference to tyrants at that time in force at Athens were very mild, especially the one which applies more particularly to the establishment of a tyranny. The law ran as follows: 'These are the ancestral statutes of the ATHENIANs; if any persons shall make an attempt to establish a tyranny, or if any person shall join in setting up a tyranny, he shall lose his civic rights, both himself and his whole house.'

17

Thus did Pisistratus grow old in the possession of power, and he died a natural death in the archonship of Philoneos, three and thirty years from the time at which he first established himself as tyrant, during nineteen of which he was in possession of power; the rest he spent in exile. It is evident from this that the story is mere gossip which states that Pisistratus was the youthful favourite of Solon and commanded in the war against Megara for the recovery of Salamis. It will not harmonize with their respective ages, as any one may see who will reckon up the years of the life of each of them, and the dates at which they died. After the death of Pisistratus his sons took up the government, and conducted it on the same system. He had two sons by his first and legitimate wife, Hippias and Hipparchus, and two by his Argive consort, Iophon and Hegesistratus, who was surnamed Thessalus. For Pisistratus took a wife from Argos, Timonassa, the daughter of a man of Argos, named Gorgilus;

she had previously been the wife of Archinus of Ambracia, one of the descendants of Cypselus. This was the origin of his friendship with the Argives, on account of which a thousand of them were brought over by Hegesistratus and fought on his side in the battle at Pallene. Some authorities say that this marriage took place after his first expulsion from Athens, others while he was in possession of the government.

18

Hippias and Hipparchus assumed the control of affairs on grounds alike of standing and of age; but Hippias, as being also naturally of a statesmanlike and shrewd disposition, was really the head of the government. Hipparchus was youthful in disposition, amorous, and fond of literature (it was he who invited to Athens Anacreon, Simonides, and the other poets), while Thessalus was much junior in age, and was violent and headstrong in his behaviour. It was from his character that all the evils arose which befell the house. He became enamoured of Harmodius, and, since he failed to win his affection, he lost all restraint upon his passion, and in addition to other exhibitions of rage he finally prevented the sister of Harmodius from taking the part of a basket-bearer in the Panathenaic procession, alleging as his reason that Harmodius was a person of loose life. Thereupon, in a frenzy of wrath, Harmodius and Aristogeiton did their celebrated deed, in conjunction with a number of confederates. But while they were lying in wait for Hippias in the Acropolis at the time of the Panathenaea (Hippias, at this moment, was awaiting the arrival of the procession, while Hipparchus was organizing its dispatch) they saw one of the persons privy to the plot talking familiarly with him. Thinking that he was betraying them, and desiring to do something before they were arrested, they rushed down and made their attempt without waiting for the rest of their confederates. They succeeded in killing Hipparchus near the Leocoreum while he was engaged in arranging the procession, but ruined
the design as a whole; of the two leaders, Harmodius was killed on the spot by the guards, while Aristogeiton was arrested, and perished later after suffering long tortures. While under the torture he accused many persons who belonged by birth to the most distinguished families and were also personal friends of the tyrants. At first the government could find no clue to the conspiracy; for the current story, that Hippias made all who were taking part in the procession leave their arms, and then detected those who were carrying secret daggers, cannot be true, since at that time they did not bear arms in the processions, this being a custom instituted at a later period by the democracy. According to the story of the popular party, Aristogeiton accused the friends of the tyrants with the deliberate intention that the latter might commit an impious act, and at the same time weaken themselves, by putting to death innocent men who were their own friends; others say that he told no falsehood, but was betraying the actual accomplices. At last, when for all his efforts he could not obtain release by death, he promised to give further information against a number of other persons; and, having induced Hippias to give him his hand to confirm his word, as soon as he had

hold of it he reviled him for giving his hand to the murderer of his brother, till Hippias, in a frenzy of rage, lost control of himself and snatched out his dagger and dispatched him.

19

After this event the tyranny became much harsher. In consequence of his vengeance for his brother, and of the execution and banishment of a large number of persons, Hippias became a distrusted and an embittered man. About three years after the death of Hipparchus, finding his position in the city insecure, he set about fortifying Munichia, with the intention of establishing himself there. While he was still engaged on this work, however, he was expelled by Cleomenes, king of Lacedaemon, in consequence of the Spartans being continually incited by oracles to overthrow the tyranny. These oracles were obtained in the following way. The Athenian exiles, headed by the Alcmeonidae, could not by their own power effect their return, but failed continually in their attempts. Among their other failures, they fortified a post in Attica, Lipsydrium, above Mt. Parnes, and were there joined by some partisans from the city; but they were besieged by the tyrants and reduced to surrender. After this disaster the following became a popular drinking song:

Ah! Lipsydrium, faithless friend!
Lo, what heroes to death didst send,
Nobly born and great in deed!
Well did they prove themselves at need
Of noble sires a noble seed.

Having failed, then, in very other method, they took the contract for rebuilding the temple at Delphi, thereby obtaining ample funds, which they employed to secure the help of the Lacedaemonians. All this time the Pythia kept continually enjoining on the Lacedaemonians who came to consult the oracle, that they must free Athens; till finally she succeeded in impelling the Spartans to that step, although the house of Pisistratus was connected with them by ties of hospitality. The resolution of the Lacedaemonians was, however, at least equally due to the friendship which had been formed between the house of Pisistratus and Argos. Accordingly they first sent Anchimolus by sea at the head of an army; but he was defeated and killed, through the arrival of Cineas of Thessaly to support the sons of Pisistratus with a force of a thousand horsemen. Then, being roused to anger by this disaster, they sent their king, Cleomenes, by land at the head of a larger force; and he, after defeating the Thessalian cavalry when they attempted to intercept his march into Attica, shut up Hippias within what was known as the Pelargic wall and blockaded him there with the assistance of the Athenians. While he was sitting down before the place, it so happened that the sons of the Pisistratidae were captured in an attempt to slip out; upon which the tyrants capitulated on condition of the safety of their children, and surrendered the Acropolis to the Athenians, five days being first allowed them to remove their effects. This took place in the archonship of Harpactides, after they had held the tyranny for about seventeen years since their father's death, or in all, including the period of their

father's rule, for nine-and-forty years.

20

After the overthrow of the tyranny, the rival leaders in the state were Isagoras son of Tisander, a partisan of the tyrants, and Cleisthenes, who belonged to the family of the Alcmeonidae. Cleisthenes, being beaten in the political clubs, called in the people by giving the franchise to the masses. Thereupon Isagoras, finding himself left inferior in power, invited Cleomenes, who was united to him by ties of hospitality, to return to Athens, and persuaded him to 'drive out the pollution', a plea derived from the fact that the Alcmeonidae were suppposed to be under the curse of pollution. On this Cleisthenes retired from the country, and Cleomenes, entering Attica with a small force, expelled, as polluted, seven hundred Athenian families. Having effected this, he next attempted to dissolve the Council, and to set up Isagoras and three hundred of his partisans as the supreme power in the state. The Council, however, resisted, the populace flocked together, and Cleomenes and Isagoras, with their adherents, took refuge in the Acropolis. Here the people sat down and besieged them for two days; and on the third they agreed to let Cleomenes and all his followers de art, while they summoned Cleisthenes and the other exiles back to Athens. When the people had thus obtained the command of affairs, Cleisthenes was their chief and popular leader. And this was natural; for the Alcmeonidae were perhaps the chief cause of the expulsion of the tyrants, and for the greater part of their rule were at perpetual war with them. But even earlier than the attempts of the Alcmeonidae, one Cedon made an attack on the tyrants; when there came another popular drinking song, addressed to him:

Pour a health yet again, boy, to Cedon; forget not this duty to do,
If a health is an honour befitting the name of a good man and true.

21

The people, therefore, had good reason to place confidence in Cleisthenes. Accordingly, now that he was the popular leader, three years after the expulsion of the tyrants, in the archonship of Isagoras, his first step was to distribute the whole population into ten tribes in place of the existing four, with the object of intermixing the members of the different tribes, and so securing that more persons might have a share in the franchise. From this arose the saying 'Do not look at the tribes', addressed to those who wished to scrutinize the lists of the old families. Next he made the Council to consist of five hundred members instead of four hundred, each tribe now contributing fifty, whereas formerly each had sent a hundred. The reason why he did not organize the people into twelve tribes was that he might not have to use the existing division into trittyes; for the four tribes had twelve trittyes, so that he would not have achieved his object of redistributing the population in fresh combinations. Further, he divided the country into thirty groups of demes, ten from the districts about the city, ten from the coast, and ten from the interior. These he called trittyes; and he assigned

three of them by lot to each tribe, in such a way that each should have one portion in each of these three localities. All who lived in any given deme he declared fellow-demesmen, to the end that the new citizens might not be exposed by the habitual use of family names, but that men might be officially described by the names of their demes; and accordingly it is by the names of their demes that the Athenians speak of one another. He also instituted Demarchs, who had the same duties as the previously existing Naucrari,-the demes being made to take the place of the naucraries. He gave names to the demes, some from the localities to which they belonged, some from the persons who founded them, since some of the areas no longer corresponded to localities possessing names. On the other hand he allowed every one to retain his family and clan and religious rites according to ancestral custom. The names given to the tribes were the ten which the Pythia appointed out of the hundred selected national heroes.

22

By these reforms the constitution became much more democratic than that of Solon. The laws of Solon had been obliterated by disuse during the period of the tyranny, while Cleisthenes substituted new ones with the object of securing the goodwill of the masses. Among these was the law concerning ostracism. Four year after the establishment of this system, in the archonship of Hermocreon, they first imposed upon the Council of Five Hundred the oath which they take to the present day. Next they began to elect the generals by tribes, one from each tribe, while the Polemarch was the commander of the whole army. Then, eleven years later, in the archonship of Phaenippus they won the battle of Marathon; and two years after this victory, when the people had now gained self-confidence, they for the first time made use of the law of ostracism. This had originally been passed as a precaution against men in high office, because Pisistratus took advantage of his position as a popular leader and general to make himself tyrant; and the first person ostracized was one of his relatives, Hipparchus son of Charmus, of the deme of Collytus, the very person on whose account especially Cleisthenes had enacted the law, as he wished to get rid of him. Hitherto, however, he had escaped; for the Athenians, with the usual leniency of the democracy, allowed all the partisans of the tyrants, who had not joined in their evil deeds in the time of the troubles to remain in the city; and the chief and leader of these was Hipparchus. Then in the very next year, in the archonship of Telesinus, they for the first time since the tyranny elected, tribe by tribe, the nine Archons by lot out of the five hundred candidates selected by the demes, all the earlier ones having been elected by vote; and in the same year Megacles son of Hippocrates, of the deme of Alopece, was ostracized. Thus for three years they continued to ostracize the friends of the tyrants, on whose account the law had been passed; but in the following year they began to remove others as well, including any one who seemed to be more powerful than was expedient. The first person unconnected with the tyrants who was ostracized was Xanthippus son of Ariphron. Two years later, in the archonship of Nicodemus, the mines of Maroneia were discovered, and the state made a profit of a hundred talents from the working of them. Some persons

advised the people to make a distribution of the money among themselves, but this was prevented by Themistocles. He refused to say on what he proposed to spend the money, but he bade them lend it to the hundred richest men in Athens, one talent to each, and then, if the manner in which it was employed pleased the people, the expenditure should be charged to the state, but otherwise the state should receive the sum back from those to whom it was lent. On these terms he received the money and with it he had a hundred triremes built, each of the hundred individuals building one; and it was with these ships that they fought the battle of Salamis against the barbarians. About this time Aristides the son of Lysimachus was ostracized. Three years later, however, in the archonship of Hypsichides, all the ostracized persons were recalled, on account of the advance of the army of Xerxes; and it was laid down for the future that persons under sentence of ostracism must live between Geraestus and Scyllaeum, on pain of losing their civic rights irrevocably.

23

So far, then, had the city progressed by this time, growing gradually with the growth of the democracy; but after the Persian wars the Council of Areopagus once more developed strength and assumed the control of the state. It did not acquire this supremacy by virtue of any formal decree, but because it had been the cause of the battle of Salamis being fought. When the generals were utterly at a loss how to meet the crisis and made proclamation that every one should see to his own safety, the Areopagus provided a donation of money, distributing eight drachmas to each member of the ships' crews, and so prevailed on them to go on board. On these grounds people bowed to its prestige; and during this period Athens was well administered. At this time they devoted themselves to the prosecution of the war and were in high repute among the Greeks, so that the command by sea was conferred upon them, in spite of the opposition of the Lacedaemonians. The leaders of the people during this period were Aristides, of Lysimachus, and Themistocles, son of Lysimachus, and Themistocles, son of Neocles, of whom the latter appeared to devote himself to the conduct of war, while the former had the reputation of being a clever statesman and the most upright man of his time. Accordingly the one was usually employed as general, the other as political adviser. The rebuilding of the fortifications they conducted in combination, although they were political opponents; but it was Aristides who, seizing the opportunity afforded by the discredit brought upon the Lacedaemonians by Pausanias, guided the public policy in the matter of the defection of the Ionian states from the alliance with Sparta. It follows that it was he who made the first assessment of tribute from the various allied states, two years after the battle of Salamis, in the archonship of Timosthenes; and it was he who took the oath of offensive and defensive alliance with the Ionians, on which occasion they cast the masses of iron into the sea.

24

After this, seeing the state growing in confidence and much wealth

accumulated, he advised the people to lay hold of the leadership of the league, and to quit the country districts and settle in the city. He pointed out to them that all would be able to gain a living there, some by service in the army, others in the garrisons, others by taking a part in public affairs; and in this way they would secure the leadership. This advice was taken; and when the people had assumed the supreme control they proceeded to treat their allies in a more imperious fashion, with the exception of the Chians, Lesbians, and Samians. These they maintained to protect their empire, leaving their constitutions untouched, and allowing them to retain whatever dominion they then possessed. They also secured an ample maintenance for the mass of the population in the way which Aristides had pointed out to them. Out of the proceeds of the tributes and the taxes and the contributions of the allies more than twenty thousand persons were maintained. There were 6,000 jurymen, 1,600 bowmen, 1,200
Knights, 500 members of the Council, 500 guards of the dockyards, besides fifty guards in the Acropolis. There were some 700 magistrates at home, and some 700 abroad. Further, when they subsequently went to war, there were in addition 2,500 heavy-armed troops, twenty guard-ships, and other ships which collected the tributes, with crews amounting to 2,000 men, selected by lot; and besides these there were the persons maintained at the Prytaneum, and orphans, and gaolers, since all these were supported by the state.

25

Such was the way in which the people earned their livelihood. The supremacy of the Areopagus lasted for about seventeen years after the Persian wars, although gradually declining. But as the strength of the masses increased, Ephialtes, son of Sophonides, a man with a reputation for incorruptibility and public virtue, who had become the leader of the people, made an attack upon that Council. First of all he ruined many of its members by bringing actions against them with reference to their administration. Then, in the archonship of Conon, he stripped the Council of all the acquired prerogatives from which it derived its guardianship of the constitution, and assigned some of them to the Council of Five Hundred, and others to the Assembly and the law-courts. In this revolution he was assisted by Themistocles, who was himself a member of the Areopagus, but was expecting to be tried before it on a charge of treasonable dealings with Persia. This made him anxious that it should be overthrown, and accordingly he warned Ephialtes that the Council intended to arrest him, while at the same time he informed the Areopagites that he would reveal to them certain persons who were conspiring to subvert the constitution. He then conducted the representatives delegated by the Council to the residence of Ephialtes, promising to show them the conspirators who assembled there, and proceeded to converse with them in an earnest manner. Ephialtes, seeing this, was seized with alarm and took refuge in suppliant guise at the altar. Every one was astounded at the occurrence, and presently, when the Council of Five Hundred met, Ephialtes and Themistocles together proceeded to denounce
the Areopagus to them. This they repeated in similar fashion in the

Assembly, until they succeeded in depriving it of its power. Not long afterwards, however, Ephialtes was assassinated by Aristodicus of Tanagra. In this way was the Council of Areopagus deprived of its guardianship of the state.

26

After this revolution the administration of the state became more and more lax, in consequence of the eager rivalry of candidates for popular favour. During this period the moderate party, as it happened, had no real chief, their leader being Cimon son of Miltiades, who was a comparatively young man, and had been late in entering public life; and at the same time the general populace suffered great losses by war. The soldiers for active service were selected at that time from the roll of citizens, and as the generals were men of no military experience, who owed their position solely to their family standing, it continually happened that some two or three thousand of the troops perished on an expedition; and in this way the best men alike of the lower and the upper classes were exhausted. Consequently in most matters of administration less heed was paid to the laws than had formerly been the case. No alteration, however, was made in the method of election of the nine Archons, except that five years after the death of Ephialtes it was decided that the candidates to be submitted to the lot for that office might be selected from the Zeugitae as well as from the higher classes. The first Archon from that class was Mnesitheides. Up to this time all the Archons had been taken from the Pentacosiomedimni and Knights, while
the Zeugitae were confined to the ordinary magistracies, save where an evasion of the law was overlooked. Four years later, in the archonship of Lysicrates, thirty 'local justices', as they as they were called, were re-established; and two years afterwards, in the archonship of Antidotus, consequence of the great increase in the number of citizens, it was resolved, on the motion of Pericles, that no one should admitted to the franchise who was not of citizen birth by both parents.

27

After this Pericles came forward as popular leader, having first distinguished himself while still a young man by prosecuting Cimon on the audit of his official accounts as general. Under his auspices the constitution became still more democratic. He took away some of the privileges of the Areopagus, and, above all, he turned the policy of the state in the direction of sea power, which caused the masses to acquire confidence in themselves and consequently to take the conduct of affairs more and more into their own hands. Moreover, forty-eight years after the battle of Salamis, in the archonship of Pythodorus, the Peloponnesian war broke out, during which the populace
was shut up in the city and became accustomed to gain its livelihood by military service, and so, partly voluntarily and partly involuntarily, determined to assume the administration of the state itself. Pericles was also the first to institute pay for service in

the law-courts, as a bid for popular favour to counterbalance the wealth of Cimon. The latter, having private possessions on a regal scale, not only performed the regular public services magnificently, but also maintained a large number of his fellow-demesmen. Any member of the deme of Laciadae could go every day to Cimon's house and there receive a reasonable provision; while his estate was guarded by no fences, so that any one who liked might help himself to the fruit from it. Pericles' private property was quite unequal to this magnificence and accordingly he took the advice of Damonides of Oia (who was commonly supposed to be the person who prompted Pericles in
most of his measures, and was therefore subsequently ostracized), which was that, as he was beaten in the matter of private possessions, he should make gifts to the people from their own property; and accordingly he instituted pay for the members of the juries. Some critics accuse him of thereby causing a deterioration in the character of the juries, since it was always the common people who put themselves forward for selection as jurors, rather than the men of better position. Moreover, bribery came into existence after this, the first person to introduce it being Anytus, after his command at Pylos. He was prosecuted by certain individuals on account of his loss of Pylos, but escaped by bribing the jury.

28

So long, however, as Pericles was leader of the people, things went tolerably well with the state; but when he was dead there was a great change for the worse. Then for the first time did the people choose a leader who was of no reputation among men of good standing, whereas up to this time such men had always been found as leaders of the democracy. The first leader of the people, in the very beginning of things, was Solon, and the second was Pisistratus, both of them men of birth and position. After the overthrow of the tyrants there was Cleisthenes, a member of the house of the Alcmeonidae; and he had no rival opposed to him after the expulsion of the party of Isagoras. After this Xanthippus was the leader of the people, and Miltiades of the upper class. Then came Themistocles and Aristides, and after them Ephialtes as leader of the people, and Cimon son of Miltiades of the wealthier class. Pericles followed as leader of the people, and Thucydides, who was connected by marriage with Cimon, of the opposition. After the death of Pericles, Nicias, who subsequently fell in Sicily, appeared as leader of the aristocracy, and Cleon son of Cleaenetus of the people. The latter seems, more than any one else, to have been the cause of the corruption of the democracy by his wild undertakings; and he was the first to use unseemly shouting and coarse abuse on the Bema, and to harangue the people with his cloak girt up short about him, whereas all his predecessors had spoken decently and in order. These were succeeded by Theramenes son of Hagnon as leader of the one party, and the lyre-maker Cleophon of the people. It was Cleophon who first granted the twoobol donation for the theatrical performances, and for some time it continued to be given; but then Callicrates of Paeania ousted him by promising to add a third obol to the sum. Both of these persons were subsequently condemned to death; for the people, even if they are deceived for a time, in the

end generally come to detest those who have beguiled them into any unworthy action. After Cleophon the popular leadership was occupied successively by the men who chose to talk the biggest and pander the most to the tastes of the majority, with their eyes fixed only on the interests of the moment. The best statesmen at Athens, after those of early times, seem to have been Nicias, Thucydides, and Theramenes. As to Nicias and Thucydides, nearly every one agrees that they were not merely men of birth and character, but also statesmen, and that they ruled the state with paternal care. On the merits of Theramenes opinion is divided, because it so happened that in his time public affairs were in a very stormy state. But those who give their opinion deliberately find him, not, as his critics falsely assert, overthrowing every kind of constitution, but supporting every kind so long as it did not transgress laws; thus showing that he was able, as every good citizen should be, to live under any form of constitution, while he refused to countenance illegality and was its constant enemy.

29

So long as the fortune of the war continued even, the Athenians preserved the democracy; but after the disaster in Sicily, when the Lacedaemonians had gained the upper hand through their alliance with the king of Persia, they were compelled to abolish the democracy and establish in its place the constitution of the Four Hundred. The speech recommending this course before the vote was made by Melobius, and the motion was proposed by Pythodorus of Anaphlystus; but the real argument which persuaded the majority was the belief that the king of Persia was more likely to form an alliance with them if the constitution were on an oligarchical basis. The motion of Pythodorus was to the following effect. The popular Assembly was to elect twenty persons, over forty years of age, who, in conjunction with the existing ten members of the Committee of Public Safety, after taking an oath that they would frame such measures as they thought best for the state, should then prepare proposals for the public. safety. In addition, any other person might make proposals, so that of all the schemes before them the people might choose the best. Cleitophon concurred with the motion of Pythodorus, but moved that the committee should also investigate the ancient laws enacted by Cleisthenes when he created the democracy, in order that they might have these too before them and so be in a position to decide wisely; his suggestion being that the constitution of Cleisthenes was not really democratic, but closely akin to that of Solon. When the committee was elected, their first proposal was that the Prytanes should be compelled to put to the vote any motion that was offered on behalf of the public safety. Next they abolished all indictments for illegal proposals, all impeachments and pubic prosecutions, in order that every Athenian should be free to give his counsel on the situation, if he chose; and they decreed that if any person imposed a fine on any other for his acts in this respect, or prosecuted him or summoned him before the courts, he should, on an information being laid against him, be summarily arrested and brought before the generals, who should deliver him to the Eleven to be put to death. After these preliminary measures, they drew up the constitution in the

following manner. The revenues of the state were not to be spent on any purpose except the war. All magistrates should serve without remuneration for the period of the war, except the nine Archons and the Prytanes for the time being, who should each receive three obols a day. The whole of the rest of the administration was to be committed, for the period of the war, to those Athenians who were most capable of serving the state personally or pecuniarily, to the number of not less than five thousand. This body was to have full powers, to the extent even of making treaties with whomsoever they willed; and ten representatives, over forty years of age, were to be elected from each tribe to draw up the list of the Five Thousand, after taking an oath on a full and perfect sacrifice.

30

These were the recommendations of the committee; and when they had been ratified the Five Thousand elected from their own number a hundred commissioners to draw up the constitution. They, on their appointment, drew up and produced the following recommendations. There
should be a Council, holding office for a year, consisting of men over thirty years of age, serving without pay. To this body should belong the Generals, the nine Archons, the Amphictyonic Registrar (Hieromnemon), the Taxiarchs, the Hipparchs, the Phylarch, the commanders of garrisons, the Treasurers of Athena and the other gods, ten in number, the Hellenic Treasurers (Hellenotamiae), the Treasurers of the other non-sacred moneys, to the number of twenty, the ten Commissioners of Sacrifices (Hieropoei), and the ten Superintendents of the mysteries. All these were to be appointed by the Council from a larger number of selected candidates, chosen from its members for the time being. The other offices were all to be filled by lot, and not from the members of the Council. The Hellenic Treasurers who actually administered the funds should not sit with the Council. As regards the future, four Councils were to be created, of men of the age already mentioned, and one of these was to be chosen by lot to take office at once, while the others were to receive it in turn, in the order decided by the lot. For this purpose the hundred commissioners were to distribute themselves and all the rest as equally as possible into four parts, and cast lots for precedence, and the selected body should hold office for a year. They were to administer that office as seemed to them best, both with reference to the safe custody and due expenditure of the finances, and generally with regard to all other matters to the best of their ability. If they desired to take a larger number of persons into counsel, each member might call in one assistant of his own choice, subject to the same qualification of age. The Council was to sit once every five days, unless there was any special need for more frequent sittings. The casting of the lot for the Council was to be held by the nine Archons; votes on divisions were to be counted by five tellers chosen by lot from the members of the Council, and of these one was to be selected by lot every day to act as president. These five persons were to cast lots for precedence between the parties wishing to appear before the Council, giving the first place to sacred matters, the second to heralds, the third to embassies, and the fourth to all other

subjects; but matters concerning the war might be dealt with, on the motion of the generals, whenever there was need, without balloting. Any member of the Council who did not enter the Council-house at the time named should be fined a drachma for each day, unless he was away on leave of absence from the Council.

31

Such was the constitution which they drew up for the time to come, but for the immediate present they devised the following scheme. There should be a Council of Four Hundred, as in the ancient constitution, forty from each tribe, chosen out of candidates of more than thirty years of age, selected by the members of the tribes. This Council should appoint the magistrates and draw up the form of oath which they were to take; and in all that concerned the laws, in the examination of official accounts, and in other matters generally, they might act according to their discretion. They must, however, observe the laws that might be enacted with reference to the constitution of the state, and had no power to alter them nor to pass others. The generals should be provisionally elected from the whole body of the Five Thousand, but so soon as the Council came into existence it was to hold an examination of military equipments, and thereon elect ten persons, together with a secretary, and the persons thus elected should hold office during the coming year with full powers, and should have the right, whenever they desired it, of joining in the deliberations of the Council. The Five thousand was also to elect a single Hipparch and ten Phylarchs; but for the future the Council was to elect these officers according to the regulations above laid down. No office, except those of member of the Council and of general, might be held more than once, either by the first occupants or by their successors. With reference to the future distribution of the Four Hundred into the four successive sections, the hundred commissioners must divide them whenever the time comes for the citizens to join in the Council along with the rest.

32

The hundred commissioners appointed by the Five Thousand drew up the
constitution as just stated; and after it had been ratified by the people, under the presidency of Aristomachus, the existing Council, that of the year of Callias, was dissolved before it had completed its term of office. It was dissolved on the fourteenth day of the month Thargelion, and the Four Hundred entered into office on the twenty-first; whereas the regular Council, elected by lot, ought to have entered into office on the fourteenth of Scirophorion. Thus was the oligarchy established, in the archonship of Callias, just about a hundred years after the expulsion of the tyrants. The chief promoters of the revolution were Pisander, Antiphon, and Theramenes, all of them men of good birth and with high reputations for ability and judgement. When, however, this constitution had been established, the Five Thousand were only nominally selected, and the Four Hundred, together with the ten officers on whom full powers had been conferred, occupied the Council-house and really administered the

government. They began by sending ambassadors to the Lacedaemonians
proposing a cessation of the war on the basis of the existing
Position; but as the Lacedaemonians refused to listen to them unless they would also abandon the command of the sea, they broke off the negotiations.

33

For about four months the constitution of the Four Hundred lasted, and Mnasilochus held office as Archon of their nomination for two months of the year of Theopompus, who was Archon for the remaining ten. On the loss of the naval battle of Eretria, however, and the revolt of the whole of Euboea except Oreum, the indignation of the people was greater than at any of the earlier disasters, since they drew far more supplies at this time from Euboea than from Attica itself. Accordingly they deposed the Four Hundred and committed the management of affairs to the Five Thousand, consisting of persons Possessing a military equipment. At the same time they voted that pay should not be given for any public office. The persons chiefly responsible for the revolution were Aristocrates and Theramenes, who disapproved of the action of the Four Hundred in retaining the direction of affairs entirely in their own hands, and referring nothing to the Five Thousand. During this period the constitution of the state seems to have been admirable, since it was a time of war and the franchise was in the hands of those who possessed a military equipment.

34

The people, however, in a very short time deprived the Five Thousand of their monopoly of the government. Then, six years after the overthrow of the Four Hundred, in the archonship of Callias of Angele, battle of Arginusae took place, of which the results were, first, that the ten generals who had gained the victory were all condemned by a single decision, owing to the people being led astray by persons who aroused their indignation; though, as a matter of fact, some of the generals had actually taken no part in the battle, and others were themselves picked up by other vessels. Secondly, when the Lacedaemonians proposed to evacuate Decelea and make peace on the basis of the existing position, although some of the Athenians supported this proposal, the majority refused to listen to them. In this they were led astray by Cleophon, who appeared in the Assembly drunk and wearing his breastplate, and prevented peace being made, declaring that he would never accept peace unless the Lacedaemonians abandoned their claims on all the cities allied with them. They mismanaged their opportunity then, and in a very short time they learnt their mistake. The next year, in the archonship of Alexias, they suffered the disaster of Aegospotami, the consequence of which was that Lysander became master of the city, and set up the Thirty as its governors. He did so in the following manner. One of the terms of peace stipulated that the state should be governed according to 'the ancient constitution'. Accordingly the popular party tried to preserve the democracy, while that part of the upper class

which belonged to the political clubs, together with the exiles who had returned since the peace, aimed at an oligarchy, and those who were not members of any club, though in other respects they considered
themselves as good as any other citizens, were anxious to restore the ancient constitution. The latter class included Archinus, Anytus, Cleitophon, Phormisius, and many others, but their most prominent leader was Theramenes. Lysander, however, threw his influence on the side of the oligarchical party, and the popular Assembly was compelled by sheer intimidation to pass a vote establishing the oligarchy. The motion to this effect was proposed by Dracontides of Aphidna.

35

In this way were the Thirty established in power, in the archonship of Pythodorus. As soon, however, as they were masters of the city, they ignored all the resolutions which had been passed relating to the organization of the constitution, but after appointing a Council of Five Hundred and the other magistrates out of a thousand selected candidates, and associating with themselves ten Archons in Piraeus, eleven superintendents of the prison, and three hundred 'lash-bearers' as attendants, with the help of these they kept the city under their own control. At first, indeed, they behaved with moderation towards the citizens and pretended to administer the state according to the ancient constitution. In pursuance of this policy they took down from the hill of Areopagus the laws of Ephialtes and Archestratus relating to the Areopagite Council; they also repealed such of the statutes of Solon as were obscure, and abolished the supreme power of the law-courts. In this they claimed to be restoring the constitution and freeing it from obscurities; as, for instance, by making the testator free once for all to leave his property as he pleased, and abolishing the existing limitations in cases of insanity, old age, and undue female influence, in order that no opening might be left for professional accusers. In other matters also their conduct was similar. At first, then, they acted on these lines, and they destroyed the professional accusers and those mischievous and evil-minded persons who, to the great detriment of the democracy, had attached themselves to it in order to curry favour with it. With all of this the city was much pleased, and thought that the Thirty were doing it with the best of motives. But so soon as they had got a firmer hold on the city, they spared no class of citizens, but put to death any persons who were eminent for wealth or birth or character. Herein they aimed at removing all whom they had reason to fear, while they also wished to lay hands on their possessions; and in a short time they put to death not less than fifteen hundred persons.

36

Theramenes, however, seeing the city thus falling into ruin, was displeased with their proceedings, and counselled them to cease such unprincipled conduct and let the better classes have a share in the government. At first they resisted his advice, but when his proposals came to be known abroad, and the masses began to associate

themselves with him, they were seized with alarm lest he should make himself the leader of the people and destroy their despotic power. Accordingly they drew up a list of three thousand citizens, to whom they announced that they would give a share in the constitution. Theramenes, however, criticized this scheme also, first on the ground that, while proposing to give all respectable citizens a share in the constitution, they were actually giving it only to three thousand persons, as though all merit were confined within that number; and secondly because they were doing two inconsistent things, since they made the government rest on the basis of force, and yet made the governors inferior in strength to the governed. However, they took no notice of his criticisms, and for a long time put off the publication of the list of the Three Thousand and kept to themselves the names of those who had been placed upon it; and every time they did decide to publish it they proceeded to strike out some of those who had been included in it, and insert others who had been omitted.

37

Now when winter had set in, Thrasybulus and the exiles occupied Phyle, and the force which the Thirty led out to attack them met with a reverse. Thereupon the Thirty decided to disarm the bulk of the population and to get rid of Theramenes; which they did in the following way. They introduced two laws into the Council, which they commanded it to pass; the first of them gave the Thirty absolute power to put to death any citizen who was not included in the list of the Three Thousand, while the second disqualified all persons from participation in the franchise who should have assisted in the demolition of the fort of Eetioneia, or have acted in any way against the Four Hundred who had organized the previous oligarchy. Theramenes had done both, and accordingly, when these laws were ratified, he became excluded from the franchise and the Thirty had full power to put him to death. Theramenes having been thus removed, they disarmed all the people except the Three Thousand, and in every respect showed a great advance in cruelty and crime. They also sent ambassadors to Lacedaemonian to blacken the character of Theramenes and to ask for help; and the Lacedaemonians, in answer to their appeal, sent Callibius as military governor with about seven hundred troops, who came and occupied the Acropolis.

38

These events were followed by the occupation of Munichia by the exiles from Phyle, and their victory over the Thirty and their partisans. After the fight the party of the city retreated, and next day they held a meeting in the marketplace and deposed the Thirty, and elected ten citizens with full powers to bring the war to a termination. When, however, the Ten had taken over the government they
did nothing towards the object for which they were elected, but sent envoys to Lacedaemonian to ask for help and to borrow money. Further, finding that the citizens who possessed the franchise were displeased at their proceedings, they were afraid lest they should

be deposed, and consequently, in order to strike terror into them (in which design they succeeded), they arrested Demaretus, one of the most eminent citizens, and put him to death. This gave them a firm hold on the government, and they also had the support of Callibius and his Peloponnesians, together with several of the Knights; for some of the members of this class were the most zealous among the citizens to prevent the return of the exiles from Phyle. When, however, the party in Piraeus and Munichia began to gain the upper hand in the war, through the defection of the whole populace to them, the party in the city deposed the original Ten, and elected another Ten, consisting of men of the highest repute. Under their administration, and with their active and zealous cooperation, the treaty of reconciliation was made and the populace returned to the city. The most prominent members of this board were Rhinon of Paeania and Phayllus of Acherdus, who, even before the arrival of Pausanias, opened negotiations with the party in Piraeus, and after his arrival seconded his efforts to bring about the return of the exiles. For it was Pausanias, the king of the Lacedaemonians, who brought the peace and reconciliation to a fulfillment, in conjunction with the ten commissioners of arbitration who arrived later from Lacedaemonian, at his own earnest request. Rhinon and his colleagues received a vote of thanks for the goodwill shown by them to the people, and though they received their charge under an oligarchy and handed in their accounts under a democracy, no one, either of the party that had stayed in the city or of the exiles that had returned from the Piraeus, brought any complaint against them. On the contrary, Rhinon was immediately elected general on account of his conduct in this office.

39

This reconciliation was effected in the archonship of Eucleides, on the following terms. All persons who, having remained in the city during the troubles, were now anxious to leave it, were to be free to settle at Eleusis, retaining their civil rights and possessing full and independent powers of self-government, and with the free enjoyment of their own personal property. The temple at Eleusis should be common ground for both parties, and should be under the superintendence of the Ceryces, and the Eumolpidae, according to primitive custom. The settlers at Eleusis should not be allowed to enter Athens, nor the people of Athens to enter Eleusis, except at the season of the mysteries, when both parties should be free from these restrictions. The secessionists should pay their share to the fund for the common defence out of their revenues, just like all the other Athenians. If any of the seceding party wished to take a house in Eleusis, the people would help them to obtain the consent of the owner; but if they could not come to terms, they should appoint three valuers on either side, and the owner should receive whatever price they should appoint. Of the inhabitants of Eleusis, those whom the secessionists wished to remain should be allowed to do so. The list of those who desired to secede should be made up within ten days after the taking of the oaths in the case of persons already in the country, and their actual departure should take place within twenty days; persons at present out

of the country should have the same terms allowed to them after their return. No one who settled at Eleusis should be capable of holding any office in Athens until he should again register himself on the roll as a resident in the city. Trials for homicide, including all cases in which one party had either killed or wounded another, should be conducted according to ancestral practice. There should be a general amnesty concerning past events towards all persons except the Thirty, the Ten, the Eleven, and the magistrates in Piraeus; and these too should be included if they should submit their accounts in the usual way. Such accounts should be given by the magistrates in Piraeus before a court of citizens rated in Piraeus, and by the magistrates in the city before a court of those rated in the city. On these terms those who wished to do so might secede. Each party was to repay separately the money which it had borrowed for the war.

40

When the reconciliation had taken place on these terms, those who had fought on the side of the Thirty felt considerable apprehensions, and a large number intended to secede. But as they put off entering their names till the last moment, as people will do, Archinus, observing their numbers, and being anxious to retain them as citizens, cut off the remaining days during which the list should have remained open; and in this way many persons were compelled to remain, though they did so very unwillingly until they recovered confidence. This is one point in which Archinus appears to have acted in a most statesmanlike manner, and another was his subsequent prosecution of Thrasybulus on the charge of illegality, for a motion by which he proposed to confer the franchise on all who had taken part in the return from Piraeus, although some of them were notoriously slaves. And yet a third such action was when one of the returned exiles began to violate the amnesty, whereupon Archinus haled him to the Council and persuaded them to execute him without trial, telling them that now they would have to show whether they wished to preserve the democracy and abide by the oaths they had taken; for if they let this man escape they would encourage others to imitate him, while if they executed him they would make an example for all to learn by. And this was exactly what happened; for after this man had been put to death no one ever again broke the amnesty. On the contrary, the Athenians seem, both in public and in private, to have behaved in the most unprecedentedly admirable and public-spirited way with reference to the preceding troubles. Not only did they blot out all memory of former offences, but they even repaid to the Lacedaemonians out of the public purse the money which the Thirty had borrowed for the war, although the treaty required each party, the party of the city and the party of Piraeus, to pay its own debts separately. This they did because they thought it was a necessary first step in the direction of restoring harmony; but in other states, so far from the democratic parties making advances from their own possessions, they are rather in the habit of making a general redistribution of the land. A final reconciliation was made with the secessionists at Eleusis two years after the secession, in the archonship of Xenaenetus.

41

This, however, took place at a later date; at the time of which we are speaking the people, having secured the control of the state, established the constitution which exists at the present day. Pythodorus was Archon at the time, but the democracy seems to have assumed the supreme power with perfect justice, since it had effected its own return by its own exertions. This was the eleventh change which had taken place in the constitution of Athens. The first modification of the primaeval condition of things was when Ion and his companions brought the people together into a community, for then the people was first divided into the four tribes, and the tribe-kings were created. Next, and first after this, having now some semblance of a constitution, was that which took place in the reign of Theseus, consisting in a slight deviation from absolute monarchy. After this came the constitution formed under Draco, when the first code of laws was drawn up. The third was that which followed the civil war, in the time of Solon; from this the democracy took its rise. The fourth was the tyranny of Pisistratus; the fifth the constitution of Cleisthenes, after the overthrow of the tyrants, of a more democratic character than that of Solon. The sixth was that which followed on the Persian wars, when the Council of Areopagus had the direction of the state. The seventh, succeeding this, was the constitution which Aristides sketched out, and which Ephialtes brought to completion by overthrowing the Areopagite Council; under this the nation, misled by the demagogues, made the most serious mistakes in the interest of its maritime empire. The eighth was the establishment of the Four Hundred, followed by the ninth, the restored democracy. The tenth was the tyranny of the Thirty and the Ten. The eleventh was that which followed the return from Phyle and Piraeus; and this has continued from that day to this, with continual accretions of power to the masses. The democracy has made itself master of everything and administers everything by its votes in the Assembly and by the law-courts, in which it holds the supreme power. Even the jurisdiction of the Council has passed into the hands of the people at large; and this appears to be a judicious change, since small bodies are more open to corruption, whether by actual money or influence, than large ones. At first they refused to allow payment for attendance at the Assembly; but the result was that people did not attend. Consequently, after the Prytanes had tried many devices in vain in order to induce the populace to come and ratify the votes, Agyrrhius, in the first instance, made a provision of one obol a day, which Heracleides of Clazomenae, nicknamed 'the king', increased to two obols, and Agyrrhius again to three.

42

The present state of the constitution is as follows. The franchise is open to all who are of citizen birth by both parents. They are enrolled among the demesmen at the age of eighteen. On the occasion of their enrollment the demesmen give their votes on oath, first whether the candidates appear to be of the age prescribed by the law (if not, they are dismissed back into the ranks of the boys), and secondly whether the candidate is free born and of such parentage as the laws require. Then if they decide that he is not a free man, he

appeals to the law-courts, and the demesmen appoint five of their own number to act as accusers; if the court decides that he has no right to be enrolled, he is sold by the state as a slave, but if he wins his case he has a right to be enrolled among the demesmen without further question. After this the Council examines those who have been enrolled, and if it comes to the conclusion that any of them is less than eighteen years of age, it fines the demesmen who enrolled him. When the youths (Ephebi) have passed this examination, their fathers meet by their tribes, and appoint on oath three of their fellow tribesmen, over forty years of age, who, in their opinion, are the best and most suitable persons to have charge of the youths; and of these the Assembly elects one from each tribe as guardian, together with a director, chosen from the general body of Athenians, to control the while. Under the charge of these persons the youths first of all make the circuit of the temples; then they proceed to Piraeus, and some of them garrison Munichia and some the south shore. The Assembly also elects two trainers, with subordinate instructors, who teach them to fight in heavy armour, to use the bow and javelin, and to discharge a catapult. The guardians receive from the state a drachma apiece for their keep, and the youths four obols apiece. Each guardian receives the allowance for all the members of his tribe and buys the necessary provisions for the common stock (they mess together by tribes), and generally superintends everything. In this way they spend the first year. The next year, after giving a public display of their military evolutions, on the occasion when the Assembly meets in the theatre, they receive a shield and spear from the state; after which they patrol the country and spend their time in the forts. For these two years they are on garrison duty, and wear the military cloak, and during this time they are exempt from all taxes. They also can neither bring an action at law, nor have one brought against them, in order that they may have no excuse for requiring leave of absence; though exception is made in cases of actions concerning inheritances and wards of state, or of any sacrificial ceremony connected with the family. When the two years have elapsed they thereupon take their position among the other citizens. Such is the manner of the enrollment of the citizens and the training of the youths.

43

All the magistrates that are concerned with the ordinary routine of administration are elected by lot, except the Military Treasurer, the Commissioners of the Theoric fund, and the Superintendent of Springs. These are elected by vote, and hold office from one Panathenaic festival to the next. All military officers are also elected by vote.

The Council of Five Hundred is elected by lot, fifty from each tribe. Each tribe holds the office of Prytanes in turn, the order being determined by lot; the first four serve for thirty-six days each, the last six for thirty-five, since the reckoning is by lunar years. The Prytanes for the time being, in the first place, mess together in the Tholus, and receive a sum of money from the state for their maintenance; and, secondly, they convene the meetings of the Council and the Assembly. The Council they convene every day, unless

it is a holiday, the Assembly four times in each prytany. It is also their duty to draw up the programme of the business of the Council and to decide what subjects are to be dealt with on each particular da, and where the sitting is to be held. They also draw up the programme for the meetings of the Assembly. One of these in each prytany is called the 'sovereign' Assembly; in this the people have to ratify the continuance of the magistrates in office, if they are performing their duties properly, and to consider the supply of corn and the defence of the country. On this day, too, impeachments are introduced by those who wish to do so, the lists of property confiscated by the state are read, and also applications for inheritances and wards of state, so that nothing may pass unclaimed without the cognizance of any person concerned. In the sixth prytany, in addition to the business already stated, the question is put to the vote whether it is desirable to hold a vote of ostracism or not; and complaints against professional accusers, whether Athenian or aliens domiciled in Athens, are received, to the number of not more than three of either class, together with cases in which an individual has made some promise to the people and has not performed it. Another Assembly in each prytany is assigned to the hearing of petitions, and at this meeting any one is free, on depositing the petitioner's olive-branch, to speak to the people concerning any matter, public or private. The two remaining meetings are devoted to all other subjects, and the laws require them to deal with three questions connected with religion, three connected with heralds and embassies, and three on secular subjects. Sometimes questions are brought forward without a preliminary vote of the Assembly to take them into consideration.

Heralds and envoys appear first before the Prytanes, and the bearers of dispatches also deliver them to the same officials.

44

There is a single President of the Prytanes, elected by lot, who presides for a night and a day; he may not hold the office for more than that time, nor may the same individual hold it twice. He keeps the keys of the sanctuaries in which the treasures and public records of the state are preserved, and also the public seal; and he is bound to remain in the Tholus, together with one-third of the Prytanes, named by himself. Whenever the Prytanes convene a meeting of the Council or Assembly, he appoints by lot nine Proedri, one from each tribe except that which holds the office of Prytanes for the time being; and out of these nine he similarly appoints one as President, and hands over the programme for the meeting to them. They take it and see to the preservation of order, put forward the various subjects which are to be considered, decide the results of the votings, and direct the proceedings generally. They also have power to dismiss the meeting. No one may act as President more than once in the year, but he may be a Proedrus once in each prytany.

Elections to the offices of General and Hipparch and all other military commands are held in the Assembly, in such manner as the people decide; they are held after the sixth prytany by the first board of Prytanes in whose term of office the omens are favourable.

There has, however, to be a preliminary consideration by the Council in this case also.

45

In former times the Council had full powers to inflict fines and imprisonment and death; but when it had consigned Lysimachus to the executioner, and he was sitting in the immediate expectation of death, Eumelides of Alopece rescued him from its hands, maintaining that no citizen ought to be put to death except on the decision of a court of law. Accordingly a trial was held in a law-court, and Lysimachus was acquitted, receiving henceforth the nickname of 'the man from the drum-head'; and the people deprived the Council thenceforward of the power to inflict death or imprisonment or fine, passing a law that if the Council condemn any person for an offence or inflict a fine, the Thesmothetae shall bring the sentence or fine before the law-court, and the decision of the jurors shall be the final judgement in the matter.

The Council passes judgement on nearly all magistrates, especially those who have the control of money; its judgement, however, is not final, but is subject to an appeal to the lawcourts. Private individuals, also, may lay an information against any magistrate they please for not obeying the laws, but here too there is an appeal to the law-courts if the Council declare the charge proved. The Council also examines those who are to be its members for the ensuing year, and likewise the nine Archons. Formerly the Council had full power to reject candidates for office as unsuitable, but now they have an appeal to the law-courts. In all these matters, therefore, the Council has no final jurisdiction. It takes, however, preliminary cognizance of all matters brought before the Assembly, and
the Assembly cannot vote on any question unless it has first been considered by the Council and placed on the programme by the Prytanes;
since a person who carries a motion in the Assembly is liable to an action for illegal proposal on these grounds.

46

The Council also superintends the triremes that are already in existence, with their tackle and sheds, and builds new triremes or quadriremes, whichever the Assembly votes, with tackle and sheds to match. The Assembly appoints master-builders for the ships by vote; and if they do not hand them over completed to the next Council, the old Council cannot receive the customary donation-that being normally given to it during its successor's term of office. For the building of the triremes it appoints ten commissioners, chosen from its own members. The Council also inspects all public buildings, and if it is of opinion that the state is being defrauded, it reports the culprit to the Assembly, and on condemnation hands him over to the law-courts.

47

The Council also co-operates with other magistrates in most of their duties. First there are the treasurers of Athena, ten in number, elected by lot, one from each tribe. According to the law of Solon-which is still in force-they must be Pentacosiomedimni, but in point of fact the person on whom the lot falls holds the office even though he be quite a poor man. These officers take over charge of the statue of Athena, the figures of Victory, and all the other ornaments of the temple, together with the money, in the presence of the Council. Then there are the Commissioners for Public Contracts (Poletae), ten in number, one chosen by lot from each tribe, who farm out the public contracts. They lease the mines and taxes, in conjunction with the Military Treasurer and the Commissioners of the Theoric fund, in the presence of the Council, and grant, to the persons indicated by the vote of the Council, the mines which are let out by the state, including both the workable ones, which are let for three years, and those which are let under special agreements years. They also sell, in the presence of the Council, the property of those who have gone into exile from the court of the Areopagus, and of others whose goods have been confiscated, and the nine Archons ratify the contracts. They also hand over to the Council lists of the taxes which are farmed out for the year, entering on whitened tablets the name of the lessee and the amount paid. They make separate lists, first of those who have to pay their instalments in each prytany, on ten several tablets, next of those who pay thrice in the year, with a separate tablet for each instalment, and finally of those who pay in the ninth prytany. They also draw up a list of farms and dwellings which have been confiscated and sold by order of the courts; for these too come within their province. In the case of dwellings the value must be paid up in five years, and in that of farms, in ten. The instalments are paid in the ninth prytany. Further, the King-archon brings before the Council the leases of the sacred enclosures, written on whitened tablets. These too are leased for ten years, and the instalments are paid in the prytany; consequently it is in this prytany that the greatest amount of money is collected. The tablets containing the lists of the instalments are carried into the Council, and the public clerk takes charge of them. Whenever a payment of instalments is to be made he takes from the pigeon-holes the precise list of the sums which are to be paid and struck off on that day, and delivers it to the Receivers-General. The rest are kept apart, in order that no sum may be struck off before it is paid.

48

There are ten Receivers-General (Apodectae), elected by lot, one from each tribe. These officers receive the tablets, and strike off the instalments as they are paid, in the presence of the Council in the Council-chamber, and give the tablets back to the public clerk. If any one fails to pay his instalment, a note is made of it on the tablet; and he is bound to pay double the amount of the deficiency, or, in default, to be imprisoned. The Council has full power by the laws to exact these payments and to inflict this imprisonment. They receive all the instalments, therefore, on one day, and portion the money out among the magistrates; and on the next day they bring up

the
report of the apportionment, written on a wooden notice-board, and read it out in the Council-chamber, after which they ask publicly in the Council whether any one knows of any malpractice in reference to the apportionment, on the part of either a magistrate or a private individual, and if any one is charged with malpractice they take a vote on it.

The Council also elects ten Auditors (Logistae) by lot from its own members, to audit the accounts of the magistrates for each prytany. They also elect one Examiner of Accounts (Euthunus) by lot from each tribe, with two assessors (Paredri) for each examiner, whose duty it is to sit at the ordinary market hours, each opposite the statue of the eponymous hero of his tribe; and if any one wishes to prefer a charge, on either public or private grounds, against any magistrate who has passed his audit before the law-courts, within three days of his having so passed, he enters on a whitened tablet his own name and that of the magistrate prosecuted, together with the malpractice that is alleged against him. He also appends his claim for a penalty of such amount as seems to him fitting, and gives in the record to the Examiner. The latter takes it, and if after reading it he considers it proved he hands it over, if a private case, to the local justices who introduce cases for the tribe concerned, while if it is a public case he enters it on the register of the Thesmothetae. Then, if the Thesmothetae accept it, they bring the accounts of this magistrate once more before the law-court, and the decision of the jury stands as the final judgement.

49

The Council also inspects the horses belonging to the state. If a man who has a good horse is found to keep it in bad condition, he is mulcted in his allowance of corn; while those which cannot keep up or which shy and will not stand steady, it brands with a wheel on the jaw, and the horse so marked is disqualified for service. It also inspects those who appear to be fit for service as scouts, and any one whom it rejects is deprived of his horse. It also examines the infantry who serve among the cavalry, and any one whom it rejects ceases to receive his pay. The roll of the cavalry is drawn up by the Commissioners of Enrolment (Catalogeis), ten in number, elected by the Assembly by open vote. They hand over to the Hipparchs and Phylarchs the list of those whom they have enrolled, and these officers take it and bring it up before the Council, and there open the sealed tablet containing the names of the cavalry. If any of those who have been on the roll previously make affidavit that they are physically incapable of cavalry service, they strike them out; then they call up the persons newly enrolled, and if any one makes affidavit that he is either physically or pecuniarily incapable of cavalry service they dismiss him, but if no such affidavit is made the Council vote whether the individual in question is suitable for the purpose or not. If they vote in the affirmative his name is entered on the tablet; if not, he is dismissed with the others.

Formerly the Council used to decide on the plans for public buildings and the contract for making the robe of Athena; but now this work is done by a jury in the law-courts appointed by lot, since the

Council was considered to have shown favouritism in its decisions. The Council also shares with the Military Treasurer the superintendence of the manufacture of the images of Victory and the prizes at the Panathenaic festival.

The Council also examines infirm paupers; for there is a law which provides that persons possessing less than three minas, who are so crippled as to be unable to do any work, are, after examination by the Council, to receive two obols a day from the state for their support. A treasurer is appointed by lot to attend to them.

The Council also, speaking broadly, cooperates in most of the duties of all the other magistrates; and this ends the list of the functions of that body.

50

There are ten Commissioners for Repairs of Temples, elected by lot, who receive a sum of thirty minas from the Receivers-General, and therewith carry out the most necessary repairs in the temples.

There are also ten City Commissioners (Astynomi), of whom five hold office in Piraeus and five in the city. Their duty is to see that female flute-and harp-and lute-players are not hired at more than two drachmas, and if more than one person is anxious to hire the same girl, they cast lots and hire her out to the person to whom the lot falls. They also provide that no collector of sewage shall shoot any of his sewage within ten stradia of the walls; they prevent people from blocking up the streets by building, or stretching barriers across them, or making drain-pipes in mid-air with a discharge into the street, or having doors which open outwards; they also remove the corpses of those who die in the streets, for which purpose they have a body of state slaves assigned to them.

51

Market Commissioners (Agoranomi) are elected by lot, five for Piraeus, five for the city. Their statutory duty is to see that all articles offered for sale in the market are pure and unadulterated.

Commissioners of Weights and Measures (Metronomi) are elected by lot, five for the city, and five for Piraeus. They see that sellers use fair weights and measures.

Formerly there were ten Corn Commissioners (Sitophylaces), elected by lot, five for Piraeus, and five for the city; but now there are twenty for the city and fifteen for Piraeus. Their duties are, first, to see that the unprepared corn in the market is offered for sale at reasonable prices, and secondly, to see that the millers sell barley meal at a price proportionate to that of barley, and that the bakers sell their loaves at a price proportionate to that of wheat, and of such weight as the Commissioners may appoint; for the law requires them to fix the standard weight.

There are ten Superintendents of the Mart, elected by lot, whose duty is to superintend the Mart, and to compel merchants to bring up into the city two-thirds of the corn which is brought by sea to the Corn Mart.

52

The Eleven also are appointed by lot to take care of the prisoners in the state gaol. Thieves, kidnappers, and pickpockets are brought to them, and if they plead guilty they are executed, but if they deny the charge the Eleven bring the case before the law-courts; if the prisoners are acquitted, they release them, but if not, they then execute them. They also bring up before the law-courts the list of farms and houses claimed as state-property; and if it is decided that they are so, they deliver them to the Commissioners for Public Contracts. The Eleven also bring up informations laid against magistrates alleged to be disqualified; this function comes within their province, but some such cases are brought up by the Thesmothetae.

There are also five Introducers of Cases (Eisagogeis), elected by lot, one for each pair of tribes, who bring up the 'monthly' cases to the law-courts. 'Monthly' cases are these: refusal to pay up a dowry where a party is bound to do so, refusal to pay interest on money borrowed at 12 per cent., or where a man desirous of setting up business in the market has borrowed from another man capital to start with; also cases of slander, cases arising out of friendly loans or partnerships, and cases concerned with slaves, cattle, and the office of trierarch, or with banks. These are brought up as 'monthly' cases and are introduced by these officers; but the Receivers-General perform the same function in cases for or against the farmers of taxes. Those in which the sum concerned is not more than ten drachmas they can decide summarily, but all above that amount
they bring into the law-courts as 'monthly' cases.

53

The Forty are also elected by lot, four from each tribe, before whom suitors bring all other cases. Formerly they were thirty in number, and they went on circuit through the demes to hear causes; but after the oligarchy of the Thirty they were increased to forty. They have full powers to decide cases in which the amount at issue does not exceed ten drachmas, but anything beyond that value they hand over to the Arbitrators. The Arbitrators take up the case, and, if they cannot bring the parties to an agreement, they give a decision. If their decision satisfies both parties, and they abide by it, the case is at an end; but if either of the parties appeals to the law-courts, the Arbitrators enclose the evidence, the pleadings, and the laws quoted in the case in two urns, those of the plaintiff in the one, and those of the defendant in the other. These they seal up and, having attached to them the decision of the arbitrator, written out on a tablet, place them in the custody of the four justices whose function it is to introduce cases on behalf of the tribe of the defendant. These officers take them and bring up the case before the law-court, to a jury of two hundred and one members in cases up to the value of a thousand drachmas, or to one of four hundred and one in cases above that value. No laws or pleadings or evidence may be used except those which were adduced before the Arbitrator, and have been enclosed in the urns.

The Arbitrators are persons in the sixtieth year of their age;

this appears from the schedule of the Archons and the Eponymi. There are two classes of Eponymi, the ten who give their names to the tribes, and the forty-two of the years of service. The youths, on being enrolled among the citizens, were formerly registered upon whitened tablets, and the names were appended of the Archon in whose year they were enrolled, and of the Eponymus who had been in course in the preceding year; at the present day they are written on a bronze pillar, which stands in front of the Council-chamber, near the Eponymi of the tribes. Then the Forty take the last of the Eponymi of the years of service, and assign the arbitrations to the persons belonging to that year, casting lots to determine which arbitrations each shall undertake; and every one is compelled to carry through the arbitrations which the lot assigns to him. The law enacts that any one who does not serve as Arbitrator when he has arrived at the necessary age shall lose his civil rights, unless he happens to be holding some other office during that year, or to be out of the country. These are the only persons who escape the duty. Any one who suffers injustice at the hands of the Arbitrator may appeal to the whole board of Arbitrators, and if they find the magistrate guilty, the law enacts that he shall lose his civil rights. The persons thus condemned have, however, in their turn an appeal. The Eponymi are also used in reference to military expeditions; when the men of military age are despatched on service, a notice is put up stating that the men from such-and such an Archon and Eponymus to such-and such another Archon and Eponymus are to go on the expedition.

54

The following magistrates also are elected by lot: Five Commissioners of Roads (Hodopoei), who, with an assigned body of public slaves, are required to keep the roads in order: and ten Auditors, with ten assistants, to whom all persons who have held any office must give in their accounts. These are the only officers who audit the accounts of those who are subject to examination, and who bring them up for examination before the law-courts. If they detect any magistrate in embezzlement, the jury condemn him for theft, and he is obliged to repay tenfold the sum he is declared to have misappropriated. If they charge a magistrate with accepting bribes and the jury convict him, they fine him for corruption, and this sum too is repaid tenfold. Or if they convict him of unfair dealing, he is fined on that charge, and the sum assessed is paid without increase, if payment is made before the ninth prytany, but otherwise it is doubled. A tenfold fine is not doubled.

The Clerk of the prytany, as he is called, is also elected by lot. He has the charge of all public documents, and keeps the resolutions which are passed by the Assembly, and checks the transcripts of all other official papers and attends at the sessions of the Council. Formerly he was elected by open vote, and the most distinguished and trustworthy persons were elected to the post, as is known from the fact that the name of this officer is appended on the pillars

recording treaties of alliance and grants of consulship and citizenship. Now, however, he is elected by lot. There is, in addition, a Clerk of the Laws, elected by lot, who attends at the sessions of the Council; and he too checks the transcript of all the laws. The Assembly also elects by open vote a clerk to read documents to it and to the Council; but he has no other duty except that of reading aloud.

The Assembly also elects by lot the Commissioners of Public Worship (Hieropoei) known as the Commissioners for Sacrifices, who offer the sacrifices appointed by oracle, and, in conjunction with the seers, take the auspices whenever there is occasion. It also elects by lot ten others, known as Annual Commissioners, who offer certain sacrifices and administer all the quadrennial festivals except the Panathenaea. There are the following quadrennial festivals: first that of Delos (where there is also a sexennial festival), secondly the Brauronia, thirdly the Heracleia, fourthly the Eleusinia, and fifthly the Panathenaea; and no two of these are celebrated in the same place. To these the Hephaestia has now been added, in the archonship of Cephisophon.

An Archon is also elected by lot for Salamis, and a Demarch for Piraeus. These officers celebrate the Dionysia in these two places, and appoint Choregi. In Salamis, moreover, the name of the Archon is publicly recorded.

55

All the foregoing magistrates are elected by lot, and their powers are those which have been stated. To pass on to the nine Archons, as they are called, the manner of their appointment from the earliest times has been described already. At the present day six Thesmothetae are elected by lot, together with their clerk, and in addition to these an Archon, a King, and a Polemarch. One is elected from each tribe. They are examined first of all by the Council of Five Hundred, with the exception of the clerk. The latter is examined only in the lawcourt, like other magistrates (for all magistrates, whether elected by lot or by open vote, are examined before entering on their offices); but the nine Archons are examined both in the Council and again in the law-court. Formerly no one could hold the office if the Council rejected him, but now there is an appeal to the law-court, which is the final authority in the matter of the examination. When they are examined, they are asked, first, 'Who is your father, and of what deme? who is your father's father? who is your mother? who is your mother's father, and of what deme?' Then the candidate is asked whether he possesses an ancestral Apollo and a household Zeus, and where their sanctuaries are; next if he possesses a family tomb, and where; then if he treats his parents well, and pays his taxes, and has served on the required military expeditions. When the examiner has put these questions, he proceeds, 'Call the witnesses to these facts'; and when the candidate has produced his witnesses, he next asks, 'Does any one wish to make any accusation against this man?' If an accuser appears, he gives the parties an opportunity of making their accusation and defence, and then puts it to the Council to pass the candidate or not, and to the law-court to give the final vote. If no one wishes to make an

accusation, he proceeds at once to the vote. Formerly a single individual gave the vote, but now all the members are obliged to vote on the candidates, so that if any unprincipled candidate has managed to get rid of his accusers, it may still be possible for him to be disqualified before the law-court. When the examination has been thus completed, they proceed to the stone on which are the pieces of the victims, and on which the Arbitrators take oath before declaring their decisions, and witnesses swear to their testimony. On this stone the Archons stand, and swear to execute their office uprightly and according to the laws, and not to receive presents in respect of the performance of their duties, or, if they do, to dedicate a golden statue. When they have taken this oath they proceed to the Acropolis, and there they repeat it; after this they enter upon their office.

56

The Archon, the King, and the Polemarch have each two assessors, nominated by themselves. These officers are examined in the lawcourt before they begin to act, and give in accounts on each occasion of their acting.

As soon as the Archon enters office, he begins by issuing a proclamation that whatever any one possessed before he entered into office, that he shall possess and hold until the end of his term. Next he assigns Choregi to the tragic poets, choosing three of the richest persons out of the whole body of Athenians. Formerly he used also to assign five Choregi to the comic poets, but now the tribes provide the Choregi for them. Then he receives the Choregi who have been appointed by the tribes for the men's and boys' choruses and the comic poets at the Dionysia, and for the men's and boys' choruses at the Thargelia (at the Dionysia there is a chorus for each tribe, but at the Thargelia one between two tribes, each tribe bearing its share in providing it); he transacts the exchanges of properties for them, and reports any excuses that are tendered, if any one says that he has already borne this burden, or that he is exempt because he has borne a similar burden and the period of his exemption has not yet expired, or that he is not of the required age; since the Choregus of a boys' chorus must be over forty years of age. He also appoints Choregi for the festival at Delos, and a chief of the mission for the thirty-oar boat which conveys the youths thither. He also superintends sacred processions, both that in honour of Asclepius, when the initiated keep house, and that of the great Dionysia-the latter in conjunction with the Superintendents of that festival. These officers, ten in number, were formerly elected by open vote in the Assembly, and used to provide for the expenses of the procession out of their private means; but now one is elected by lot from each tribe, and the state contributes a hundred minas for the expenses. The Archon also superintends the procession at the Thargelia, and that in honour of Zeus the Saviour. He also manages the contests at the Dionysia and the Thargelia.

These, then, are the festivals which he superintends. The suits and indictments which come before him, and which he, after a preliminary inquiry, brings up before the lawcourts, are as follows. Injury to parents (for bringing these actions the prosecutor cannot

suffer any penalty); injury to orphans (these actions lie against their guardians); injury to a ward of state (these lie against their guardians or their husbands), injury to an orphan's estate (these too lie against the guardians); mental derangement, where a party charges another with destroying his own property through unsoundness
of mind; for appointment of liquidators, where a party refuses to divide property in which others have a share; for constituting a wardship; for determining between rival claims to a wardship; for granting inspection of property to which another party lays claim; for appointing oneself as guardian; and for determining disputes as to inheritances and wards of state. The Archon also has the care of orphans and wards of state, and of women who, on the death of their husbands, declare themselves to be with child; and he has power to inflict a fine on those who offend against the persons under his charge, or to bring the case before the law-courts. He also leases the houses of orphans and wards of state until they reach the age of fourteen, and takes mortgages on them; and if the guardians fail to provide the necessary food for the children under their charge, he exacts it from them. Such are the duties of the Archon.

57

The King in the first place superintends the mysteries, in conjunction with the Superintendents of Mysteries. The latter are elected in the Assembly by open vote, two from the general body of Athenians, one from the Eumolpidae, and one from the Ceryces. Next, he superintends the Lenaean Dionysia, which consists of a procession and a contest. The procession is ordered by the King and the Superintendents in conjunction; but the contest is managed by the King alone. He also manages all the contests of the torch-race; and to speak broadly, he administers all the ancestral sacrifices. Indictments for impiety come before him, or any disputes between parties concerning priestly rites; and he also determines all controversies concerning sacred rites for the ancient families and the priests. All actions for homicide come before him, and it is he that makes the proclamation requiring polluted persons to keep away from sacred ceremonies. Actions for homicide and wounding are heard, if the homicide or wounding be willful, in the Areopagus; so also in cases of killing by poison, and of arson. These are the only cases heard by that Council. Cases of unintentional homicide, or of intent to kill, or of killing a slave or a resident alien or a foreigner, are heard by the court of Palladium. When the homicide is acknowledged, but legal justification is pleaded, as when a man takes an adulterer in the act, or kills another by mistake in battle, or in an athletic contest, the prisoner is tried in the court of Delphinium. If a man who is in banishment for a homicide which admits of reconcilliation incurs a further charge of killing or wounding, he is tried in Phreatto, and he makes his defence from a boat moored near the shore. All these cases, except those which are heard in the Areopagus, are tried by the Ephetae on whom the lot falls. The King introduces them, and the hearing is held within sacred precincts and in the open air. Whenever the King hears a case he takes off his crown. The person who is charged with homicide is at all other times excluded from the

temples, nor is it even lawful for him to enter the market-place; but on the occasion of his trial he enters the temple and makes his defence. If the actual offender is unknown, the writ runs against 'the doer of the deed'. The King and the tribe-kings also hear the cases in which the guilt rests on inanimate objects and the lower animal.

58

The Polemarch performs the sacrifices to Artemis the huntress and to Enyalius, and arranges the contest at the funeral of those who have fallen in war, and makes offerings to the memory of Harmodius and Aristogeiton. Only private actions come before him, namely those in which resident aliens, both ordinary and privileged, and agents of foreign states are concerned. It is his duty to receive these cases and divide them into ten groups, and assign to each tribe the group which comes to it by lot; after which the magistrates who introduce cases for the tribe hand them over to the Arbitrators. The Polemarch, however, brings up in person cases in which an alien is charged with deserting his patron or neglecting to provide himself with one, and also of inheritances and wards of state where aliens are concerned; and in fact, generally, whatever the Archon does for citizens, the Polemarch does for aliens.

59

The Thesmothetae in the first place have the power of prescribing on what days the lawcourts are to sit, and next of assigning them to the several magistrates; for the latter must follow the arrangement which the Thesmothetae assign. Moreover they introduce impeachments
before the Assembly, and bring up all votes for removal from office, challenges of a magistrate's conduct before the Assembly, indictments for illegal proposals, or for proposing a law which is contrary to the interests of the state, complaints against Proedri or their president for their conduct in office, and the accounts presented by the generals. All indictments also come before them in which a deposit has to be made by the prosecutor, namely, indictments for concealment of foreign origin, for corrupt evasion of foreign origin (when a man escapes the disqualification by bribery), for blackmailing accusations, bribery, false entry of another as a state debtor, false testimony to the service of a summons, conspiracy to enter a man as a state debtor, corrupt removal from the list of debtors, and adultery. They also bring up the examinations of all magistrates, and the rejections by the demes and the condemnations by the Council. Moreover they bring up certain private suits in cases of merchandise and mines, or where a slave has slandered a free man. It is they also who cast lots to assign the courts to the various magistrates, whether for private or public cases. They ratify commercial treaties, and bring up the cases which arise out of such treaties; and they also bring up cases of perjury from the Areopagus. The casting of lots for the jurors is conducted by all the nine Archons, with the clerk to the Thesmothetae as the tenth, each performing the duty for his own tribe. Such are the duties of the nine Archons.

60

There are also ten Commissioners of Games (Athlothetae), elected by lot, one from each tribe. These officers, after passing an examination, serve for four years; and they manage the Panathenaic procession, the contest in music and that in gymnastic, and the horse-race; they also provide the robe of Athena and, in conjunction with the Council, the vases, and they present the oil to the athletes. This oil is collected from the sacred olives. The Archon requisitions it from the owners of the farms on which the sacred olives grow, at the rate of three-quarters of a pint from each plant. Formerly the state used to sell the fruit itself, and if any one dug up or broke down one of the sacred olives, he was tried by the Council of Areopagus, and if he was condemned, the penalty was death. Since, however, the oil has been paid by the owner of the farm, the procedure has lapsed, though the law remains; and the oil is a state charge upon the property instead of being taken from the individual plants. When, then, the Archon has collected the oil for his year of office, he hands it over to the Treasurers to preserve in the Acropolis, and he may not take his seat in the Areopagus until he has paid over to the Treasurers the full amount. The Treasurers keep it in the Acropolis until the Panathenaea, when they measure it out to the Commissioners of Games, and they again to the victorious competitors. The prizes for the victors in the musical contest consist of silver and gold, for the victors in manly vigour, of shields, and for the victors in the gymnastic contest and the horse-race, of oil.

61

All officers connected with military service are elected by open vote. In the first place, ten Generals (Strategi), who were formerly elected one from each tribe, but now are chosen from the whole mass of citizens. Their duties are assigned to them by open vote; one is appointed to command the heavy infantry, and leads them if they go out to war; one to the defence of the country, who remains on the defensive, and fights if there is war within the borders of the country; two to Piraeus, one of whom is assigned to Munichia, and one to the south shore, and these have charge of the defence of the Piraeus; and one to superintend the symmories, who nominates the trierarchs arranges exchanges of properties for them, and brings up actions to decide on rival claims in connexion with them. The rest are dispatched to whatever business may be on hand at the moment. The appointment of these officers is submitted for confirmation in each prytany, when the question is put whether they are considered to be doing their duty. If any officer is rejected on this vote, he is tried in the lawcourt, and if he is found guilty the people decide what punishment or fine shall be inflicted on him; but if he is acquitted he resumes his office. The Generals have full power, when on active service, to arrest any one for insubordination, or to cashier him publicly, or to inflict a fine; the latter is, however, unusual.

There are also ten Taxiarchs, one from each tribe, elected by open vote; and each commands his own tribesmen and appoints captains of companies (Lochagi). There are also two Hipparchs, elected by open

vote from the whole mass of the citizens, who command the cavalry, each taking five tribes. They have the same powers as the Generals have in respect of the infantry, and their appointments are also subject to confirmation. There are also ten Phylarchs, elected by open vote, one from each tribe, to command the cavalry, as the Taxiarchs do the infantry. There is also a Hipparch for Lemnos, elected by open vote, who has charge of the cavalry in Lemnos. There is also a treasurer of the Paralus, and another of the Ammonias, similarly elected.

62

Of the magistrates elected by lot, in former times some including the nine Archons, were elected out of the tribe as a whole, while others, namely those who are now elected in the Theseum, were apportioned among the demes; but since the demes used to sell the elections, these magistrates too are now elected from the whole tribe, except the members of the Council and the guards of the dockyards, who are still left to the demes.

Pay is received for the following services. First the members of the Assembly receive a drachma for the ordinary meetings, and nine obols for the 'sovereign' meeting. Then the jurors at the law-courts receive three obols; and the members of the Council five obols. They Prytanes receive an allowance of an obol for their maintenance. The nine Archons receive four obols apiece for maintenance, and also keep a herald and a flute-player; and the Archon for Salamis receives a drachma a day. The Commissioners for Games dine in the Prytaneum during the month of Hecatombaeon in which the Panathenaic festival takes place, from the fourteenth day onwards. The Amphictyonic deputies to Delos receive a drachma a day from the exchequer of Delos. Also all magistrates sent to Samos, Scyros, Lemnos, or Imbros receive an allowance for their maintenance. The military offices may be held any number of times, but none of the others more than once, except the membership of the Council, which may be held twice.

63

The juries for the law-courts are chosen by lot by the nine Archons, each for their own tribe, and by the clerk to the Thesmothetae for the tenth. There are ten entrances into the courts, one for each tribe; twenty rooms in which the lots are drawn, two for each tribe; a hundred chests, ten for each tribe; other chests, in which are placed the tickets of the jurors on whom the lot falls; and two vases. Further, staves, equal in number to the jurors required, are placed by the side of each entrance; and counters are put into one vase, equal in number to the staves. These are inscribed with letters of the alphabet beginning with the eleventh (lambda), equal in number to the courts which require to be filled. All persons above thirty years of age are qualified to serve as jurors, provided they are not debtors to the state and have not lost their civil rights. If any unqualified person serves as juror, an information is laid against

him, and he is brought before the court; and, if he is convicted, the jurors assess the punishment or fine which they consider him to deserve. If he is condemned to a money fine, he must be imprisoned until he has paid up both the original debt, on account of which the information was laid against him, and also the fine which the court as imposed upon him. Each juror has his ticket of boxwood, on which is inscribed his name, with the name of his father and his deme, and one of the letters of the alphabet up to kappa; for the jurors in their several tribes are divided into ten sections, with approximately an equal number in each letter. When the Thesmothetes has decided by lot which letters are required to attend at the courts, the servant puts up above each court the letter which has been assigned to it by the lot.

64

The ten chests above mentioned are placed in front of the entrance used by each tribe, and are inscribed with the letters of the alphabet from alpha to kappa. The jurors cast in their tickets, each into the chest on which is inscribed the letter which is on his ticket; then the servant shakes them all up, and the Archon draws one ticket from each chest. The individual so selected is called the Ticket-hanger (Empectes), and his function is to hang up the tickets out of his chest on the bar which bears the same letter as that on the chest. He is chosen by lot, lest, if the Ticket-hanger were always the same person, he might tamper with the results. There are five of these bars in each of the rooms assigned for the lot-drawing. Then the Archon casts in the dice and thereby chooses the jurors from each tribe, room by room. The dice are made of brass, coloured black or white; and according to the number of jurors required, so many white dice are put in, one for each five tickets, while the remainder are black, in the same proportion. As the Archon draws out the dice, the crier calls out the names of the individuals chosen. The Ticket-hanger is included among those selected. Each juror, as he is chosen and answers to his name, draws a counter from the vase, and holding it out with the letter uppermost shows it first to the presiding Archon; and he, when he has seen it, throws the ticket of the juror into the chest on which is inscribed the letter which is on the counter, so that the juror must go into the court assigned to him by lot, and not into one chosen by himself, and that it may be impossible for any one to collect the jurors of his choice into any particular court. For this purpose chests are placed near the Archon, as many in number as there are courts to be filled that day, bearing the letters of the courts on which the lot has fallen.

65

The juror thereupon, after showing his counter again to the attendant, passes through the barrier into the court. The attendant gives him a staff of the same colour as the court bearing the letter which is on his counter, so as to ensure his going into the court assigned to him by lot; since, if he were to go into any other, he would be betrayed by the colour of his staff. Each court has a certain colour painted on the lintel of the entrance. Accordingly the juror,

bearing his staff, enters the court which has the same colour as his staff, and the same letter as his counter. As he enters, he receives a voucher from the official to whom this duty has been assigned by lot. So with their counters and their staves the selected jurors take their seats in the court, having thus completed the process of admission. The unsuccessful candidates receive back their tickets from the Ticket-hangers. The public servants carry the chests from each tribe, one to each court, containing the names of the members of the tribe who are in that court, and hand them over to the officials assigned to the duty of giving back their tickets to the jurors in each court, so that these officials may call them up by name and pay them their fee.

66

When all the courts are full, two ballot boxes are placed in the first court, and a number of brazen dice, bearing the colours of the several courts, and other dice inscribed with the names of the presiding magistrates. Then two of the Thesmothetae, selected by lot, severally throw the dice with the colours into one box, and those with the magistrates' names into the other. The magistrate whose name is first drawn is thereupon proclaimed by the crier as assigned for duty in the court which is first drawn, and the second in the second, and similarly with the rest. The object of this procedure is that no one may know which court he will have, but that each may take the court assigned to him by lot.

When the jurors have come in, and have been assigned to their respective courts, the presiding magistrate in each court draws one ticket out of each chest (making ten in all, one out of each tribe), and throws them into another empty chest. He then draws out five of them, and assigns one to the superintendence of the water-clock, and the other four to the telling of the votes. This is to prevent any tampering beforehand with either the superintendent of the clock or the tellers of the votes, and to secure that there is no malpractice in these respects. The five who have not been selected for these duties receive from them a statement of the order in which the jurors shall receive their fees, and of the places where the several tribes shall respectively gather in the court for this purpose when their duties are completed; the object being that the jurors may be broken up into small groups for the reception of their pay, and not all crowd together and impede one another.

67

These preliminaries being concluded, the cases are called on. If it is a day for private cases, the private litigants are called. Four cases are taken in each of the categories defined in the law, and the litigants swear to confine their speeches to the point at issue. If it is a day for public causes, the public litigants are called, and only one case is tried. Water-clocks are provided, having small supply-tubes, into which the water is poured by which the length of the pleadings is regulated. Ten gallons are allowed for a case in which an amount of more than five thousand drachmas is involved, and three for the second speech on each side. When the amount is between

one and five thousand drachmas, seven gallons are allowed for the first speech and two for the second; when it is less than one thousand, five and two. Six gallons are allowed for arbitrations between rival claimants, in which there is no second speech. The official chosen by lot to superintend the water-clock places his hand on the supply tube whenever the clerk is about to read a resolution or law or affidavit or treaty. When, however, a case is conducted according to a set measurement of the day, he does not stop the supply, but each party receives an equal allowance of water. The standard of measurement is the length of the days in the month Poseideon.... The measured day is employed in cases when imprisonment, death, exile, loss of civil rights, or confiscation of goods is assigned as the penalty.

68

Most of the courts consist of 500 members...; and when it is necessary to bring public cases before a jury of 1,000 members, two courts combine for the purpose, the most important cases of all are brought 1,500 jurors, or three courts. The ballot balls are made of brass with stems running through the centre, half of them having the stem pierced and the other half solid. When the speeches are concluded, the officials assigned to the taking of the votes give each juror two ballot balls, one pierced and one solid. This is done in full view of the rival litigants, to secure that no one shall receive two pierced or two solid balls. Then the official designated for the purpose takes away the jurors staves, in return for which each one as he records his vote receives a brass voucher market with the numeral 3 (because he gets three obols when he gives it up). This is to ensure that all shall vote; since no one can get a voucher unless he votes. Two urns, one of brass and the other of wood, stand in the court, in distinct spots so that no one may surreptitiously insert ballot balls; in these the jurors record their votes. The brazen urn is for effective votes, the wooden for unused votes; and the brazen urn has a lid pierced so as to take only one ballot ball, in order that no one may put in two at a time.

When the jurors are about to vote, the crier demands first whether the litigants enter a protest against any of the evidence; for no protest can be received after the voting has begun. Then he proclaims again, 'The pierced ballot for the plaintiff, the solid for the defendant'; and the juror, taking his two ballot balls from the stand, with his hand closed over the stem so as not to show either the pierced or the solid ballot to the litigants, casts the one which is to count into the brazen urn, and the other into the wooden urn.

69

When all the jurors have voted, the attendants take the urn containing the effective votes and discharge them on to a reckoning board having as many cavities as there are ballot balls, so that the effective votes, whether pierced or solid, may be plainly displayed and easily counted. Then the officials assigned to the taking of the votes tell them off on the board, the solid in one place and the

pierced in another, and the crier announces the numbers of the votes, the pierced ballots being for the prosecutor and the solid for the defendant. Whichever has the majority is victorious; but if the votes are equal the verdict is for the defendant. Each juror receives two ballots, and uses one to record his vote, and throws the other away.

Then, if damages have to be awarded, they vote again in the same way, first returning their pay-vouchers and receiving back their staves. Half a gallon of water is allowed to each party for the discussion of the damages. Finally, when all has been completed in accordance with the law, the jurors receive their pay in the order assigned by the lot.

THE END.

Legal Source Texts
book 1: Ancient and BC texts
section 3. the Mediterranean
Part 2. The Roman Constitution
2A. historical background
under the kingdom
under the republic
under the empire
2B. extent source text
the Roman Constitution (1-5)

2A. historical background

The **History of the Roman Constitution** is a study of Ancient Rome that traces the progression of Roman political development from the founding of the city of Rome in 753 BC to the collapse of the (Western) Roman Empire in 476 AD. The constitution of the Roman Kingdom vested the sovereign power in the King of Rome. The king did have two rudimentary checks on his authority, which took the form of a board of elders (the Roman Senate) and a popular assembly (the Curiate Assembly). The arrangement was similar to the constitutional arrangements found in contemporary Greek city-states (such as Athens or Sparta). These Greek constitutional principles probably came to Rome through the Greek colonies of Magna Graecia in southern Italy. The Roman Kingdom was overthrown in 510 BC, according to legend, and in its place the Roman Republic was founded.
The constitutional history of the Roman Republic can be divided into five phases. The first phase began with the revolution which overthrew the Roman Kingdom in 510 BC, and the final phase ended with the revolution which overthrew the Roman Republic, and thus created the Roman Empire, in 27 BC. Throughout the history of the republic, the constitutional evolution was driven by the struggle between the aristocracy (the "Patricians") and the ordinary citizens (the "Plebeians"). Approximately two centuries after the founding of the republic, the Plebeians attained, in theory at least, equality with the Patricians. In practice, however, the plight of the average Plebeian remained unchanged. This set the stage for the civil wars of the 1st century BC, and Rome's transformation into a formal empire.
The general who won the last civil war of the Roman Republic, Gaius Octavian, became the master of the state. In the years after 30 BC, Octavian set out to reform the Roman constitution, and to found the Principate. The ultimate consequence of these reforms was the abolition of the republic, and the founding of the Roman Empire. Octavian was given the honorific Augustus ("venerable") by the Roman Senate, and became known to history by this name, and as the first Roman Emperor. Octavian's reforms did not, at the time, seem drastic, since they did nothing more than reorganize the constitution. The reorganization was revolutionary, however, because the ultimate result was that Octavian ended up with control over the entire constitution, which itself set the stage for outright monarchy. When Diocletian became Roman Emperor in 284, the Principate was abolished, and a new system, the Dominate, was established. This system survived until the ultimate fall of the Western Roman Empire in 476 .

Under the Kingdom

The period of the kingdom can be divided into two epochs based on the legends, handed down to us principally in the first book of Livy's *Ab Urbe condita* ("From the City Having Been Founded", or simply "History of Rome"). While the specific legends were probably not true, they were likely based on historical fact. It is likely that, before the founding of the republic, Rome actually had been ruled by a succession of kings. The first legendary epoch saw the reigns of the first four legendary kings. During this time, the political foundations of the city were laid, the city grew increasingly organized, the religious institutions were established, and the senate and the assemblies evolved into formal institutions. The early Romans were divided into three ethnic groups. The families that belonged to one of these ethnic groups were the original Patrician families. In an attempt to add a level of organization to the city, these Patrician families were divided into units called curia. The vehicle through which the early Romans expressed their democratic impulses was known as a "committee" (*comitia* or "assembly"). The two principle assemblies that formed were known as the Curiate Assembly and the Calate Assembly. The two assemblies were designed to mirror the ethnic divisions of the city, and as such, the assemblies were

organized by curia. The vehicle through which the early Romans expressed their aristocratic impulses was a council of town elders, which became the Roman senate. The elders of this council were known as *patres* ("fathers"), and thus are known to history as the first Roman senators. The *demos* ("people") and the elders eventually recognized the need for a single political leader, and thus elected such a leader, the *rex* (Roman King). The *demos* elected the *rex*, and the elders advised the *rex*.

The second epoch saw the reigns of the last three legendary kings. The second epoch was more consequential than was the first, which was in part due to the significant degree of territorial expansion which occurred during this period. Regardless of how true these legends were, it is likely that, as the legends suggest, a series of conquests did occur during the late monarchy. As a result of these conquests, it became necessary to determine what was to be done with the conquered people. Often, individuals whose towns had been conquered remained in those towns, while other such individuals came to Rome. To acquire legal and economic standing, these newcomers adopted a condition of dependency toward either a Patrician family, or toward the king. Eventually, the individuals who were dependents of the king were released from their state of dependency, and became the first Plebeians. As Rome grew, it needed more soldiers to continue its conquests. When the Plebeians were released from their dependency, they were released from their Curia. When this occurred, while they were no longer required to serve in the army, they also lost their political and economic standing. To bring these new Plebeians back into the army, the Patricians were forced to make concessions. While it is not known exactly what concessions were made, the fact that they were not granted any political power set the stage for what history knows as the Conflict of the Orders.

The reign of the first four kings was distinct from that of the last three kings. The first kings were elected. Between the reigns of the final three kings, however, the monarchy became hereditary, and as such, the senate became subordinated to the king. This breach in the senate's sovereignty, rather than an intolerable tyranny, was probably what led the Patricians in the senate to overthrow the last king. The king may have sought the support of the Plebeians, however, the Plebeians were no doubt exhausted from their continued military service, and from their forced labor in the construction of public works. They were probably also embittered by their lack of political power, and therefore did not come to the aide of either the king or the senate.

Under the Republic

After the monarchy had been overthrown, and the Roman Republic had been founded, the people of Rome began electing two Consuls each year. In the year 494 BC, the Plebeians (commoners) seceded to the Aventine Hill, and demanded of the Patricians (the aristocrats) the right to elect their own officials. The Patricians duly capitulated, and the Plebeians ended their secession. The Plebeians called these new officials Plebeian Tribunes, and gave these Tribunes two assistants, called Plebeian Aediles.

In 449 BC, the Senate promulgated the Twelve Tables as the centerpiece of the Roman Constitution. In 443 BC, the office of Censor was created, and in 367 BC, Plebeians were allowed to stand for the Consulship. The opening of the Consulship to the Plebeian class implicitly opened both the Censorship as well as the Dictatorship to Plebeians. In 366 BC, in an effort by the Patricians to reassert their influence over the magisterial offices, two new offices were created. While these two offices, the Praetorship and the Curule Aedileship, were at first open only to Patricians, within a generation, they were open to Plebeians as well.

Beginning around the year 350 BC, the senators and the Plebeian Tribunes began to grow closer. The Senate began giving Tribunes more power, and, unsurprisingly, the Tribunes began to feel indebted to the senate. As the Tribunes and the senators grew

closer, Plebeian senators began to routinely secure the office of Tribune for members of their own families. Also around the year 350 BC, the Plebeian Council (popular assembly) enacted a significant law (the "Ovinian Law") which transferred, from the Consuls to the Censors, the power to appoint new senators. This law also required the Censors to appoint any newly elected magistrate to the Senate, which probably resulted in a significant increase in the number of Plebeian senators. This, along with the closeness between the Plebeian Tribunes and the Senate, helped to facilitate the creation of a new Plebeian aristocracy. This new Plebeian aristocracy soon merged with the old Patrician aristocracy, creating a combined "Patricio-Plebeian" aristocracy. The old aristocracy existed through the force of law, because only Patricians had been allowed to stand for high office. Now, however, the new aristocracy existed due to the organization of society, and as such, this order could only be overthrown through a revolution.

In 287 BC, the Plebeians seceded to the Janiculum hill. To end the secession, a law (the "Hortensian Law") was passed, which ended the requirement that the Patrician senators consent before a bill could be brought before the Plebeian Council for a vote. The ultimate significance of this law was in the fact that it robbed the Patricians of their final weapon over the Plebeians. The result was that the ultimate control over the state fell, not onto the shoulders of democracy, but onto the shoulders of the new Patricio-Plebeian aristocracy. By the middle of the second century BC, the economic situation for the average Plebeian had declined significantly. Farmers became bankrupted, and soon masses of unemployed Plebeians began flooding into Rome, and thus into the ranks of the legislative assemblies, where their economic status usually led them to vote for the candidate who offered them the most. A new culture of dependency was emerging, which would look to any populist leader for relief.

In 88 BC, an aristocratic senator named Lucius Cornelius Sulla was elected Consul, and soon left for a war in the east. When a Tribune revoked Sulla's command of the war, Sulla brought his army back to Italy, marched on Rome, secured the city, and left for the east again. In 83 BC he returned to Rome, and captured the city a second time. In 82 BC, he made himself Dictator, and then used his status as Dictator to pass a series of constitutional reforms that were intended to strengthen the senate. In 80 BC he resigned his Dictatorship, and by 78 BC he was dead. While he thought that he had firmly established aristocratic rule, his own career had illustrated the fatal weakness in the constitution: that it was the army, and not the senate, which dictated the fortunes of the state. In 70 BC, the generals Pompey Magnus and Marcus Licinius Crassus were both elected Consul, and quickly dismantled Sulla's constitution. In 62 BC Pompey returned to Rome from battle in the east, and soon entered into an agreement with Julius Caesar. Caesar and Pompey, along with Crassus, established a private agreement, known as the First Triumvirate. Under the agreement, Pompey's arrangements were to be ratified, Crassus was to be promised a future Consulship, and Caesar was to be promised the Consulship in 59 BC, and then the governorship of Gaul (modern France) immediately afterwards. In 54 BC, violence began sweeping the city, and in 53 BC Crassus was killed. In January 49 BC, the senate passed a resolution which declared that if Caesar did not lay down his arms by July of that year, he would be considered an enemy of the republic. In response, Caesar quickly crossed the Rubicon with his veteran army, and marched towards Rome. Caesar's rapid advance forced Pompey, the Consuls and the senate to abandon Rome for Greece, and allowed Caesar to enter the city unopposed.

By 48 BC, after having defeated the last of his major enemies, Julius Caesar wanted to ensure that his control over the government was undisputed. He assumed these powers by increasing his own authority, and by decreasing the authority of Rome's other political institutions. Caesar held the office of Roman Dictator, and alternated between the Consulship (the chief-magistracy) and the Proconsulship (in effect, a

military governorship). In 48 BC, Caesar was given the powers of a Plebeian Tribune, which made his person sacrosanct, gave him the power to veto the Senate, and allowed him to dominate the legislative process. After Caesar was assassinated in 44 BC, Mark Antony formed an alliance with Caesar's adopted son and great-nephew, Gaius Octavian. Along with Marcus Aemilius Lepidus, they formed an alliance known as the Second Triumvirate, and held powers that were nearly identical to the powers that Caesar had held under his constitution. While the conspirators who had assassinated Caesar were defeated at the Battle of Philippi in 42 BC, the peace that resulted was only temporary. Antony and Octavian fought against each other in one last battle in 31 BC. Antony was defeated, and in 30 BC he committed suicide. In 29 BC, Octavian returned to Rome as the unchallenged master of the state. The reign of Octavian, whom history remembers as Augustus, the first Roman Emperor, marked the dividing line between the Roman Republic and the Roman Empire. By the time this process was complete, Rome had completed its transition from a city-state with a network of dependencies, to the capital of an empire.

Under the Empire

When Octavian returned to Rome two years after defeating Mark Antony, no one remained to oppose him. Decades of war had taken a terrible toll on the People of Rome. The political situation was unstable, and there was a constant threat of renewed warfare. Octavian's arrival alone caused a wave of optimism to ripple throughout Italy. As soon as he arrived, he began addressing the problems that were plaguing Rome. Octavian's popularity soon reached new heights, which ultimately gave him the support he needed to implement his reforms. When Octavian deposed Mark Antony in 32 BC, he resigned his position as triumvir, but was probably vested with powers similar to those that he had given up.

Octavian wanted to solidify his status as master of the state, but avoid the fate of his adopted father. On January 13 of 27 BC, Octavian transferred control of the state back to the Senate and the People of Rome, but neither the Senate nor the People of Rome were willing to accept what was, in effect, Octavian's resignation. Octavian was allowed to remain Roman Consul (the chief-executive under the old Republic), and was also allowed to retain his tribunician powers (similar to those of the Plebeian Tribunes, or chief representatives of the people). This arrangement, in effect, functioned as a popular ratification of his position within the state. The Senate then granted Octavian a unique grade of Proconsular command power (*imperium*) which gave him the authority over all of Rome's military governors, and thus, over the entire Roman army. Octavian was also granted the title of "Augustus" ("venerable") and of *Princeps* ("first citizen"). In 23 BC, Augustus (as Octavian now called himself) gave up his Consulship, and expanded both his Proconsular *imperium* and his tribunician powers. After these final reforms had been instituted, Augustus never again altered his constitution. Augustus' final goal was to ensure an orderly succession. In 6 BC Augustus granted tribunician powers to his stepson Tiberius, and quickly recognized Tiberius as his heir. In 13 AD a law was passed which made Tiberius' legal powers equivalent to, and independent from, those of Augustus. Within a year, Augustus was dead.

When Augustus died in 14 AD, the Principate legally ended. Tiberius knew that if he secured the support of the army, the rest of the government would soon follow. Therefore, Tiberius assumed command of the Praetorian Guard, and used his Proconsular *imperium* to force the armies to swear allegiance to him. As soon as this occurred, the Senate and the magistrates acquiesced. Under Tiberius, the power to elect magistrates was transferred from the assemblies to the Senate. When Tiberius died, Caligula was proclaimed Emperor by the Senate. In 41 Caligula was assassinated, and for two days following his assassination, the Senate debated the merits of restoring the Republic. Due to the demands of the army, however, Claudius was

declared emperor, but he was ultimately killed, and Nero was declared Emperor.
In the decades after the death of Augustus, the Roman Empire was, in a sense, a union of inchoate principalities, which could have disintegrated at any time. In 68 AD, Ser. Sulpicius Galba, the governor of Hispania Tarraconensis, was proclaimed Emperor by his troops. In Rome, the emperor Nero quickly lost his supporters and committed suicide. The governor of Lower Germany, A. Vitellius, was soon proclaimed Emperor by his troops, and in Rome, the Praetorian Guard proclaimed M. Salvius Otho Emperor. In 69, Galba was assassinated and Otho took an army to Germany to defeat Vitellius, but instead was himself defeated. He committed suicide, and Vitellius was proclaimed Emperor, but was quickly defeated and the executed by Vespasian, who was then declared Emperor. Under the Emperor Vespasian, the Roman constitution began a slide toward outright monarchy. Vespasian died in 79, and was succeeded by his son, Titus, who presided over a further weakening of the senate. He was succeeded by his brother, Domitian, in 81. Domitian's reign marked a significant turning point on the road to monarchy, as he made himself Censor for life, and unlike his father, used these powers to further subjugate the Senate. Domitian, ultimately, was a tyrant with the character which always makes tyranny repulsive, and this derived in part from his own paranoia, which itself was a consequence of the fact that he had no son, and thus no obvious heir. In September 96, Domitian was assassinated.
During the period that began with the accession of the Emperor Nerva and ended with the death of the Emperor Commodus, the Empire continued to weaken. It was becoming difficult to recruit enough soldiers for the army, inflation was becoming an issue, and on at least one occasion, the Empire almost went bankrupt. The most significant constitutional development during this era was the steady drift towards monarchy. M. Cocceius Nerva succeeded Domitian, and although his reign was too short for any major constitutional reforms, he did reverse some of his predecessor's abuses. He was succeeded by Trajan in 98, who then went further than even Nerva had in restoring the image of a free republic, by, for example, allowing the senate to regain some independent legislative abilities. Hadrian succeeded Trajan as Emperor. By far, his most important constitutional alteration was his creation of a bureaucratic apparatus, which included a fixed gradation of clearly defined offices, and a corresponding order of promotion. Hadrian was succeed by Antonius Pius, who made no real changes to the constitution. Antonius Pius was succeeded by Marcus Aurelius in 161. The most significant constitutional development that occurred during the reign of Marcus Aurelius was the revival of the republican principle of collegiality, as he made his brother, L. Aelius, his co-emperor. In 169, Aelius died, and in 176, Marcus Aurelius made his son, L. Aurelius Commodus, his new co-emperor. In 180, Marcus Aurelius died, and Commodus became Emperor. Commodus' tyranny revived the worst memories of the later Julian emperors, as he was more explicit than any of his predecessors in taking powers that he did not legally have, and in disregarding the constitution. He was killed in 192.
No further constitutional reforms were enacted during the Principate. The only development of any significance was the continuing slide towards monarchy, as the constitutional distinctions that had been set up by Augustus lost whatever meaning that they still had. Starting in 235, with the reign of the barbarian Emperor Maximinus Thrax, the Empire was put through a period of severe military, civil, and economic stress. The crisis arguably reached it height during the reign of Gallienus, from 260 to 268. The crisis ended with the accession of Diocletian in 284, and the abolishment of the Principate.

2B. extent source text

THE ROMAN CONSTITUTION TO THE TIME OF CICERO

In the time of Cicero the Roman "State" had technically a republican constitution, that is, every citizen had a share in the government. But not every citizen had an equal share, partly from fixed constitutional principles, and partly from differentiations in social prominence which affected constitutional rights.

I. CITIZENSHIP AND ORDERS IN THE STATE

Accordingly there were among Roman citizens three social (and in a manner political) ranks (*ordines*): the Senatorial Order (*ordo senatorius*), the Equestrian Order (*ordo equestris*), and the People (*populus*, in the narrower sense). The first two of these made up the Roman aristocracy.

I. SENATORIAL ORDER.-- The *Ordo Senatorius* was strictly speaking only another name for the Senate, the members of which, by virtue of their life tenure of office, their privileges and insignia, and their *esprit de corps*, formed a kind of Peerage. The list of Senators, regularly numbering 300, was in early times made up by the Censors at their discretion from among those who had held high magistracies. But after the reforms of Sulla (B.C. 80) every person who had held the quaestorship--the lowest grade of the regular magistracy(see quaestor below)--was lawfully entitled to a seat in the Senate. This aristocracy was therefore an official or bureaucratic class. Their number fluctuated, running up to five or six hundred.

Nobility, however, did not really depend on holding offices oneself, but on being descending from an ancestor who had held a curule office. [Whoever held any curule office--that is, dictator, consul, interrex, praetor, magister equitum, or curule aedile--secured to his posterity the *ius imaginum*; that is, the right to place in the hall and carry at funeral processions a wax mask of this ancestor, as well as of any other deceased members of the family of curule rank. The privilege was highly prized.] When any person not so descended was chosen a magistrate, he was called a *novus homo* [examples are Cato the Censor, Marius, and Cicero], and, though he of course became a member of the Senatorial Order, he was not regarded as a noble. His posterity, however, would belong to the nobility. But such instances were very uncommon; for the Senate and the magistrates had such control over the elections that it was very difficult for any person not already a member of the nobility to be chosen to any office entitling him to enter the Senate. Hence the Senatorial Order and the Nobility were practically identical, and "new men" became necessarily identified with the class to which their posterity would belong, rather than that from which they themselves had come. This double relation of Cicero--a member of the Senate, but sprung from the Equestrian Order--goes a great way to explain what is inconsistent and vacillating in his political career.

II. EQUESTRIAN ORDER. --The title *Equites* was originally applied to the members of the eighteen centuries *equitum equo publico* under the Servian constitution, to whom a horse was assigned by the state, together with a certain sum of money yearly for its support, and who constituted the old Roman cavalry. Those who served *equo publico* had to have the equestrian census, i.e. possess a fortune of 400,000 sesterces ($20,000) [this requirement grew up only after the establishment of the *equites equo privato*]; and the horses were assigned by the Censors, as a rule, to the young men of senatorial families. These *centuriae equitum* were therefore composed of young noblemen. When they entered the Senate, they were (in the later years of the republic) obliged to give up the public horse. Therefore, on becoming Senators, they

voted in the centuries of the first class, not with the Equites (see equites below). This aristocratic body had, however, long before Cicero's time, ceased to serve in the field; they formed a parade corps (somewhat like the Royal Guards in England), from which active officers of the legion, *tribuni militum*, were taken. [When the Roman *equites* ceased to serve as cavalry, troops of horse were demanded of the allies; and in the time of Caesar we find that the Roman legion consisted exclusively of infantry, the cavalry being made up of such auxiliaries.]

During the time that the *equites equo publico* still served in the field as cavalry, another body grew up by their side, consisting of *equites equo privato*: that is, persons of the equestrian census (having a property of 400,000 sesterces), who had not received a horse from the state, but who volunteered with horses of their own. This body consisted mainly of young men of wealth who did not belong to noble (that is, senatorial) families. No very distinct line was, however, drawn between the two classes until the *Lex Iudiciaria* of C. Gracchus (B.C. 123), which prescribed that the *iudices* should not, as heretofore, be taken from the Senators, but from those who possessed the equestrian census, and at the same time were not members of the Senate. This law did not formally exclude nobles who were not members of the Senate; but the entire body of nobility was so far identified in spirit and interest with the Senate, that an antagonism immediately grew up between them and this new judicial class. A principal cause of the antagonism was that members of the Senate were prohibited from being engaged in any trade or business: while, as has been shown above, the Senate, by its control over the elections, virtually filled its own vacancies, of course from the ranks of the nobility. Hence, as rich men of non-senatorial families were excluded from a political career, and so from the nobility, while Senators were excluded from a business life, there were formed during the last century of the republic two powerful aristocracies,--the nobles, or Senatorial Order, a governing aristocracy of rank, and the Equestrian Order, an aristocracy of wealth, corresponding to the moneyed aristocracy of our day. The name *Ordo Equestris* was given to the latter body because its members possessed the original equestrian census: that is, that amount of property which would have entitled them to a public horse. From the ranks of the nobility were taken the oppressive provincial governors: the Equestrian Order, on the other hand, furnished the *publicani*, the equally oppressive tax-gatherers.

The Equestrian Order, *Ordo Equestris*, is therefore not merely distinct from the *centuriae equitum*, but strongly contrasted with them. The former is the wealthy middle class, the latter are the young nobility. The term *equites* is sometimes applied to both indiscriminately, although the strictly correct term for the members of the Equestrian Order was *iudices*.

III. POPULUS. --Below these two aristocratic orders, in estate and so in social position, were all the rest of the free-born citizens not possessing a *census* of 400,000 sesterces. Among these there was naturally great variety in fortune, cultivation, and respectability; but they all had a status superior to that of the *libertini* (freedmen) and the foreign residents. It was this third class which was under the control of the *tribuni plebis* and which by its turbulence brought on all the disturbances which ultimately resulted in the overthrow of the republic. It must not be supposed, however, that these humbler citizens were debarred from political preferment except by their want of money, and in fact many of them rose to positions of wealth and influence.

The *populus* (in the narrower sense) was often confounded with the *plebs*, but in reality the distinction between the *plebs* and the *patricians* was in Cicero's time historical rather than political. The patricians had been originally a privileged class of hereditary nobility, entirely different from the later senatorial nobility; but only a few patrician familes remained, and these, though still proud of their high birth, had no special privileges and had been practically merged in the Senatorial Order.

Opposed to the patricians had originally been the *plebs*, a class of unknown origin (probably foreign residents) destitute of all political rights. These had gradually, in the long controversies of the earlier Republican times, acquired all the rights and privileges of full citizens, and a majority of the Senatorial and Equestrian Orders were of plebian origin. In time *plebs* in an enlarged sense and *populus* in it narrower acceptation had become synonymous, meaning the "third estate" or, in other words, all citizens not Senators or *equites*. Officially, however, *Populus* (in its wider sense) includes all Roman citizens. [So in the formula for the Roman government: *Senatus Populusque Romanus*. (S.P.Q.R.)]

ROMAN CITIZENSHIP. --Roman citizenship, like all rights that have grown up in a long period of time, included many minute details. The important points, however, may be included under two heads: (i) political rights, including those of voting (*ius suffragii*) and holding office (*ius honorum*), and (ii) civil rights, especially those securing personal freedom by the right of appeal (*ius provocationis*), etc., and by other privileges limiting the arbitrary power of magistrates (see remarks on the *imperium*, below). Among the civil rights were those of trade (*commercii*), intermarriage (*connubii*), making a will (*testamenti*), and others, which, though affecting the status of a man before the law, were unimportant in comparison with the great political and civil privileges first mentioned. Full citizens of Rome (*cives optimo iure*) enjoyed not only all the civil rights referred to, but also the *ius suffragii et honorum*; but many persons, not *cives optimo iure*, had important civil rights without being entitled to vote or hold office. The *ius provocationis* was especially sought after by foreigners as affording a powerful protection all over the world in times when the rights of common humanity were scantily recognized.

ITALIAN TOWNS. --Roman citizenship was originally restricted to the inhabitants of the city and a small amount of adjacent territory. But as Rome enlarged her boundaries the rights of citizenship were extended, in different degrees, to the conquered Italians.

A native Italian town which lost its original dependence and was absorbed in the Roman state, ceased to be a separate *civitas*, and became a *municipium*; its citizens now possessed Roman citizenship as well as that of their own town. This Roman citizenship was possessed in various degrees. Some *municipia* lost all rights of self-government, without receiving any political rights at Rome in their place: that is, their political existence was extinguished, and their citizens became mere passive citizens of Rome, with civil rights, but no political ones. A second class of towns retained their corporate existence, with the right of local self-government, but without the Roman franchise. The condition thus established was called *ius Caeritum*, because of the Etruscan town of Caere was taken as the type. The most favored class of *municipia* retained all powers of self-government, with magistrates of their own election, at the same time being full citizens of Rome. If, as happened in many cases, colonists were sent from Rome (or Latium) to occupy the conquered territory, these retained their full Roman citizenship though living at a distance from the city. Thus a class of towns called *coloniae*, possessing special privileges, grew up.

After the Social War, which resulted (B.C. 90) in giving full Roman citizenship to the inhabitants of all the Italian towns not already enjoying it, there were practically but three classes of such towns: *coloniae*, *municipia*, and *praefecturae*. There was no longer any real distinction between the *coloniae* and the *municipia*, though the former were looked upon with more respect. The *praefecturae*, however, had not full rights of self-government, for the administration of justice was in the hands of prefects (*praefecti*) sent from the capital.

PROVINCIALS. --The foreign conquests of Rome were organized as fast as possible as provinces (*provinciae*). The native inhabitants of these would not be Roman citizens at all, unless citizenship, usually of the lowest grade, was specially conferred upon them. Thus St. Paul was a free-born citizen of Tarsus, for his father had in some

way secured the lesser Roman citizenship, which conferred civil rights but did not carry with it the right of suffrage or any other political privileges.

FREEDMEN. --Besides the free-born citizens (*ingenui*), the Roman state included a large class of *libertini* or freedmen. Manumitted slaves became citizens, but their exact status was a standing subject of controversy in politics. In Cicero's time they voted in the four city tribes, though there had been various attempts to make them eligible for membership in all the tribes so that their suffrages might count for more. Throughout the history of the republic, there was a constant tendency to extend the suffrage, in spite of the effort of the upper classes.

The government of this complex assemblage of citizens was in the hands of a still more complex system of magistrates and assemblies. As in our own day, we must distinguish the *Legislative*, the *Executive*, and the *Judicial*, though these various branches of the state authority were not so scrupulously kept separate as with us.

II. THE PUBLIC ASSEMBLIES

The *Legislative* (or law-making) power proper resided in the Public Assemblies (*comitia*). There were, in Cicero's time, two principal assemblies, both of them having as their basis the thirty-five local tribes into which the whole people were divided for administrative purposes.

I. COMITIA CENTURIATA. --The *Comitia Centuriata*, or great comitia, was the military organization of Servius Tullius endowed with new political powers at the foundation of the republic. Later it was reorganized upon the basis of the thirty-five tribes. There is no precise statement as to either the time or the manner of this reorganization. It must, however, have taken place between the First and Second Punic Wars, and, according to one theory, was carried out in the following manner. The old division of the people into five classes (according to wealth) being retained, for each tribe there were now formed two centuries of each class, one of *seniores* (above 45), one of *iuniores*, making in all 350 centuries. To these were added 18 centuries of *equites* (the young men of senatorial families), guilds of smiths, carpenters, hornblowers, and trumpeters, and a century of freedmen and *capite censi* (those who had no property) --373 in all. Each century had one vote, determined by the majority of its voters. These *comitia* were regularly presided over by the consul; they elected all the higher magistrates, and had full power of making laws, as well as jurisdiction in criminal cases so far as this had not been transferred to the *Quaestiones Perpetuae*.

II. COMITIA TRIBUTA. --Legislation had, before Cicero's time, however, practically passed into the hands of the tribal assembly (*Comitia Tributa*). There were two distinct assemblies which passed under this name:

(a) The *Comitia Tributa* proper, an assembly of the entire people according to the thirty-five tribes (each tribe having one vote), which elected the inferior magistrates (curule aedile, quaestor, etc.), and was presided over by the praetor.

(b) The far more important tribal assembly of the plebeians exclusively, presided over by the Tribune of the People. Strictly speaking, this latter was not *comitia*, inasmuch as it was not composed of the whole people, *populus*, --the patricians being excluded from it. But these were now reduced to a few noble families, whose members would not have cared to take part in this democratic assembly even if they had been permitted; and by the Hortensian Law (B.C. 287) acts of this assembly, *plebiscita*, had received the validity of laws. This plebeian assembly elected the plebeian magistrates (tribunes, plebeian aediles). It was also the principal organ for making laws.

The *Comitia Centuriata*, which elected the higher magistrates, being originally a military organization, could only be convened outside the city, and accordingly met in the Campus Martius or parade-ground. The *Comitia Tributa*, however, being purely a civil assembly, usually met in the Forum, but could be convened in any suitable

place.

III. COMITIA CURIATA. --A third assembly, the *Comitia Curiata*, more ancient than the other two, retained only certain formal functions, especially that of ceremonially investing the consuls with the *imperium* or military authority.[This was done annually by passing a law called *lex curiata de imperio*. On such occasions the thirty *curiae* were represented by bailiffs (*lictores*).] It had no longer any real power or political importance. Membership in the *comitia curiata* was originally confined to patricians, but it is not clear whether this restriction was continued in Cicero's time.

CONTIO. --Besides these assemblies, there were meetings, theoretically for discussion, called *contiones*. A *contio* could be called by any magistrate who had a matter to lay before the peope, and was held regularly in the *Comitium* or the Forum.[For an example of an address at such a meeting see the Oration for the Manilian Law (*Pro Lege Manilia*).] After a *rogatio* (propositon of a law) had been offered, such a meeting was regularly convened in order that the voters might hear the arguments on both sides. After that, on the same or a subsequent occasion, the *comitia* voted on the bill, Yes or No, at a regular meeting for that purpose.

III. THE SENATE

The Roman Senate (*senatus*), as its name indicates, was originally the "council of elders", advisers of the king. It had, therefore, strictly speaking, no authority to make laws or to enforce their execution, and its votes were simply *consulta*, i.e. matters agreed upon as advisable, and its power was *auctoritas*. When annual magistracies succeeded the regal power, this advisory function continued, but the influence of the Senate increased, and the increase went on until, in the third century B.C., this body came to be the actual (though not formal) governing power in the state, and its *consulta* became *ordinances*, by which the Senate directed the administration of the whole state, though it still had no power to pass laws, and was itself subject to the laws. The organization of a new province, for example, was an executive measure, put in force not by a law of the people, but by an ordinance of the Senate; and in this ordinance was embodied the entire authority of Rome over the province, except so far as this was defined by general laws passed by the whole people.

It will thus be seen that the Senate, though originally a "council," had by the time of Cicero absorbed a great part of the legislative as well as the executive power of the state.

For membership in the Senate, see above.

The Senate could only be called together by some magistrate regularly possessing the *imperium* (usually the Consul), or by the tribunes of the people (*tribuni plebis*): the magistrate who summoned it also presided, and laid before it (*referre*) the business for which it was convened. He might at this point give his own judgment. He then proceeded to ask (*rogare*) the Senators individually their opinions (*sententiae*). The order was to ask in their turns the *consulares*, *praetorii*, and *aedilicii* (that is, those who sat in the Senate by virtue of having held these offices respectively). It has been disputed whether the *senatores pedarii*--i.e. those who had held no curule office--had the *ius sententiae*, or right to debate. There are, however, numerous instances of their having taken part in discussion. If the annual election had already taken place,--which was usually in July, six months before the new magistrates assumed their offices,--the magistrates elect (*designati*) were called upon before their several classes. The *princeps Senatus* [someone designated by the censors as first man of the Senate: an honorary office, held ordinarily by patricians.] was called upon first of all, when there were no *consules designati*. The presiding officer, however, had it in his power to vary the order, and honor or slight any Senator by calling upon him *extra ordinem*. For a deliberative oration, delivered in the Senate,

see the fourth *Oratio in Catilinem*.

As the Senate was primarily a body of councillors, its business was as a rule laid before it in general terms, not in any special form for action: each Senator could, as he chose, give his judgment in full, by argument (*sententiam dicere*), or by simply expressing his assent to the judgment of another (*verbo adsentiri*). No Senator had a right to introduce any matter formally by motion, as with us, but it was possible for a Senator, when called, to give his opinion on any subject not included in the questions referred. [The most memorable example of this would be Cato the Censor, who, from 153-149 B.C., ended every speech he made in the Senate by saying "*Carthago delenda est.*--Carthage must be destroyed." --*webmaster*.] The vote was taken by a division (*discessio*), i.e. the Senators went to one side or the other of the house. When a majority had decided in favor of any *sententia*, it was written out in proper form by the secretaries (*scribae*), under the direction of the presiding magistrate, in the presence of some of its principal supporters (*adesse scribundo*), and promulgated. An example of a formal resolution of the Senate is contained in the last chapter of Cicero's Fourteenth Philippic.

IV. THE EXECUTIVE

THE CONSULS. --After the expulsion of the kings, their absolute authority (*imperium*), both in peace and in war, was vested in two Consuls (originally *praetores*). Gradually, however, these autocratic powers were limited by various checks, so that in one sense a Consul had no more power than the president of a modern republic. He could, it is true, do *anything* in his year of office without lawful question from anybody; yet, as he could be called to account at the end of his term, any violation of the constitution was extremely dangerous. Particularly was this true in regard to objections from any one of the ten tribunes. The danger of transgressing this limitation was so immediate that it was rarely incurred, and practically in almost all cases the "veto" (*intercessio*) of a tribune was sufficient to stop any action on the part of the curule magistrates. Another limitation on the consular power came from the curious Roman arrangement of co-ordinate magistrates or "colleagues." The objection of one consul was sufficient to annul any act of the other. This principle also applied to other magistracies, so that the wheels of government could be stopped by any colleague of equal rank. To override such an objection was an act of unconstitutional violence, which, however, was often practised when public opinion could be relied on to sustain the illegal action. In practice, the two consuls either took turns in the administration (sometimes alternating month by month) or agreed upon a division of functions.

The consuls were regularly elected in July and entered upon their office on the first day of the following January. They possessed two kinds of authority,--*potestas*, or power in general (which all magistrates had in some degree), and *imperium*, military or sovereign power, as of a general in the field. [Of the other regular magistrates only the praetors possessed the *imperium*. The *imperium* was formally conferred on the consuls by the *comitia curiata*.] This *imperium* was originally exercised by the consuls, not only in the army but in the city, so that they had absolute authority of life or death; but this was limited, early in the history of the republic, by the *Lex Valeria*, which gave every citizen the right of appeal (*ius provocationis*) to the *comitia centuriata* against a sentence of capital or corporal punishment, and later by the *Lex Porcia*, which forbade the scourging of citizens. By the *Lex Sempronia* of Caius Gracchus the right of appeal in capital cases was established even against the military *imperium*. [Cf. Crucifixion of a Roman Citizen, sect. 6.] In other respects, however, the military *imperium* remained practically absolute, but it could not be exercised inside the walls, except by virtue of the *senatus consultum*, "Dent operam consules ne quid res publica detrimenti capiat," which

revived the ancient powers of the consuls and was equivalent to a declaration of martial law. After the Sullan reforms (B.C. 80) the consuls did not receive the military *imperium* until their year of office had expired and they were about to set out for their provinces. The civil powers of the consuls were analogous to those of any chief magistrate. Most important among them were the right to call together, consult, and preside over the Senate, and the right to convene the *comitia centuriata* and preside over the election of the higher curule magistrates. For the consular *auspicia*, see below.

PRAETORS. --*Praetor* was the original Italic title of the consuls, but, as the result of the agitation for the Licinian Laws, in B.C. 366, a special magistrate of that name was elected "who administered justice, a colleague of the consuls and elected under the same auspices." [He was, however, inferior in rank to the consul, who had *maior potestas*.] Gradually other praetors were added, until in the time of Cicero there were eight. They were essentially judicial officers, and their functions were assigned by lot. As curule magistrates, however, they could on occasion command armies or assist the consuls in emergencies, and were assigned as propraetors to provinces abroad after their year of office. Like the consuls, they were regularly elected at the *comitia centuriata* in July and began to serve on the first of the following January.

QUAESTORS. --the quaestors (*quaestores*), or public treasurers, were in Cicero's time twenty in number. Two (called *quaestores urbani*) had charge of the treasury and archives at Rome, while the others were assigned to the several military commanders and provincial governors, to serve as quartermasters and paymasters. The quaestors entered upon office on Dec. 5, when they drew lots to determine their respective places of service. [They were originally appointed by the consuls, but in Cicero's time were elected by the *comitia tributa*. The practical management of the treasury was with the clerks (*scribae quaestorii*), as in our modern civil service. These formed a permanent and powerful corporation.]

CURSUS HONORUM. --No one could be chosen praetor until he had been quaestor, or consul until he had been praetor. These three magistracies, then, formed a career of office--the so-called *cursus honorum*--which it was the aim of every ambitious Roman to complete as soon as possible. To be elected quaestor a man had to be at least 30 years old [in the time of the Gracchi the age was 27], and the lowest legal ages for the praetorship and the consulship were 40 and 43 respectively. The consulship could in no case be held until three years after the praetorship. Consuls and praetors were curule magistrates, but this was not the case with the quaestor. The office of curule aedile (see below) was often held between the quaestorship and the praetorship, but it was not a necessary grade in the *cursus honorum*. The minimum age for this office was the twenty-seventh year.

AEDILES. --The aediles (from *aedes*, a temple) were four magistrates, who had the general superintendence of teh police of the city, criminal jurisdiction with the power of imposing fines, the care of the games, public buildings, etc. They did not form a board (*collegium*), but were of two grades, two being necessarily plebeians, while the other two, the *curule aediles*, who ranked with the higher magistrates, might be patricians. The aedileship was not a necessary step in a political career, but it was eagerly sought, between the quaestorship and the praetorship, by ambitious men, for the reason that the superintendence of the public games gave great opportunity for gaining popular favor. A certain sum was appropriated from the public treasury for these games; but an aedile who wished to rise to higher positions, and not to be thought mean, took care to add a good sum from his own pocket.

LICTORS, INSIGNIA, ETC. --The consuls and praetors were accompanied by special officers called lictors (*lictores*), who were at the same time a symbol of the supreme power and the immediate ministers of the will of the magistrates. They carried a bundle of rods and an axe bound together (the *fasces*), to inflict the punishment of

flogging and death according to the regular Roman mode of execution. Each consul had twelve lictors, each praetor had six. After the right of appeal was established, the lictors did not carry the axe inside the city. Besides the "imperial" lictors, all magistrates were attended by ministers of various kinds, *viatores* (summoners), *praecones* (criers), and slaves. All the curule magistrates wore as a mark of authority the *toga praetexta* (white with a crimson border), and the *latus clavius* (or broad stripe of crimson) on the front of the tunic. As commanders of armies, they wore instead of the toga the *paludamentum*, a kind of cloak entirely of crimson. In fact, the majesty of the law symbolized in the most striking manner in the case of all magistrates except the tribunes, who, as champions of the *plebs*, wore no distinguishing dress, the quaestors and the plebeian aediles.

PROCONSULS AND PROPRAETORS. --All the magistrates so far mentioned were elected annually. when it was desired to retain the services of a consul or a praetor after his term had expired, his *imperium* was extended (*prorogatum*) by the Senate, and he was known as a *proconsul* or *propraetor*. It was only the military *imperium* that was thus prorogued [sometimes a private citizen was invested with the *imperium* and called proconsul], not the civil power. Thus the proconsul had no authority within the city, and could not, like the consul, call together the Senate or an assembly of the people.

As the state grew, it became customary to commit the government of conquered provinces to proconsuls and propraetors, and to this end the prorogation of the *imperium* for a second year became regular. After the time of Sulla, all provinces were so governed [After the Sullan reforms (B.C. 80) the military *imperium* was not enjoyed by the consuls and praetors until their year of civil magistracy had expired.], one of his laws providing that the consuls and praetors should set out for their provinces immediately on the expiration of their term of office in the city. [This arrangement was changed by a law of Pompey (B.C. 52) which provided that five years should intervene between the magistracy and the provincial government.] no difference was made between the full power of a proconsul and that of a propraetor. Both officers had the full military and civil command and were almost absolute monarchs, except for their liability to be afterwards called to account. Their opportunities for plunder were almost unlimited. [Cf. Impeachment of Verres, *In C. Verrem*]. Their power, however, did not extend to the city itself, in which they were mere private citizens. Hence it often happened that a commander, on returning from his province, remained outside the city so as to retain his military *imperium* for some reason or other.

CENSORS. --The censors (*censores*) were two in number, elected from men of consular dignity (*consulares*), originally at a minimum interval of four years, afterwards once in five years,--the interval called a *lustrum*,--and holding office for eighteen months. They ranked as *magistratus maiores*, but did not possess the *imperium*, and had no power to convene either the Senate or an assembly of the people. Their functions were--(1) to inspect the registry of citizens of every class and order; (2) to punish immorality, by removal from the Senate, the equestrian centuries, or the Tribe (*nota censoria*, *infamia*, *ignominia*); (3) to superintend the finances (giving out contracts for collecting the revenues) and the public works. In the intervals of the censorship, these last were under the care of the aediles. Sulla tacitly abolished the office of censor, but it was revived in the consulship of Pompey and Crassus, B.C. 70.

The property registration, of which the censors had charge, was called *census*, and on it depended not only the taxation but the position of a citizen in the *centuriae*. The classes under the *census* were divided as follows:

First class:
having property valued at 100,000 asses or more
Second class:

having property valued at 75,000 asses or more
Third class:
having property valued at 50,000 asses or more
Fourth class:
having property valued at 25,000 asses or more
Fifth class
having property valued at 11,000 asses or more

The *census* of a Roman *eques* was, in Cicero's time, 400,000 sesterces, and this provision was one of long standing.

TRIBUNI PLEBIS. --Side by side with the "kingly" magistrates there had arisen a class of magistrates of the people whose only privileges originally were prohibitive, but who had come to have great power in the state.

The *Tribuni Plebis* (or *plebi*), ten in number and elected by the *Comitia Tributa*, were the magistrates of that portion of people (a state within a state) known as the *Plebs*. The plebeians at this epoch, however, composed the whole people, with the exception of the few families of the patrician aristocracy (such *gentes* as the Cornelian, Julian, Aemilian, Claudian). Not being technically magistrates of the city or the whole people, but only of a single class, the tribunes did not possess the *imperium*, but only *potestas*, had no real executive power, and indeed were not magistrates at all in the strict sense of the term. On the other hand, their persons were held sacred, and they had two very important and wide-reaching functions: 1. The right of interfering, *ius intercedendi* ("veto"), to arrest almost any act of another magistrate. (This right practically extended to a veto on legislation, elections, and ordinances of the Senate, these being all under the direction of magistrates.) 2. The right to hold the assembly of the *plebs*, organized by tribes. In this assembly, known as *comitia tributa*, the plebeian magistrates (tribunes and plebeian aediles), were chosen, and laws were passed, *plebiscita*, which of course were originally binding only upon the *plebs*, but which, by the Hortensian Law (B.C. 287), received the force of *leges*; fines were likewise imposed by this assembly.

Out of these original powers had been developed a very extensive criminal jurisdiction, which made the tribunes and aediles the chief prosecuting officers of the republic, the tribunes acting in cases of a political character. This order of things continued until the time of Sulla, when the administration of criminal justice was entrusted to the standing courts, *quaestiones perpetuae*, established by him. But Sulla's provisions were abolished by Pompey (B.C. 70), the people fancying that the corruptions of the courts could be remedied by restoring this power to the tribunes. The tribunes also had authority to convene the Senate and bring business before it, preside, and take part in debate. These privileges they acquired very early, by irregular practice passing into custom, rather than by any special enactment.

THE AUSPICES. --The absolute continuity of the government, which was more necessary at Rome than elsewhere, on account of a kind of theocratic idea in the constitution, was secured by a curious contrivance. The "regular succession" in Roman magistrates was as rigid as later in the Church. The welfare of the state was supposed to depend upon the favor of the gods, and this could only be transferred from one officer to another by an election which was practically a religious ceremony in which both officers took part. This favor, technically known as the *auspicia*, would lapse unless the election and inauguration were rightly performed. The ceremony consisted in taking the *auspices*, a regular process of religious divination by the flight of birds, etc., according to a very antiquated ritual.

AUGURS. --The magistrates alone were authorized to consult the auspices, that is, to observe the various signs by which the gods were supposed to declare their will with regard to the state. The interpretation of the auspices, however, which had been developed into an extremely technical science (*ius augurium*), was in the hands of a much honored body (*collegium*) of distinguished citizens, called augurs (*augures*).

These were not themselves magistrates, but simply the official interpreters of the *ius augurium*, which they alone were supposed to know. Since all important public acts (especially the holding of the *comitia*) were done *auspicato* (i.e., under authority of the auspices), the augurs naturally came to have great political influence. Their interpretation and advice could be disregarded, but such disregard was at the risk of the magistrate and was almost sure to affect his popularity, especially if misfortune followed. [Thus they were a conservative influence in the state.] The augurs held office for life. Originally they had the right to fill vacancies on their board, but later such vacancies were sometimes filled by election by the people. [The rule in this matter was several times changed by law.] Cicero himself became an augur, B.C. 53.

INTERREX. --Whenever there was a suspension of legal authority, by vacancy of the chief magistracy, it was understood that the *auspicia*--which were regularly in possession of the magistrates--were lodged (in accordance with the most ancient custom) with the patrician members of the Senate until new magistrates should be inaugurated. The renewal of the regular order of things was begun by the patrician senators coming together and appointing one of their own number as *interrex*. He held office for five days, as chief magistrate of the commonwealth and possessor of the *auspicia*; then he created a successor, who might hold the *comitia* for the election of consuls, but who usually created another successor for that purpose.

DICTATOR. --The dictator was an extraordinary magistrate, possessing absolute power, appointed by the consuls, at the instance of the Senate, in times of great public danger. Properly he held office but for six months. The laws of appeal, and other safeguards of individual liberty, had at first no force against this magistrate. In later times (after B.C. 202) dictators were no longer appointed, but instead the Senate, when occasion arose, invested the consuls with dictatorial power. Sulla, and afterwards Caesar, revived the name and authority of the dictatorship; but in their case the office became equivalent to absolute sovereignty, since each of them was appointed dictator for life (*perpetuo*). The *Magister Equitum*, appointed by the Dictator, stood next in command to him and also had the *imperium*.

V. THE COURTS

Our division of legal business into *civil* and *criminal*, though not exactly corresponding to the Roman classification of cases as *causae privatae* and *causae publicae*, still affords the most convenient basis for an understanding of the ancient courts.

In Civil Cases between individual citizens as well as foreign residents, the jurisdiction, originally belonging to the king, was, on the establishment of the Republic transferred to the consuls, but in the times with which we are especially concerned, it rested with the praetors. The *praetor urbanus* had charge of all civil cases between Roman citizens; the *praetor peregrinus*, of all civil suits to which an alien was a party. Civil processes were various and complicated.

Criminal Jurisdiction also originally rested with the king, and, later, with the magistrates (consuls, etc.) who succeeded him. But by the various laws concerning appeal, the trial of all important offences was transferred to the assemblies of the people. In accordance with its origin the jurisdiction of these bodies was always theoretically an appellant jurisdiction. The case was supposed first to be decided by the magistrate, who, having given notice (*diem dicere*) to the defendant (*reus*), brought forward a bill (*rogatio*) enacting the punishment. If the case was a capital one, i.e. involving the life or status of a Roman citizen, it was brought before the *comitia centuriata* convened by the magistrate for the purpose, and decided like any other question. It would appear that any curule magistrate as well as the tribunes could take such action. If the case involved only a fine, it was tried before the *comitia tributa* by an aedile or tribune.

These methods of trial were practically superseded after the time of Sulla by the establishment of the standing courts. They were, however, sometimes revived, as in Cicero's own case.

It had always been competent for the people to establish a *quaestio* or investigation to try the persons suspected of crimes (*quaestiones extraordinariae*). After the analogy of this proceeding, Sulla established standing courts (*quaestiones perpetuae*) differing from previous *quaestiones* only in that they were continuous instead of being appointed upon any particular occasion. It was before these that most crimes were tried. [Sulla's *quaestiones perpetuae* were eight or ten in number. Six of these-- *Repetundae* (extortion), *Ambitus* (bribery), *Peculatus* (embezzlement), *Maiestas* (treason), *de Sicariis et Veneficis* (murder), and probably *Falsi* (counterfeiting and fraud) --were presided over by six of the eight praetors. For the other two (or four), ex-aediles (*aedilicii*) were appointed to preside as *iudices quaestionis*.] Examples of such trials are found in Roscius Amerinus (*pro Roscio Amerino*) and Verres (*In C. Verrem*).

Such a court consisted of a presiding judge, *quaesitor* (*praetor*, or *iudex quaestionis*), who caused a jury (*iudices*) to be impanelled and sworn (hence called *iurati*), varying in number in the different courts and at different times, to try the case under his presidency. These *iudices* were drawn by lot from a standing body (*iudices selecti*), the exact number of which is unknown [For cases of extortion the number was specially fixed by the *Lex Acilia* at four hundred and fifty, from whom fifty were chosen as jurors], and a right of challenging existed as with us. This body was originally made up from the Senatorial Order, but a law of C. Gracchus (B.C. 123) provided that the *iudices* should be taken from non-Senators who possessed the equestrian *census*. From this time the Senators and the *Equites* contended for the control of the courts. Sulla restored to the Senators the exclusive privilege of sitting as *iudices* (B.C. 80), but the Aurelian Law (B.C. 70) provided that the jurors should be taken, one-third from the Senators and two-thirds from the Equestrian Order, and that one-half of the *Equites* chosen (i.e. one-third of the whole number of *iudices*) should have held the office of *Tribunus Aerarius* (i.e. president of one of the thirty-five local tribes). This regulation remained in force until the dictatorship of Caesar, B.C. 45, when this *decuria* of *Tribuni Aerarii* was abolished. A majority of the jurors decided the verdict. The president had no vote, nor did he decide the law of the case: he had merely charge of the proceedings as a presiding magistrate. (Cf. *In C. Verrem* 1.32 for a hint at his powers.) Each juror wrote on his ballot **A** (*absolvo*) for acquittal or **C** or **K** (*condemno*) for conviction.

Legal Source Texts
book 2: Modern and AD texts
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Part 1. the Nicene Creed
1A. historical background
1B. extent source text

1A. historical background

The **Nicene Creed** (Greek, Latin: Symbolum Nicaenum) is the profession of faith or creed that is most widely used in Christian liturgy. It forms the mainstream definition of Christianity for most Christians.
It is called “Nicene” because, in its original form, it was adopted in the city of Nicaea (present day Iznik in Turkey) by the first ecumenical council, which met there in the year 325.
The Nicene Creed has been normative for the Catholic Church, the Eastern Orthodox Church, the Church of the East, the Oriental Orthodox churches, the Anglican Communion, and the great majority of Protestant denominations. It forms the mainstream definition of Christianity itself in Nicene Christianity.
The Apostles' Creed, which in its present form is later, is also broadly accepted in the West, but is not used in the Eastern liturgy. One or other of these two creeds is recited in the Roman Rite Mass directly after the homily on all Sundays and solemnities (Tridentine feasts of the first class). In the Roman Catholic Church, the Nicene Creed is part of the profession of faith required of those undertaking important functions within the Church.
In the Byzantine Rite the Nicene Creed is always sung or recited at the Divine Liturgy immediately preceding the Anaphora (Eucharistic Prayer) and is also recited daily at compline, as well as at sundry other services.
For English translations of the Nicene Creed in current use, see English versions of the Nicene Creed.

Nomenclature

There are several designations for the two forms of the Nicene creed, some with overlapping meanings:

- **Nicene Creed** or the **Creed of Nicaea** is used to refer to the original version adopted at the First Council of Nicaea (325), to the revised version adopted by the First Council of Constantinople (381), to the Latin version that includes the phrase "Deum de Deo" and "Filioque", and to the Armenian version, which does not include "and from the Son", but does include "God from God" and many other phrases.
- **Niceno-Constantinopolitan Creed** can stand for the revised version of Constantinople (381) or the later Latin version or various other versions.
- **Icon/Symbol of the Faith** is the usual designation for the revised version of Constantinople 381 in the Orthodox churches, where this is the only creed used in the liturgy.
- **Profession of Faith of the 318 Fathers** refers specifically to the version of Nicea 325 (traditionally, 318 bishops took part at the First Council of Nicea).
- **Profession of Faith of the 150 Fathers** refers specifically to the version of Constantinople 381 (traditionally, 150 bishops took part at the First Council of Constantinople).

In musical settings, particularly when sung in Latin, this Creed is usually referred to by its first word, *Credo*.

History

The purpose of a creed is to act as a yardstick of correct belief, or *orthodoxy*. The creeds of Christianity have been drawn up at times of conflict about doctrine: acceptance or rejection of a creed served to distinguish believers and deniers of a particular doctrine or set of doctrines. For that reason a creed was called in Greek, (Eng. *sumbolon*), a word that meant half of a broken object which, when placed together with the other half, verified the bearer's identity. The Greek word passed through Latin "symbolum" into English "symbol", which only later took on the

meaning of an outward sign of something.
The Nicene Creed was adopted in the face of the Arian controversy. Arius, a Libyan presbyter in Alexandria, had declared that although the Son was divine, he was a created being and therefore not co-essential with the Father, and "there was when he was not," This made Jesus less than the Father, which posed soteriological challenges for the nascent doctrine of the Trinity. Arius's teaching provoked a serious crisis.
The Nicene Creed of 325 explicitly affirms the co-essential divinity of the Son, applying to him the term "consubstantial". The 381 version speaks of the Holy Spirit as worshipped and glorified with the Father and the Son. The Athanasian Creed describes in much greater detail the relationship between Father, Son and Holy Spirit. The Apostles' Creed makes no explicit statements about the divinity of the Son and the Holy Spirit, but, in the view of many who use it, the doctrine is implicit in it.

The original Nicene Creed of 325

The **First Council of Nicaea** was a council of Christian bishops convened in Nicaea in Bithynia by the Roman Emperor Constantine I in AD 325. This first ecumenical council was the first effort to attain consensus in the church through an assembly representing all of Christendom.
Its main accomplishments were settlement of the Christological issue of the nature of the Son of God and his relationship to God the Father, the construction of the first part of the Creed of Nicaea, establishing uniform observance of the date of Easter and promulgation of early canon law.

Overview

The First Council of Nicaea was the first ecumenical council of the Church. Most significantly, it resulted in the first, uniform Christian doctrine, called the Creed of Nicaea. With the creation of the creed, a precedent was established for subsequent local and regional councils of Bishops (Synods) to create statements of belief and canons of doctrinal orthodoxy—the intent being to define unity of beliefs for the whole of Christendom.
The council settled, to some degree, the debate within the Early Christian communities regarding the divinity of Christ. This idea of the divinity of Christ, along with the idea of Christ as a messenger from God (The Father), had long existed in various parts of the Roman empire. The divinity of Christ had also been widely endorsed by the Christian community in the otherwise pagan city of Rome. The council affirmed and defined what it believed to be the teachings of the Apostles regarding who Christ is: that Christ is the one true God in deity with the Father.
Derived from Greek (Ancient Greek:*oikoumen* “the inhabited earth”), "ecumenical" means "worldwide" but generally is assumed to be limited to the known inhabited Earth,(Danker 2000, pp. 699-670) and at this time in history is synonymous with the Roman Empire; the earliest extant uses of the term for a council are Eusebius' *Life of Constantine* 3.6[9] around 338, which states "he convoked an Ecumenical Council" and the Letter in 382 to Pope Damasus I and the Latin bishops from the First Council of Constantinople.
One purpose of the council was to resolve disagreements arising from within the Church of Alexandria over the nature of the Son in his relationship to the Father: in particular, whether the Son had been 'begotten' by the Father from his own being, or rather, created out of nothing, a characteristic shared with other creatures. St. Alexander of Alexandria and Athanasius took the first position; the popular presbyter Arius, from whom the term Arianism comes, took the second. The council decided against the Arians overwhelmingly (of the estimated 250–318 attendees, all but two agreed to sign the creed and these two, along with Arius, were banished to Illyria).
Another result of the council was an agreement on when to celebrate Easter, the most

important feast of the ecclesiastical calendar, decreed in an epistle to the Church of Alexandria in which is simply stated:
We also send you the good news of the settlement concerning the holy pasch, namely that in answer to your prayers this question also has been resolved. All the brethren in the East who have hitherto followed the Jewish practice will henceforth observe the custom of the Romans and of yourselves and of all of us who from ancient times have kept Easter together with you.
Historically significant as the first effort to attain consensus in the church through an assembly representing all of Christendom, the Council was the first occasion where the technical aspects of Christology were discussed. Through it a precedent was set for subsequent general councils to adopt creeds and canons. This council is generally considered the beginning of the period of the First seven Ecumenical Councils in the History of Christianity.

Character and purpose

The First Council of Nicaea was convened by Emperor Constantine the Great upon the recommendations of a synod led by Hosius of Córdoba in the Eastertide of 325. This synod had been charged with investigation of the trouble brought about by the Arian controversy in the Greek-speaking east. To most bishops, the teachings of Arius were heretical and dangerous to the salvation of souls. In the summer of 325, the bishops of all provinces were summoned to Nicaea, a place reasonably accessible to many delegates, particularly those of Asia Minor, Georgia, Armenia, Syria, Palestine, Egypt, Greece, and Thrace.
This was the first general council in the history of the Church since the Apostolic Council of Jerusalem, the Apostolic council having established the conditions upon which Gentiles could join the Church. In the Council of Nicaea, "The Church had taken her first great step to define revealed doctrine more precisely in response to a challenge from a heretical theology."

Attendees

Constantine had invited all 1800 bishops of the Christian church (about 1000 in the east and 800 in the west), but a smaller and unknown number attended. Eusebius of Caesarea counted more than 250, Athanasius of Alexandria counted 318, and Eustathius of Antioch estimated "about 270" (all three were present at the council). Later, Socrates Scholasticus recorded more than 300, and Evagrius, Hilary of Poitiers, Jerome, Dionysius Exiguus, and Rufinus recorded 318. This number 318 is preserved in the liturgies of the Eastern Orthodox Church and the Coptic Orthodox Church of Alexandria.
Delegates came from every region of the Roman Empire except Britain. The participating bishops were given free travel to and from their episcopal sees to the council, as well as lodging. These bishops did not travel alone; each one had permission to bring with him two priests and three deacons, so the total number of attendees could have been above 1800. Eusebius speaks of an almost innumerable host of accompanying priests, deacons and acolytes.
A special prominence was also attached to this council because the persecution of Christians had just ended with the Edict of Milan, issued in February of AD 313 by Emperors Constantine and Licinius.
The Eastern bishops formed the great majority. Of these, the first rank was held by the three patriarchs: Alexander of Alexandria, Eustathius of Antioch, and Macarius of Jerusalem. Many of the assembled fathers—for instance, Paphnutius of Thebes, Potamon of Heraclea and Paul of Neocaesarea—had stood forth as confessors of the faith and came to the council with the marks of persecution on their faces. This position is supported by patristic scholar Timothy Barnes in his book *Constantine and Eusebius*. Historically, the influence of these marred confessors has been seen as

substantial, but recent scholarship has called this into question.
Other remarkable attendees were Eusebius of Nicomedia; Eusebius of Caesarea, the purported first church historian; circumstances suggest that Nicholas of Myra attended (his life was the seed of the Santa Claus legends); Aristakes of Armenia (son of Saint Gregory the Illuminator); Leontius of Caesarea; Jacob of Nisibis, a former hermit; Hypatius of Gangra; Protogenes of Sardica; Melitius of Sebastopolis; Achilleus of Larissa (considered the Athanasius of Thessaly) and Spyridion of Trimythous, who even while a bishop made his living as a shepherd. From foreign places came John, bishop of Persia and India, Theophilus, a Gothic bishop and Stratophilus, bishop of Pitiunt of Georgia.
The Latin-speaking provinces sent at least five representatives: Marcus of Calabria from Italia, Cecilian of Carthage from Africa, Hosius of Córdoba from Hispania, Nicasius of Die from Gaul, and Domnus of Stridon from the province of the Danube.
Athanasius of Alexandria, a young deacon and companion of Bishop Alexander of Alexandria, was among the assistants. Athanasius eventually spent most of his life battling against Arianism. Alexander of Constantinople, then a presbyter, was also present as representative of his aged bishop.
The supporters of Arius included Secundus of Ptolemais, Theonus of Marmarica, Zphyrius, and Dathes, all of whom hailed from the Libyan Pentapolis. Other supporters included Eusebius of Nicomedia, Paulinus of Tyrus, Actius of Lydda, Menophantus of Ephesus, and Theognus of Nicaea.
"Resplendent in purple and gold, Constantine made a ceremonial entrance at the opening of the council, probably in early June, but respectfully seated the bishops ahead of himself." As Eusebius described, Constantine "himself proceeded through the midst of the assembly, like some heavenly messenger of God, clothed in raiment which glittered as it were with rays of light, reflecting the glowing radiance of a purple robe, and adorned with the brilliant splendor of gold and precious stones". The emperor was present as an overseer and presider, but did not cast any official vote. Constantine organized the Council along the lines of the Roman Senate. Hosius of Cordoba may have presided over its deliberations; he was probably one of the Papal legates. Eusebius of Nicomedia probably gave the welcoming address.

Agenda and procedure

The agenda of the synod included:

1. The Arian question regarding the relationship between God the Father and the Son (not only in his incarnate form as Jesus, but also in his nature before the creation of the world); i.e., are the Father and Son one in divine purpose only or also one in being?
2. The date of celebration of Pascha/Easter
3. The Meletian schism
4. Various matters of church discipline, which resulted in twenty canons
1. Church structures: focused on the ordering of the episcopacy
2. Dignity of the clergy: issues of ordination at all levels and of suitability of behavior and background for clergy
3. Reconciliation of the lapsed: establishing norms for public repentance and penance
4. Readmission to the Church of heretics and schismatics: including issues of when reordination and/or rebaptism were to be required
5. Liturgical practice: including the place of deacons, and the practice of standing at prayer during liturgy

The council was formally opened May 20, in the central structure of the imperial palace at Nicaea, with preliminary discussions of the Arian question. In these discussions, some dominant figures were Arius, with several adherents. "Some 22 of the bishops at the council, led by Eusebius of Nicomedia, came as supporters of Arius.

But when some of the more shocking passages from his writings were read, they were almost universally seen as blasphemous." Bishops Theognis of Nicaea and Maris of Chalcedon were among the initial supporters of Arius.
Eusebius of Caesarea called to mind the baptismal creed of his own diocese at Caesarea at Palestine, as a form of reconciliation. The majority of the bishops agreed. For some time, scholars thought that the original Nicene Creed was based on this statement of Eusebius. Today, most scholars think that the Creed is derived from the baptismal creed of Jerusalem, as Hans Lietzmann proposed.
The orthodox bishops won approval of every one of their proposals regarding the Creed. After being in session for an entire month, the council promulgated on June 19 the original Nicene Creed. This profession of faith was adopted by all the bishops "but two from Libya who had been closely associated with Arius from the beginning". No explicit historical record of their dissent actually exists; the signatures of these bishops are simply absent from the Creed.

Arian controversy

The synod of Nicaea, Constantine and the condemnation and burning of Arian books, illustration from a northern Italian compendium of canon law, ca. 825
The Arian controversy arose in Alexandria when the newly reinstated priest Arius began to spread doctrinal views that were contrary to those of his bishop, St. Alexander of Alexandria. The disputed issues centered on the natures and relationship of God (the Father) and the Son of God (Jesus). The disagreements sprang from different ideas about the God-head and what it meant for Jesus to be his son. Alexander maintained that the Son was divine in just the same sense that the Father is, co-eternal with the Father, else he could not be a true Son. Arius emphasized the supremacy and oneness of God, meaning that the Father's divinity must be greater than the Son's, that the Son had a beginning, that he shared neither the eternity nor the true divinity of the Father, but was rather the very first and the most perfect of God's creatures.
The Arian discussions and debates at the council extended from about May 20, 325, through about June 19. According to legendary accounts, debate became so heated that at one point, Arius was struck in the face by Nicholas of Myra, who would later be canonized. This account is almost certainly apocryphal, as Arius himself would not have been present in the council chamber due to the fact that he was not a bishop.
Much of the debate hinged on the difference between being "born" or "created" and being "begotten". Arians saw these as essentially the same; followers of Alexander did not. The exact meaning of many of the words used in the debates at Nicaea were still unclear to speakers of other languages. Greek words like "essence" (*ousia*), "substance" (*hypostasis*), "nature" (*physis*), "person" (*prosopon*) bore a variety of meanings drawn from pre-Christian philosophers, which could not but entail misunderstandings until they were cleared up. The word *homoousia*, in particular, was initially disliked by many bishops because of its associations with Gnostic heretics (who used it in their theology), and because their heresies had been condemned at the 264–268 Synods of Antioch.

Position of Arius (Arianism)

According to surviving accounts, the nontrinitarian Arius maintained that the Son of God was a Creature made from nothing, begotten directly of the Eternal God, and that he was God's First Production, before all ages. And he argued that everything else was created through the Son. Thus, said the Arians, only the Son was directly created and begotten of God; and therefore there was a time that He had no existence. Arius believed that the Son of God was capable of His own free will of right and wrong, and that "were He in the truest sense a son, He must have come after the Father, therefore the time obviously was when He was not, and hence He was a finite

being", and was under God the Father. Therefore Arius insisted that the Father's divinity was greater than the Son's. The Arians appealed to Scripture, quoting biblical statements such as "the Father is greater than I", and also that the son is "firstborn of all creation".

Position of the council

Alexander and the Nicene fathers countered the Arians' argument, saying that the Father's fatherhood, like all of his attributes, is eternal. Thus, the Father was always a Father, and that the Son, therefore, always existed with him, co-equally and consubstantially. The Nicene fathers believed that to follow the Arian view destroyed the unity of the Godhead, and made the Son unequal to the Father. They insisted that such a view was in contravention of such Scriptures as "I and the Father are one" and "the Word was God", as such verses were interpreted. With Athanasius, they declared that the Son had no beginning, but had an "eternal derivation" from the Father, and therefore was co-eternal with him, and equal to God in all aspects.

Result of the debate

The Council declared that the Son was true God, co-eternal with the Father and begotten from His same substance, arguing that such a doctrine best codified the Scriptural presentation of the Son as well as traditional Christian belief about him handed down from the Apostles. This belief was expressed by the bishops in the Creed of Nicaea, which would form the basis of what has since been known as the Niceno-Constantinopolitan Creed.

Nicene Creed

One of the projects undertaken by the Council was the creation of a Creed, a declaration and summary of the Christian faith. Several creeds were already in existence; many creeds were acceptable to the members of the council, including Arius. From earliest times, various creeds served as a means of identification for Christians, as a means of inclusion and recognition, especially at baptism.

In Rome, for example, the Apostles' Creed was popular, especially for use in Lent and the Easter season. In the Council of Nicaea, one specific creed was used to define the Church's faith clearly, to include those who professed it, and to exclude those who did not.

Some distinctive elements in the Nicene Creed, perhaps from the hand of Hosius of Cordova, were added. Some elements were added specifically to counter the Arian point of view.

1. Jesus Christ is described as "God from God, Light from Light, true God from true God", proclaiming his divinity.
2. Jesus Christ is said to be "begotten, not made", asserting that he was not a mere creature, brought into being out of nothing, but the true Son of God, brought into being 'from the substance of the Father'.
3. He is said to be "of one being with The Father". Eusebius of Caesarea ascribes the term *homoousios*, or *consubstantial*, *i.e.*, "of the **same** substance" (of the Father), to Constantine who, on this particular point, may have chosen to exercise his authority. The significance of this clause, however, is extremely ambiguous, and the issues it raised would be seriously controverted in future.

At the end of the creed came a list of anathemas, designed to repudiate explicitly the Arians' stated claims.

1. The view that 'there was once that when he was not' was rejected to maintain the co-eternity of the Son with the Father.
2. The view that he was 'mutable or subject to change' was rejected to maintain that the Son just like the Father was beyond any form of weakness or corruptibility, and most importantly that he could not fall away from absolute moral

perfection.
Thus, instead of a baptismal creed acceptable to both the Arians and their opponents the council promulgated one which was clearly opposed to Arianism and incompatible with the distinctive core of their beliefs. The text of this profession of faith is preserved in a letter of Eusebius to his congregation, in Athanasius, and elsewhere. Although the most vocal of anti-Arians, the Homoousians (from the Koine Greek word translated as "of same substance" which was condemned at the Council of Antioch in 264–268), were in the minority, the Creed was accepted by the council as an expression of the bishops' common faith and the ancient faith of the whole Church.
Bishop Hosius of Cordova, one of the firm Homoousians, may well have helped bring the council to consensus. At the time of the council, he was the confidant of the emperor in all Church matters. Hosius stands at the head of the lists of bishops, and Athanasius ascribes to him the actual formulation of the creed. Great leaders such as Eustathius of Antioch, Alexander of Alexandria, Athanasius, and Marcellus of Ancyra all adhered to the Homoousian position.
In spite of his sympathy for Arius, Eusebius of Caesarea adhered to the decisions of the council, accepting the entire creed. The initial number of bishops supporting Arius was small. After a month of discussion, on June 19, there were only two left: Theonas of Marmarica in Libya, and Secundus of Ptolemais. Maris of Chalcedon, who initially supported Arianism, agreed to the whole creed. Similarly, Eusebius of Nicomedia and Theognis of Nice also agreed, except for the certain statements.
The Emperor carried out his earlier statement: everybody who refused to endorse the Creed would be exiled. Arius, Theonas, and Secundus refused to adhere to the creed, and were thus exiled to Illyria, in addition to being excommunicated. The works of Arius were ordered to be confiscated and consigned to the flames while all persons found possessing them were to be executed. Nevertheless, the controversy continued in various parts of the empire.
The Creed was amended to a new version by the First Council of Constantinople in 381.

Separation of Easter computation from Jewish calendar

The feast of Easter is linked to the Jewish Passover and Feast of Unleavened Bread, as Christians believe that the crucifixion and resurrection of Jesus occurred at the time of those observances.
As early as Pope Sixtus I, some Christians had set Easter to a Sunday in the lunar month of Nisan. To determine which lunar month was to be designated as Nisan, Christians relied on the Jewish community. By the later 3rd century some Christians began to express dissatisfaction with what they took to be the disorderly state of the Jewish calendar. They argued that contemporary Jews were identifying the wrong lunar month as the month of Nisan, choosing a month whose 14th day fell before the spring equinox.
Christians, these thinkers argued, should abandon the custom of relying on Jewish informants and instead do their own computations to determine which month should be styled Nisan, setting Easter within this independently computed, Christian Nisan, which would always locate the festival after the equinox. They justified this break with tradition by arguing that it was in fact the contemporary Jewish calendar that had broken with tradition by ignoring the equinox, and that in former times the 14th of Nisan had never preceded the equinox. Others felt that the customary practice of reliance on the Jewish calendar should continue, even if the Jewish computations were in error from a Christian point of view.
The controversy between those who argued for independent computations and those who argued for continued reliance on the Jewish calendar was formally resolved by the Council, which endorsed the independent procedure that had been in use for some time at Rome and Alexandria. Easter was henceforward to be a Sunday in a lunar

month chosen according to Christian criteria—in effect, a Christian Nisan—not in the month of Nisan as defined by Jews. Those who argued for continued reliance on the Jewish calendar (called "protopaschites" by later historians) were urged to come around to the majority position. That they did not all immediately do so is revealed by the existence of sermons, canons, and tracts written against the protopaschite practice in the later 4th century.
These two rules, independence of the Jewish calendar and worldwide uniformity, were the only rules for Easter explicitly laid down by the Council. No details for the computation were specified; these were worked out in practice, a process that took centuries and generated a number of controversies. (See also Computus and Reform of the date of Easter.) In particular, the Council did not decree that Easter must fall on Sunday. This was already the practice almost everywhere.
Nor did the Council decree that Easter must never coincide with Nisan 14 (the first Day of Unleavened Bread, now commonly called "Passover") in the Hebrew calendar. By endorsing the move to independent computations, the Council had separated the Easter computation from all dependence, positive or negative, on the Jewish calendar. The "Zonaras proviso", the claim that Easter must always follow Nisan 14 in the Hebrew calendar, was not formulated until after some centuries. By that time, the accumulation of errors in the Julian solar and lunar calendars had made it the de facto state of affairs that Julian Easter always followed Hebrew Nisan 14.

Meletian schism

The suppression of the Meletian schism, an early breakaway sect, was another important matter that came before the Council of Nicaea. Meletius, it was decided, should remain in his own city of Lycopolis in Egypt, but without exercising authority or the power to ordain new clergy; he was forbidden to go into the environs of the town or to enter another diocese for the purpose of ordaining its subjects. Melitius retained his episcopal title, but the ecclesiastics ordained by him were to receive again the Laying on of hands, the ordinations performed by Meletius being therefore regarded as invalid. Clergy ordained by Meletius were ordered to yield precedence to those ordained by Alexander, and they were not to do anything without the consent of Bishop Alexander.
In the event of the death of a non-Meletian bishop or ecclesiastic, the vacant see might be given to a Meletian, provided he was worthy and the popular election were ratified by Alexander. As to Meletius himself, episcopal rights and prerogatives were taken from him. These mild measures, however, were in vain; the Meletians joined the Arians and caused more dissension than ever, being among the worst enemies of Athanasius. The Meletians ultimately died out around the middle of the fifth century.

Promulgation of canon law

The council promulgated twenty new church laws, called *canons*, (though the exact number is subject to debate, that is, unchanging rules of discipline. The twenty as listed in the Nicene and Post-Nicene Fathers are as follows:
1. prohibition of self-castration
2. establishment of a minimum term for catechumen (persons studying for baptism)
3. prohibition of the presence in the house of a cleric of a younger woman who might bring him under suspicion (the so called *virgines subintroductae*)
4. ordination of a bishop in the presence of at least three provincial bishops and confirmation by the Metropolitan bishop
5. provision for two provincial synods to be held annually
6. exceptional authority acknowledged for the patriarchs of Alexandria (pope), Antioch, and Rome (the Pope), for their respective regions
7. recognition of the honorary rights of the see of Jerusalem
8. provision for agreement with the Novatianists, an early sect

9–14. provision for mild procedure against the lapsed during the persecution under Licinius
15–16. prohibition of the removal of priests
17. prohibition of usury among the clergy
18. precedence of bishops and presbyters before deacons in receiving the Eucharist (Holy Communion)
19. declaration of the invalidity of baptism by Paulian heretics
20. prohibition of kneeling on Sundays and during the Pentecost (the fifty days commencing on Easter). Standing was the normative posture for prayer at this time, as it still is among the Eastern Christians. Kneeling was considered most appropriate to penitential prayer, as distinct from the festive nature of Eastertide and its remembrance every Sunday. The canon itself was designed only to ensure uniformity of practise at the designated times.
On July 25, 325, in conclusion, the fathers of the council celebrated the Emperor's twentieth anniversary. In his farewell address, Constantine informed the audience how averse he was to dogmatic controversy; he wanted the Church to live in harmony and peace. In a circular letter, he announced the accomplished unity of practice by the whole Church in the date of the celebration of Christian Passover (Easter).

Effects of the council

The long-term effects of the Council of Nicaea were significant. For the first time, representatives of many of the bishops of the Church convened to agree on a doctrinal statement. Also for the first time, the Emperor played a role, by calling together the bishops under his authority, and using the power of the state to give the council's orders effect.
In the short-term, however, the council did not completely solve the problems it was convened to discuss and a period of conflict and upheaval continued for some time. Constantine himself was succeeded by two Arian Emperors in the Eastern Empire: his son, Constantius II and Valens. Valens could not resolve the outstanding ecclesiastical issues, and unsuccessfully confronted St. Basil over the Nicene Creed.
Pagan powers within the Empire sought to maintain and at times re-establish paganism into the seat of the Emperor (see Arbogast and Julian the Apostate). Arians and Meletians soon regained nearly all of the rights they had lost, and consequently, Arianism continued to spread and to cause division in the Church during the remainder of the fourth century. Almost immediately, Eusebius of Nicomedia, an Arian bishop and cousin to Constantine I, used his influence at court to sway Constantine's favor from the orthodox Nicene bishops to the Arians.
Eustathius of Antioch was deposed and exiled in 330. Athanasius, who had succeeded Alexander as Bishop of Alexandria, was deposed by the First Synod of Tyre in 335 and Marcellus of Ancyra followed him in 336. Arius himself returned to Constantinople to be readmitted into the Church, but died shortly before he could be received. Constantine died the next year, after finally receiving baptism from Arian Bishop Eusebius of Nicomedia, and "with his passing the first round in the battle after the Council of Nicaea was ended".

Role of Constantine

Christianity was illegal in the empire until the emperors Constantine and Licinius agreed in 313 to what became known as the Edict of Milan. However, Nicene Christianity did not become the state religion of the Roman Empire until the Edict of Thessalonica in 380. In the mean time, paganism remained legal and present in public affairs. In 321 (four years before Nicaea), Constantine declared Sunday to be an Empire-wide day of rest in honor of the sun. At the time of the council, imperial coinage and other imperial motifs still depicted pagan cult symbology in combination

with the Emperor's image.
Constantine's role regarding Nicaea was that of supreme civil leader and authority in the empire. As Emperor, the responsibility for maintaining civil order was his, and he sought that the Church be of one mind and at peace. When first informed of the unrest in Alexandria due to the Arian disputes, he was "greatly troubled" and, "rebuked" both Arius and Bishop Alexander for originating the disturbance and allowing it to become public. Aware also of "the diversity of opinion" regarding the celebration of Easter and hoping to settle both issues, he sent the "honored" Bishop Hosius of Cordova (Hispania) to form a local church council and "reconcile those who were divided". When that embassy failed, he turned to summoning a synod at Nicaea, inviting "the most eminent men of the churches in every country".
Constantine assisted in assembling the council by arranging that travel expenses to and from the bishops' episcopal sees, as well as lodging at Nicaea, be covered out of public funds. He also provided and furnished a "great hall ... in the palace" as a place for discussion so that the attendees "should be treated with becoming dignity". In addressing the opening of the council, he "exhorted the Bishops to unanimity and concord" and called on them to follow the Holy Scriptures with: "Let, then, all contentious disputation be discarded; and let us seek in the divinely-inspired word the solution of the questions at issue." Thereupon, the debate about Arius and church doctrine began. "The emperor gave patient attention to the speeches of both parties" and "deferred" to the decision of the bishops. The bishops first pronounced Arius' teachings to be anathema, formulating the creed as a statement of correct doctrine. When Arius and two followers refused to agree, the bishops pronounced clerical judgement by excommunicating them from the Church. Respecting the clerical decision, and seeing the threat of continued unrest, Constantine also pronounced civil judgement, banishing them into exile.

Misconceptions

Biblical canon

A number of erroneous views have been stated regarding the council's role in establishing the biblical canon. In fact, there is no record of any discussion of the biblical canon at the council at all. The development of the biblical canon took centuries, and was nearly complete (with exceptions known as the Antilegomena, written texts whose authenticity or value is disputed) by the time the Muratorian fragment was written.
In 331 Constantine commissioned fifty Bibles for the Church of Constantinople, but little else is known (in fact, it is not even certain whether his request was for fifty copies of the entire Old and New Testaments, only the New Testament, or merely the Gospels), and it is doubtful that this request provided motivation for canon lists as is sometimes speculated. In Jerome's *Prologue to Judith* he claims that the Book of Judith was "found by the Nicene Council to have been counted among the number of the Sacred Scriptures".

Trinity

The council of Nicaea dealt primarily with the issue of the deity of Christ. Over a century earlier the use of the term "Trinity" (*trinitas* in Latin) could be found in the writings of Origen (185-254) and Tertullian (160-220), and a general notion of a "divine three", in some sense, was expressed in the second century writings of Polycarp, Ignatius, and Justin Martyr. In Nicaea, questions regarding the Holy Spirit were left largely unaddressed until after the relationship between the Father and the Son was settled around the year 362. So the doctrine in a more full-fledged form was not formulated until the Council of Constantinople in 360 AD.

Constantine

While Constantine had sought a unified church after the council, he did not force the Homoousian view of Christ's nature on the council (see The role of Constantine).
Constantine did not commission any Bibles at the council itself. He did commission fifty Bibles in 331 for use in the churches of Constantinople, itself still a new city. No historical evidence points to involvement on his part in selecting or omitting books for inclusion in commissioned Bibles.
Despite Constantine's sympathetic interest in the Church, he did not actually undergo the rite of baptism himself until some 11 or 12 years after the council.

Disputed matters

Role of the Bishop of Rome

Roman Catholics assert that the idea of Christ's deity was ultimately confirmed by the Bishop of Rome, and that it was this confirmation that gave the council its influence and authority. In support of this, they cite the position of early fathers and their expression of the need for all churches to agree with Rome (see Ireneaus, *Adversus Haereses* III:3:2).
However, Protestants, Eastern Orthodox, and Oriental Orthodox do not believe the Council viewed the Bishop of Rome as the jurisdictional head of Christendom, or someone having authority over other bishops attending the Council. In support of this, they cite Canon 6, where the Roman Bishop could be seen as simply one of several influential leaders, but not one who had jurisdiction over other bishops in other regions.
According to Protestant theologian Philip Schaff, "The Nicene fathers passed this canon not as introducing anything new, but merely as confirming an existing relation on the basis of church tradition; and that, with special reference to Alexandria, on account of the troubles existing there. Rome was named only for illustration; and Antioch and all the other eparchies or provinces were secured their admitted rights. The bishoprics of Alexandria, Rome, and Antioch were placed substantially on equal footing."
There is however, an alternate Roman Catholic interpretation of the above 6th canon proposed by Fr. James F. Loughlin. It involves five different arguments "drawn respectively from the grammatical structure of the sentence, from the logical sequence of ideas, from Catholic analogy, from comparison with the process of formation of the Byzantine Patriarchate, and from the authority of the ancients" in favor of an alternative understanding of the canon. According to this interpretation, the canon shows the role the Bishop of Rome had when he, by his authority, confirmed the jurisdiction of the other patriarchs—an interpretation which is in line with the Roman Catholic understanding of the Pope.

The Niceno–Constantinopolitan Creed of 381

What is known as the "Niceno-Constantinopolitan Creed" or the "Nicene-Constantinopolitan Creed" received this name because of a belief that it was adopted at the Second Ecumenical Council held in Constantinople in 381 as a modification of the original Nicene Creed of 325. In that light, it also came to be very commonly known simply as the "Nicene Creed". It is the only authoritative *ecumenical* statement of the Christian faith accepted by the Roman Catholic, Eastern Orthodox, Oriental Orthodox, Anglican, and major Protestant denominations. (The Apostles' and Athanasian creeds are not as widely accepted.)
It differs in a number of respects, both by addition and omission, from the creed adopted at the First Council of Nicaea. The most notable difference is the additional section "And [we believe] in the Holy Ghost, the Lord and Giver-of-Life, who proceedeth from the Father, who with the Father and the Son together is worshipped and glorified, who spake by the prophets. And [we believe] in one, holy, Catholic and

Apostolic Church. We acknowledge one Baptism for the remission of sins, [and] we look for the resurrection of the dead and the life of the world to come. Amen."
Since the end of the 19th century, scholars have questioned the traditional explanation of the origin of this creed, which has been passed down in the name of the council, whose official acts have been lost over time. A local council of Constantinople in 382 and the third ecumenical council (Ephesus, 431) made no mention of it, with the latter affirming the 325 creed of Nicaea as a valid statement of the faith and using it to denounce Nestorianism. Though some scholarship claims that hints of the later creed's existence are discernible in some writings, no extant document gives its text or makes explicit mention of it earlier than the fourth ecumenical council at Chalcedon in 451. Many of the bishops of the 451 council themselves had never heard of it and initially greeted it skeptically, but it was then produced from the episcopal archives of Constantinople, and the council accepted it "not as supplying any omission but as an authentic interpretation of the faith of Nicaea". In spite of the questions raised, it is considered most likely that this creed was in fact adopted at the 381 second ecumenical council.
On the basis of evidence both internal and external to the text, it has been argued that this creed originated not as an editing of the original Creed proposed at Nicaea in 325, but as an independent creed (probably an older baptismal creed) modified to make it more like the Nicene Creed. Some scholars have argued that the creed may have been presented at Chalcedon as "a precedent for drawing up new creeds and definitions to supplement the Creed of Nicaea, as a way of getting round the ban on new creeds in Canon 7 of Ephesus". It is generally agreed that the Niceno-Constantinopolitan Creed is not simply an expansion of the Creed of Nicaea, and was probably based on another traditional creed independent of the one from Nicaea.
The third Ecumenical Council (Council of Ephesus of 431) reaffirmed the original 325 version of the Nicene Creed and declared that "it is unlawful for any man to bring forward, or to write, or to compose a different (more accurately translated as used by the Council to mean “different,” “contradictory,” and not “another”) faith as a rival to that established by the holy Fathers assembled with the Holy Ghost in Nicaea" (i.e. the 325 creed) This statement has been interpreted as a prohibition against changing this creed or composing others, but not all accept this interpretation. This question is connected with the controversy whether a creed proclaimed by an Ecumenical Council is definitive in excluding not only excisions from its text but also additions to it.
In one respect, the Eastern Orthodox Church's received text[30] of the Niceno-Constantinopolitan Creed differs from the earliest text, which is included in the acts of the Council of Chalcedon of 451: The Eastern Orthodox Church uses the singular forms of verbs such as "I believe", in place of the plural form ("we believe") used by the council. Byzantine Rite Eastern Catholic Churches use exactly the same form of the Creed, since the Catholic Church teaches that it is wrong to add "and the Son" to the Greek verb, though correct to add it to the Latin "qui procedit", which does not have precisely the same meaning. The form generally used in Western churches does add "and the Son" and also the phrase "God from God", which is found in the original 325 Creed.

Comparison between Creed of 325 and Creed of 381

The following table, which indicates by [square brackets] the portions of the 325 text that were omitted or moved in 381, and uses *italics* to indicate what phrases, absent in the 325 text, were added in 381, juxtaposes the earlier (325 AD) and later (381 AD) forms of this Creed in the English translation given in Schaff's work, *Creeds of Christendom*.

First Council of Nicea (325)

First Council of Constantinople (381)

We believe in one God, the Father Almighty, Maker of all things visible and invisible.
We believe in one God, the Father Almighty, Maker *of heaven and earth, and* of all things visible and invisible.
And in one Lord Jesus Christ, the Son of God, begotten of the Father [the only-begotten; that is, of the essence of the Father, God of God], Light of Light, very God of very God, begotten, not made, being of one substance with the Father;
And in one Lord Jesus Christ, the *only-begotten* Son of God, begotten of the Father *before all worlds (æons)*, Light of Light, very God of very God, begotten, not made, being of one substance with the Father;
By whom all things were made [both in heaven and on earth];
by whom all things were made;
Who for us men, and for our salvation, came down and was incarnate and was made man;
who for us men, and for our salvation, came down *from heaven*, and was incarnate *by the Holy Ghost of the Virgin Mary*, and was made man;
He suffered, and the third day he rose again, ascended into heaven;
he *was crucified for us under Pontius Pilate, and* suffered, *and was buried*, and the third day he rose again, *according to the Scriptures, and* ascended into heaven, *and sitteth on the right hand of the Father*;
From thence he shall come to judge the quick and the dead.
from thence he shall come *again, with glory*, to judge the quick and the dead;
whose kingdom shall have no end.
And in the Holy Ghost.
And in the Holy Ghost, *the Lord and Giver of life, who proceedeth from the Father, who with the Father and the Son together is worshiped and glorified, who spake by the prophets.*
In one holy catholic and apostolic Church; we acknowledge one baptism for the remission of sins; we look for the resurrection of the dead, and the life of the world to come. Amen.
[But those who say: 'There was a time when he was not;' and 'He was not before he was made;' and 'He was made out of nothing,' or 'He is of another substance' or 'essence,' or 'The Son of God is created,' or 'changeable,' or 'alterable'—they are condemned by the holy catholic and apostolic Church.]

Filioque controversy

In the late 6th century, some Latin-speaking churches added the words "and from the Son" (*Filioque*) to the description of the procession of the Holy Spirit, in what many Eastern Orthodox Christians have at a later stage argued is a violation of Canon VII of the Third Ecumenical Council, since the words were not included in the text by either the Council of Nicaea or that of Constantinople.
The Vatican stated in 1995 that, while the words "and the Son" would indeed be heretical if used with the Greek verb which is one of the terms used by St. Gregory Nazianzen and the one adopted by the Council of Constantinople — the word *Filioque* is not heretical when associated with the Latin verb *procedo* and the related word *processio.* Whereas the Greek verb (from "out of" and "to come or go") in Gregory and other Fathers necessarily means "to originate from a cause or principle," the Latin term *procedo* (from *pro*, "forward;" and *cedo*, "to go") has no such connotation and simply denotes the communication of the Divine Essence or Substance. In this sense, *processio* is similar in meaning to the Greek term, used by the Fathers from Alexandria (especially Cyril of Alexandria) as well as others. Partly due to the influence of the Latin translations of the New Testament (especially of John 15:16), the term in Greek (the present participle of the Greek term) in the creed was translated into Latin as *procedentem*. In time, the Latin version of the Creed came to

be interpreted in the West in the light of the Western concept of *processio*, which required the affirmation of the *Filioque* to avoid the heresy of Arianism.

Views on the importance of this creed

The view that the Nicene Creed can serve as a touchstone of true Christian faith is reflected in the name "symbol of faith", which was given to it in Greek and Latin, when in those languages the word "symbol" meant a "token for identification (by comparison with a counterpart)", and which continues in use even in languages in which "symbol" no longer has that meaning.

In the Roman Rite Mass, the Latin text of the Niceno-Constantinopolitan Creed, with "Deum de Deo" (God from God) and "Filioque" (and from the Son), phrases absent in the original text, was previously the only form used for the "profession of faith". The Roman Missal now refers to it jointly with the Apostles' Creed as "the Symbol or Profession of Faith or Creed", describing the second as "the baptismal Symbol of the Roman Church, known as the Apostles' Creed". The liturgies of the ancient Churches of Eastern Christianity (Eastern Orthodox Church, Oriental Orthodoxy, Assyrian Church of the East and the Eastern Catholic Churches), use the Niceno-Constantinopolitan Creed, never the Western Apostles' Creed.

In the Byzantine Rite Liturgy, the Creed is typically recited by the cantor, who in this capacity represents the whole congregation. Many, and sometimes all, members of the congregation join the cantor in rhythmic recitation. It is customary to invite, as a token of honor, any prominent lay member of the congregation who happens to be present (e.g. royalty, a visiting dignitary, the Mayor, etc.) to recite the Creed instead of the cantor. This practice stems from the tradition that the prerogative to recite the Creed belonged to the Emperor, speaking for his populace.

Some evangelical and other Christians consider the Nicene Creed helpful and to a certain extent authoritative, but not infallibly so in view of their belief that only Scripture is truly authoritative. Other groups, such as the Church of the New Jerusalem, The Church of Jesus Christ of Latter-day Saints, and the Jehovah's Witnesses explicitly reject some of the statements in the Creed.

Ancient liturgical versions

This section is not meant to collect the texts of all liturgical versions of the Nicene Creed, and provides only three, the Greek, the Latin, and the Armenian, of special interest. Others are mentioned separately, but without the texts. All ancient liturgical versions, even the Greek, differ at least to some small extent from the text adopted by the First Councils of Nicaea and Constantinople. The Creed was originally written in Greek, owing to the location of the two councils.

But though the councils' texts have "*we* believe ... confess ... await," the Creed that the Churches of Byzantine tradition use in their liturgy has "*I* believe ... confess ... await," accentuating the personal nature of recitation of the Creed. The Latin text, as well as using the singular, has two additions: "Deum de Deo" (God from God) and "Filioque" (and from the Son). The Armenian text has many more additions, and is included as showing how that ancient church has chosen to recite the Creed with these numerous elaborations of its contents.

An English translation of the Armenian text is added; English translations of the Greek and Latin liturgical texts are given at English versions of the Nicene Creed in current use.

Greek liturgical text

Πιστεύω εἰς ἕνα Θεόν, Πατέρα, Παντοκράτορα, ποιητὴν οὐρανοῦ καὶ γῆς, ὁρατῶν τε πάντων καὶ ἀοράτων.
Καὶ εἰς ἕνα Κύριον Ἰησοῦν Χριστόν, τὸν Υἱὸν τοῦ Θεοῦ τὸν μονογενῆ, τὸν ἐκ τοῦ Πατρὸς γεννηθέντα πρὸ πάντων τῶν αἰώνων·
φῶς ἐκ φωτός, Θεὸν ἀληθινὸν ἐκ Θεοῦ ἀληθινοῦ, γεννηθέντα οὐ ποιηθέντα, ὁμοούσιον τῷ Πατρί, δι' οὗ τὰ πάντα ἐγένετο.
Τὸν δι' ἡμᾶς τοὺς ἀνθρώπους καὶ διὰ τὴν ἡμετέραν σωτηρίαν κατελθόντα ἐκ τῶν οὐρανῶν καὶ σαρκωθέντα
ἐκ Πνεύματος Ἁγίου καὶ Μαρίας τῆς Παρθένου καὶ ἐνανθρωπήσαντα.
Σταυρωθέντα τε ὑπὲρ ἡμῶν ἐπὶ Ποντίου Πιλάτου, καὶ παθόντα καὶ ταφέντα.
Καὶ ἀναστάντα τῇ τρίτῃ ἡμέρᾳ κατὰ τὰς Γραφάς.
Καὶ ἀνελθόντα εἰς τοὺς οὐρανοὺς καὶ καθεζόμενον ἐκ δεξιῶν τοῦ Πατρός.
Καὶ πάλιν ἐρχόμενον μετὰ δόξης κρῖναι ζῶντας καὶ νεκρούς, οὗ τῆς βασιλείας οὐκ ἔσται τέλος.
Καὶ εἰς τὸ Πνεῦμα τὸ Ἅγιον, τὸ κύριον, τὸ ζωοποιόν,
τὸ ἐκ τοῦ Πατρὸς ἐκπορευόμενον,
τὸ σὺν Πατρὶ καὶ Υἱῷ συμπροσκυνούμενον καὶ συνδοξαζόμενον,
τὸ λαλῆσαν διὰ τῶν προφητῶν.
Εἰς μίαν, Ἁγίαν, Καθολικὴν καὶ Ἀποστολικὴν Ἐκκλησίαν.
Ὁμολογῶ ἓν βάπτισμα εἰς ἄφεσιν ἁμαρτιῶν.
Προσδοκῶ ἀνάστασιν νεκρῶν.
Καὶ ζωὴν τοῦ μέλλοντος αἰῶνος.
Ἀμήν.

Latin liturgical version
Credo in unum Deum,
Patrem omnipoténtem,
Factórem cæli et terræ,
Visibílium ómnium et invisibílium.
Et in unum Dóminum Iesum Christum,
Fílium Dei Unigénitum,
Et ex Patre natum ante ómnia sæcula.
Deum de Deo, lumen de lúmine, Deum verum de Deo vero,
Génitum, non factum, consubstantiálem Patri:
Per quem ómnia facta sunt.
Qui propter nos hómines et propter nostram salútem
Descéndit de cælis.
Et incarnátus est de Spíritu Sancto
Ex María Vírgine, et homo factus est.
Crucifíxus étiam pro nobis sub Póntio Piláto;
Passus, et sepúltus est,
Et resurréxit tértia die, secúndum Scriptúras,
Et ascéndit in cælum, sedet ad déxteram Patris.
Et íterum ventúrus est cum glória,
Iudicáre vivos et mórtuos,
Cuius regni non erit finis.
Et in Spíritum Sanctum, Dóminum et vivificántem:
Qui ex Patre Filióque procédit.
Qui cum Patre et Fílio simul adorátur et conglorificátur:
Qui locútus est per prophétas.
Et unam, sanctam, cathólicam et apostólicam Ecclésiam.
Confíteor unum baptísma in remissiónem peccatorum.
Et expecto resurrectionem mortuorum,
Et vitam ventúri sæculi. Amen.
The Latin text adds "Deum de Deo" and "Filioque" to the Greek. On the latter see The Filioque Controversy above. Inevitably also, the overtones of the terms used, such as “pantokratora” and "omnipotentem" differ ("pantokratora" meaning Ruler of all; "omnipotentem" meaning omnipotent, Almighty). The implications of this for the interpretation of the Greek term and "qui ... procedit" was the object of the study *The*

Greek and the Latin Traditions regarding the Procession of the Holy Spirit published by the Pontifical Council for Promoting Christian Unity in 1996.
Again, the term "consubstantialem", translated as "of one being" or "consubstantial", have different overtones, being based respectively on Greek “stable being, immutable reality, substance, essence, true nature,” and Latin *substantia* (that of which a thing consists, the being, essence, contents, material, substance).
"Credo", which in classical Latin is used with the accusative case of the thing held to be true (and with the dative of the person to whom credence is given), is here used three times with the preposition "in", a literal translation of the Greek (in unum Deum ..., in unum Dominum ..., in Spiritum Sanctum ...), and once in the classical preposition-less construction (unam, sanctam, catholicam et apostolicam Ecclesiam).

English translation of the Armenian version

We believe in one God, the Father Almighty, the maker of heaven and earth, of things visible and invisible.
And in one Lord Jesus Christ, the Son of God, the begotten of God the Father, the Only-begotten, that is of the essence of the Father.
God of God, Light of Light, true God of true God, begotten and not made; of the very same nature of the Father, by Whom all things came into being, in heaven and on earth, visible and invisible.
Who for us humanity and for our salvation came down from heaven, was incarnate, was made human, was born perfectly of the holy virgin Mary by the Holy Spirit.
By whom He took body, soul, and mind, and everything that is in man, truly and not in semblance.
He suffered, was crucified, was buried, rose again on the third day, ascended into heaven with the same body, [and] sat at the right hand of the Father.
He is to come with the same body and with the glory of the Father, to judge the living and the dead; of His kingdom there is no end.
We believe in the Holy Spirit, in the uncreated and the perfect; Who spoke through the Law, prophets, and Gospels; Who came down upon the Jordan, preached through the apostles, and lived in the saints.
We believe also in only One, Universal, Apostolic, and [Holy] Church; in one baptism in repentance, for the remission, and forgiveness of sins; and in the resurrection of the dead, in the everlasting judgement of souls and bodies, and the Kingdom of Heaven and in the everlasting life.

Other ancient liturgical versions

The version in the Church Slavonic language, used by several Eastern Orthodox Churches is practically identical with the Greek liturgical version.
This version is used also by some Byzantine Rite Eastern Catholic Churches. Although the Union of Brest excluded addition of the *Filioque*, this was sometimes added by Ruthenian Catholics, whose liturgical books now give the phrase in brackets, and by Ukrainian Catholics. Writing in 1971, the Ruthenian Scholar Fr. Casimir Kucharek noted, "In Eastern Catholic Churches, the *Filioque* may be omitted except when scandal would ensue. Most of the Eastern Catholic Rites use it." However, in the decades that followed 1971 it has come to be used more rarely.
The versions used by Oriental Orthodoxy differ from the Greek liturgical version in having "We believe", as in the original text, instead of "I believe".
The Church of the East, which is in communion neither with the Eastern Orthodox Church nor with Oriental Orthodoxy also uses "We believe".

English translations

The version found in the 1662 *Book of Common Prayer* is still commonly used by some English speakers, but more modern translations are now more common.

International Consultation on English Texts

The International Consultation on English Texts published an English translation of the Nicene Creed, first in 1970 and then in successive revisions in 1971 and 1975. These texts were adopted by several churches.

The Roman Catholic Church in the United States, which adopted the 1971 version in 1973, and the Catholic Church in other English-speaking countries, which in 1975 adopted the version published in that year, continued to use them until 2011 upon the introduction of the *Roman Missal third edition*.

The 1975 version was included in the 1979 Episcopal Church (United States) *Book of Common Prayer*, though with one variation: in the line "For us men and for our salvation", it omitted the word "men":

1979 Episcopal Church (United States) *Book of Common Prayer*

We believe in one God,
the Father, the Almighty,
maker of heaven and earth,
of all that is, seen and unseen.
We believe in one Lord, Jesus Christ,
the only Son of God,
eternally begotten of the Father,
God from God, Light from Light,
true God from true God,
begotten, not made,
of one Being with the Father.
Through him all things were made.
For us and for our salvation
he came down from heaven:
by the power of the Holy Spirit
he became incarnate from the Virgin Mary,
and was made man.
For our sake he was crucified under Pontius Pilate;
he suffered death and was buried.
On the third day he rose again
in accordance with the Scriptures;
he ascended into heaven
and is seated at the right hand of the Father.
He will come again in glory to judge the living and the dead,
and his kingdom will have no end.
We believe in the Holy Spirit, the Lord, the giver of life,
who proceeds from the Father and the Son.
With the Father and the Son he is worshiped and glorified.
He has spoken through the Prophets.
We believe in one holy catholic and apostolic Church.
We acknowledge one baptism for the forgiveness of sins.
We look for the resurrection of the dead,
and the life of the world to come. Amen.

—Episcopal Church *Book of Common Prayer* (1979), *The Book of Common Prayer. New York: Church Publishing Incorporated. 2007. pp. 326–327. Retrieved 2013-02-18.*

1B. extent source text

We believe in one God, the Father Almighty, maker of all things visible and invisible; and in one Lord Jesus Christ, the Son of God, the only-begotten of his Father, of the substance of the Father, God of God, Light of Light, very God of very God, begotten, not made, being of one substance (consubstantialem) with the Father. By whom all things were made, both which be in heaven and in earth. Who for us men and for our salvation came down [from heaven] and was incarnate and was made man. He suffered and the third day he rose again, and ascended into heaven. And he shall come again to judge both the quick and the dead. And [we believe] in the Holy Ghost. And whosoever shall say that there was a time when the Son of God was not, or that before he was begotten he was not, or that he was made of things that were not, or that he is of a different substance or essence [from the Father] or that he is a creature, or subject to change or conversion—all that so say, the Catholic and Apostolic Church anathematizes them.

book 2: Modern and AD texts
section 1: Europe
Part 2. the Magna Carta
2A. historical background
2B. extent source text

2A. historical background

Magna Carta (Latin for **Great Charter**), also called **Magna Carta Libertatum** or **The Great Charter of the Liberties of England**, is an Angevin charter originally issued in Latin. It was sealed under oath by King John at Runnymede, on the bank of the River Thames near Windsor, England, on 15 June 1215.
Magna Carta was the first document forced onto a King of England by a group of his subjects, the feudal barons, in an attempt to limit his powers by law and protect their rights.
The charter is widely known throughout the English speaking world as an important part of the protracted historical process that led to the rule of constitutional law in England and beyond.
The 1215 charter required King John to proclaim certain liberties and accept that his will was not arbitrary—for example by explicitly accepting that no "freeman" (in the sense of non-serf) could be punished except through the law of the land, a right that still exists. The name Runnymede may be derived from the Anglo-Saxon 'runieg' (regular meeting) and 'mede' (mead or meadow), describing a place in the meadows used to hold regular meetings. The Witan, Witenagemot or Council of the Anglo-Saxon kings of the 7th to 11th centuries was held from time to time at Runnymede during the reign of Alfred the Great. The Council met usually in the open air. This political organ was transformed in succeeding years, influencing the creation of England's 13th century parliament.
The water-meadow at Runnymede is the most likely location at which, on 15 June 1215, King John sealed the Magna Carta, and is the site of the Magna Carta Memorial. Magna Carta Island on the opposite bank of the river is another possible site. The charter indicates Runnymede by name. The Magna Carta had an impact on common and constitutional law as well as political representation also affecting the development of parliament. The charter's association with ideals of democracy, limitation of power, equality and freedom under law has attracted placement at Runnymede of monuments and commemorative symbols.
It was preceded and directly influenced by the Charter of Liberties in 1100, in which King Henry I had specified particular areas wherein his powers would be limited. Magna Carta was important in the colonisation of America, as England's legal system was used as a model for many of the colonies when they were developing their own legal systems.
It was translated into vernacular French as early as 1219, and reissued later in the 13th century in modified versions. The later versions excluded the most direct challenges to the monarch's authority that had been present in the 1215 charter. The charter first passed into law in 1225; the 1297 version, with the long title (originally in Latin) "The Great Charter of the Liberties of England, and of the Liberties of the Forest", still remains on the statute books of England and Wales.
Despite its recognised importance, by the second half of the 19th century nearly all of its clauses had been repealed in their original form. Three clauses currently remain part of the law of England and Wales, however, and it is generally considered part of the uncodified constitution. Lord Denning described it as "the greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot". In a 2005 speech, Lord Woolf described it as the "first of a series of instruments that now are recognised as having a special constitutional status", the others being the Habeas Corpus Act (1679), the Petition of Right (1628), the Bill of Rights (1689), and the Act of Settlement (1701).
It was Magna Carta, over other early concessions by the monarch, which survived to become a "sacred text". In practice, Magna Carta did not generally limit the power of kings in the medieval period, but by the time of the English Civil War it had become an important symbol for those who wished to show that the King was bound by the

law. It influenced the early settlers in New England and inspired later constitutional documents, including the United States Constitution.

Great Charter of 1215

Rebellion and creation of the document

Some barons began to conspire against King John in 1209 and in 1212; promises made to the northern barons and John's submission to universal rule of the papacy in 1213 delayed a French invasion.[10] Over the course of his reign a combination of higher taxes, unsuccessful wars that resulted in the loss of English barons' titled possessions in Normandy following the Battle of Bouvines (1214), and the conflict with Pope Innocent III (ending with John's submission in 1213) had made King John unpopular with many of his barons.

In 1215 some of the most important barons engaged in open rebellion against their king. Such rebellions were not particularly unusual in this period. Every king since William the Conqueror had faced rebellions. What was unusual about the 1215 rebellion was that the rebels had no obvious replacement for John; in every previous case there had been an alternative monarch around whom the rebellion could rally. Arthur of Brittany would have been a possibility, if he had not disappeared years earlier while he was John's prisoner; Arthur was widely believed to have been murdered by John. The next closest alternative was Prince Louis of France, but as the husband of Henry II's granddaughter, his claim was tenuous, and the English had been at war with the French for thirty years. Instead of a claimant to the throne, the barons decided to base their rebellion around John's oppressive government. In January 1215, the barons made an oath that they would "stand fast for the liberty of the church and the realm", and they demanded that King John confirm the Charter of Liberties, from what they viewed as a golden age.

John attempted to use the lengthy negotiations to avoid a confrontation while he waited for support from the Pope and hired mercenaries, adopting various measures to weaken the rebels' position and improve his own, including taking the cross as a crusader in March 1215 (which the Pope applauded but most other observers considered insincere), demanding a new oath of allegiance, and confirming London's city charter in May 1215. During negotiations between January and June 1215, a document was produced, which historians have termed 'The Unknown Charter of Liberties', seven of the articles of which later appeared in the 'Articles of the Barons' and the Runnymede Charter. In May, King John offered to submit issues to a committee of arbitration with Pope Innocent III as the supreme arbiter, but the barons continued in their defiance. With the support of Prince Louis the French Heir and of King Alexander II of the Scots, they entered London in force on 10 June 1215, with the city showing its sympathy with their cause by opening its gates to them. They, and many of the moderates not in overt rebellion, forced King John to agree to a document later known as the 'Articles of the Barons', to which his Great Seal was attached in the meadow at Runnymede on 15 June 1215. In return, the barons renewed their oaths of fealty to King John on 19 June 1215, which is when the document *Magna Carta* was created.

In return for King John's submission to his papal and universal authority, Innocent III declared Magna Carta annulled, though many English Barons did not accept this action.

The contemporary, but unreliable chronicler, Roger of Wendover, recorded the events in his *Flores Historiarum*. A formal document to record the agreement was created by the royal chancery on 15 July: this was the original Magna Carta, though it was not known by that name at the time. An unknown number of copies of it were sent out to officials, such as royal sheriffs and bishops.

Clause 61

The 1215 document contained a large section that is now called clause 61 (the clauses were not originally numbered). This section established a committee of 25 barons who could at any time meet and overrule the will of the King if he defied the provisions of the Charter, seizing his castles and possessions if it was considered necessary. This was based on a medieval legal practice known as *distraint*, but it was the first time it had been applied to a monarch.

Distrust between the two sides was overwhelming. What the barons really sought was the overthrow of the King; the demand for a charter was "mere subterfuge."Clause 61 was a serious challenge to John's authority as a ruling monarch. He renounced it as soon as the barons left London; Pope Innocent III also annulled the "shameful and demeaning agreement, forced upon the King by violence and fear." He rejected any call for restraints on the King, saying it impaired John's dignity. He saw it as an affront to the Church's authority over the King and the 'papal territories' of England and Ireland, and he released John from his oath to obey it. The rebels knew that King John could never be restrained by Magna Carta and so they sought a new King.

England was plunged into a civil war, known as the First Barons' War. With the failure of Magna Carta to achieve peace or restrain John, the barons reverted to the more traditional type of rebellion by trying to replace the monarch they disliked with an alternative. In a measure of some desperation, despite the tenuousness of his claim and despite the fact that he was French, they offered the crown of England to Prince Louis of France.

As a means of preventing war, Magna Carta was a failure, rejected by most of the barons, and was legally valid for no more than three months. The death of King John in 1216, however, secured the future of Magna Carta.

Great Charter 1216–1369

The Charter 1216

King John's nine-year-old son Henry was crowned King of England in Gloucester Abbey, though much of England lay under the usurper Prince Louis. The papal legate Guala Bicchieri declared the struggle against Louis and the Barons a holy war, and the loyalists led by William Marshal rallied around the new King. Earl Ranulf of Chester left the Regency to Marshall. Marshall and Guala issued a Charter of Liberties, based on the Runnymede Charter, in the King's name on 12 November 1216 as a Royal concession, in an attempt to undermine the rebels.

The Charter differed from that of 1215 in only having 42 as compared to 61 clauses; most notably the infamous article 61 of the Runnymede Charter was removed. The Charter was also issued separately for Ireland.

The Charters 1217: origins of the name *Magna Carta*

Following the end of the First Barons War and the Treaty of Lambeth, the Charter of Liberties (*carta libertatum*) was issued again in the manner of 1216, again amended and issued separately for Ireland. The 42 clauses of the 1216 issue were expanded to 47.

Significantly, a fragment of the original charter would be expanded with new material to form a complementary charter, the Charter of the Forest; the two Charters would thereafter be linked. *Magna carta libertatum* was then used by scribes to differentiate the larger and more important charter of common liberties from the Forest Charter. The term was used retrospectively to describe the previous Charters, with what had previously been described as *carta libertatum* becoming known simply as *Magna Carta*.

The Great Charter 1225

Having reached the age of majority, King Henry III was called upon to confirm the

Charters. Henry reissued Magna Carta in a shorter version with only 37 articles, as a concession of liberties in return for a fifteenth part of moveable goods. This was the first version of the Charter to enter English law. The Charter of Liberties included a new statement that the Charter had been issued spontaneously and of the King's own free will. In 1227, Henry III declared all future charters had to be issued under his own seal and state under what warrant they were claimed; this proclamation questioned the validity of all previous acts done in his name or his predecessors. It was not until 1237, and the *carta parva*, that both of the 1225 Charters were confirmed and granted in perpetuity.

The Great Charter 1297: Statute

Edward I of England reissued the Charters of 1225 in 1297 in return for a new tax. "Constitutionally, the Magna Carta of Edward I is the most important". This version remains in Statute today (albeit with most articles now repealed—see below).

Confirmatio Cartarum and *Articuli super Cartas*

The *Confirmatio Cartarum* (Confirmation of Charters) was issued by Edward I in 1297, and was similar to the *parva carta* issued by Henry III in 1237. In the Confirmation, Edward reaffirmed Magna Carta and the Forest Charter as a concession for tax money. As part of the Remonstrances the nobles sought to add another document the *De Tallagio* to the Charters but without success. The principle of taxation by consent was reinforced, however the precise manner of that consent was not laid down.
Pope Clement V annulled the *Confirmatio Cartarum* in 1305.
As part of the reconfirmation of the Charters in 1300 an additional document was granted, the *Articuli super Cartas* (The Articles upon the Charters). It was composed of 20 articles and sought in part to deal with the problem of enforcing the Charters. In 1305 Edward I took Clement V's Papal bull annulling the *Confirmatio Cartarum* to effectively apply to the *Articuli super Cartas* though it was not specifically mentioned.

Six Statutes

During the reign of Edward III, six measures were passed between 1331 and 1369, which were later known as the *Six Statutes*. They sought to clarify certain parts of the Charters. In particular, the third statute, of 1354, redefined clause 29, with *free man* becoming *no man, of whatever estate or condition he may be*, and introduced the phrase *due process of law* for *lawful judgement of his peers or the law of the land*.

Later history

Reconfirmations

The impermanence of the Charter required successive generations to petition the King to reconfirm his Charter, and hopefully abide by it. Between the 13th and 15th centuries Magna Carta would have a history of being reconfirmed, 32 times according to Sir Edward Coke, but possibly as many as 45 times. The Charter was last confirmed in 1423 by Henry VI.

Repeal of articles

The repeal of clause 26 in 1829, by the Offences against the Person Act 1828 (9 Geo. 4 c. 31 s. 1), was the first time a clause of Magna Carta was repealed. With the document's perceived inviolability broken, in the next 140 years nearly the whole charter was repealed, leaving just Clauses 1, 9, and 29 still in force after 1969. Most of it was repealed in England and Wales by the Statute Law Revision Act 1863, and in Ireland by the Statute Law (Ireland) Revision Act 1872.

Magna Carta 1225 Clause	Runnymede Charter Clause	Date Repealed
1	I	extant
2	II	Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
3	III	Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
4	IV	Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
5	V	Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
6	VI	Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
7	VII, VIII	Administration of Estates Act 1925, Administration of Estates Act (Northern Ireland) 1955 and Statute Law (Repeals) Act 1969
8	IX	Statute Law (Repeals) Act 1969
9	XIII	extant
10	XVI	Statute Law Revision Act 1948
11	XVII	Civil Procedure Acts Repeal Act 1879
12	XVIII	Civil Procedure Acts Repeal Act 1879
13		Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
14	XX, XXI, XXII	Criminal Law Act 1967 and Criminal Law Act (Northern Ireland) 1967
15	XXIII	Statute Law (Repeals) Act 1969
16	XXXVII	Statute Law (Repeals) Act 1969
17	XXIV	Statute Law Revision Act 1892

18
XXVI
Crown Proceedings Act 1947
19
XXVIII
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
20
XIX
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
21
XXX, XXXI
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
22
XXXII
Statute Law Revision Act 1948
23
XXXIII
Statute Law (Repeals) Act 1969
24
XXXIV
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
25
XXXV
Statute Law Revision Act 1948
26
XXXVI
Offences against the Person Act 1828 and Offences against the Person (Ireland) Act 1829
27
XXXVII
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
28
XXXVIII
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
29
XXXIX, XXXX
extant
30
XXXXI
Statute Law (Repeals) Act 1969
31
XXXXIII
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
32
Statute Law Revision Act 1887
33
XXXXVI
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
34
LIV
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
35
Sheriffs Act 1887
36

Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872
37
LX
Statute Law Revision Act 1863 and Statute Law (Ireland) Revision Act 1872

Content

Magna Carta was originally written in Latin. A large part of the Charter at Runnymede was copied, nearly word for word, from the Charter of Liberties of Henry I, issued when Henry became king in 1100, in which he said he would respect certain rights of the Church and the barons, for example not forcing heirs to purchase their inheritances.
As the Charter went through various issues many of the clauses included in the Runnymede charter were removed. Some clauses would form a supplementary Charter in 1217, the Charter of the Forest.
It is worth emphasising that the 1215 charter was not numbered and was not divided into paragraphs or separate clauses. The numbering system used today was created by Sir William Blackstone in 1759, and therefore should not be used to draw any conclusions regarding the intentions of the original creators of the charter.

Clauses still in force

The clauses of the 1297 Magna Carta still on statute are:

- Clause 1, the freedom of the English Church
- Clause 9 (clause 13 in the 1215 charter), the "ancient liberties" of the City of London
- Clause 29 (clause 39 in the 1215 charter), a right to due process
- 1. FIRST, We have granted to God, and by this our present Charter have confirmed, for Us and our Heirs for ever, that the Church of England shall be free, and shall have all her whole Rights and Liberties inviolable. We have granted also, and given to all the Freemen of our Realm, for Us and our Heirs for ever, these Liberties under-written, to have and to hold to them and their Heirs, of Us and our Heirs for ever.
- 9. THE City of London shall have all the old Liberties and Customs which it hath been used to have. Moreover We will and grant, that all other Cities, Boroughs, Towns, and the Barons of the Five Ports, as with all other Ports, shall have all their Liberties and free Customs.
- 29. NO Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the Law of the land. We will sell to no man, we will not deny or defer to any man either Justice or Right.

The last sentence of Clause 29 deals with the administration of justice. “We will sell to no man” was intended to abolish the fines demanded by King John in order to obtain justice. “Will not deny” referred to the stopping of suits and the denial of writs. “Delay to any man” meant the delays caused either by the counter-fines of defendants, or by the prerogative of the King. There is debate about the gradual erosion of the remaining provisions of Magna Carta, particularly by encroachment from the European Union - for example the effects on due process of the Charter of Fundamental Rights.

Clauses in Runnymede Charter but not in later Charters

- Clauses 10 and 11 related to money lending and Jews in England. Jews were particularly involved in money lending, as they were not bound by Christian teachings on usury. Clause 10 said that children would not pay interest on a debt they

had inherited while they were under age. Clause 11 said that the widow and children should be provided for before paying an inherited debt. The charter concludes this section with the words "Debts owing to other than Jews shall be dealt with likewise", so it is debatable to what extent the Jews were being singled out by these clauses.

- Clauses 12 and 14 state that taxes (in the language of the time, "scutage or aid") can only be levied and assessed by the common counsel of the realm. See Challenges to the King's power for more detail.
- Clause 15 stated that the King would not grant anyone the right to take an aid (i.e. money) from his free men
- Clauses 25 and 26 dealt with debt and taxes
- Clause 27 dealt with intestacy.
- Clause 42 stated that it was lawful for subjects to leave the kingdom without prejudicing their allegiance (except for outlaws and during war)
- Clause 45 said that the King should only appoint as "justices, constables, sheriffs, or bailiffs" those who knew the law and would keep it well. In the United States, the Supreme Court of California interpreted clause 45 in 1974 as establishing a requirement at common law that a defendant faced with the potential of incarceration is entitled to a trial overseen by a legally trained judge.
- Clause 48 stated that all evil customs connected with forests were to be abolished
- Clause 49 provided for the return of hostages held by the King. (John held hostages from the families of important nobles he wished to ensure remained loyal, as other English monarchs had before him.)
- Clause 50 stated that no member of the d'Athée family could be a royal officer.
- Clause 51 called for all foreign knights and mercenaries to leave the realm.
- Clause 52 dealt with restoration of those "disseised" (i.e. those dispossessed of property. See (for example) Assize of novel disseisin)
- Clause 53 was similar to 52 but relating to forests
- Clause 55 regarded remittance of unjust fines
- Clauses 57 concerned restoration of disseised Welshmen
- Clauses 58 and 59 provided for the return of Welsh and Scottish hostages
- Clauses 61 provided for the application and observation of the Charter by twenty-five of the rebellious barons. See Challenges to the King's power for more on clause 61.
- Clause 62 pardoned those who had rebelled against the king
- Clause 63 said that the charter was binding on King John and his heirs. However this version of the charter was renounced by John, with the support of the Pope. The smaller 1225/1297 charters (which actually became law) contain similar text, stating that the monarch and their heirs would not seek to infringe or damage the liberties in the charter, and that the charter is to be observed "in perpetuity".

Challenges to the King's power

Clauses 12 and 14 of the 1215 charter state that the king will accept the "common counsel of our realm" when levying and assessing an aid or a scutage. Clause 14 goes into detail about how exactly the archbishops, bishops, abbots, earls and greater barons should be consulted. These clauses effectively meant that the monarch had to ask before raising new taxes. The later charters merely said that "Scutage furthermore is to be taken as it used to be", although in practice the convention arose after Magna Carta that Parliament would be consulted by the monarch before raising new taxes.

Clause 61 of the 1215 charter states: "The barons shall choose any twenty-five barons of the realm they wish, who with all their might are to observe, maintain and cause

to be observed the peace and liberties which we have granted and confirmed to them by this our present charter". The clause goes on to say that if the king does not keep to the charter, the twenty five barons shall seize "castles, lands and possessions... until, in their judgement, amends have been made". "Anyone in the land" would be permitted by the king to swear an oath to the twenty five to obey them in these matters, and the king was in fact supposed to order people to do so even if they didn't want to swear an oath to the twenty five barons.
The barons were trying to stop John going back on his word after agreeing to the charter, but if those who rebelled against him were able to choose a group who would have the power to seize his castles if they thought it necessary, "then the king had in effect been dethroned". No king would have agreed to this except as a manoeuvre to gain time, and the inclusion of this clause destroyed any chance of the original Magna Carta keeping the peace in the long term.
Clause 61 was removed from all later versions of the charter. Forty years later, after another confrontation between king and barons, the Provisions of Oxford forced on the king a council of twenty four members, 12 selected by the crown, 12 by the barons, which would then elect a king's council of fifteen members; this however was also annulled when Henry III finally won that power struggle.

Clauses in Runnymede Charter and in 1216/1217 Charter but not in 1225/1297 Charter

- Clauses 2 to 3 refer to feudal relief, specifically the regulation of the charging of excessive relief, in effect a form of "succession duty" or "death duty" payable by an heir.
- Clauses 4 to 5 refer to the duties of wardship, specifically forbidding the practice of the over-exploitation of a ward's property by his warder (or guardian).
- Clause 6 refers to a warder's power over the marriage of his ward. He was forbidden from forcing a marriage to a partner of lower social standing (possibly therefore to one such who may have been willing to pay a higher price for it).
- Clause 7 refers to the rights of a widow to receive promptly her dowry and inheritance.
- Clause 8 stated that a widow could not be compelled to marry.
- Clause 9 stated that a debtor should not have his lands seized as long as he had other means to pay the debt.
- Clause 16 was regarding a knight's fee.
- Clauses 17 to 19 allowed for a fixed law court, which became the chancellery, and defined the scope and frequency of county assizes.
- Clause 44 (1216 only) relating to forest law
- Clause 56 (1216 only) relating to disseised Welshmen

Clauses in Runnymede Charter and 1225/1297 Charter but since repealed

All of the remaining parts of the 1215 charter appear substantially unchanged in the 1225/1297 charter, which became law and is still on the statute book. All except the three clauses still in force today were eventually repealed however, most in the 19th century. Many provisions have no bearing in the world today, since they deal with feudal liberties. Some clauses remained relevant but were replaced by later legislation that provided similar rights. Using the 1215 clause numbers:

- Clause 20 stated that fines ("amercements", in the language of the day), should be proportionate to the offence, but even for a serious offence the fine should not be so heavy as to deprive a man of his livelihood. No fines should be imposed except by the oath of honest local men.
- Clause 21 stated that earls and barons should only be fined by their peers, i.e. other earls and barons. Until 1948 this meant that members of the House of

Lords had the right to a criminal trial in the House of Lords at first instance.

- Clause 22 stated that fines should not be influenced by ecclesiastical property in clergy trials.
- Clause 23 provided that no town or person should be forced to build a bridge across a river.
- Clause 24 stated that crown officials (such as sheriffs) must not try a crime in place of a judge.
- Clauses 28 to 32 stated that no royal officer might take any commodity such as grain, wood or transport without payment or consent or force a knight to pay for something the knight could do himself, and that the king must return any lands confiscated from a felon within a year and a day to the felon's feudal lord ("the lords of the fees concerned").
- Clause 33 required the removal of all fish weirs.
- Clause 34 forbade repossession without a "writ precipe".
- Clause 35 set out a list of standard measures
- Clause 36 stated that writs for loss of life or limb were to be free
- Clause 37 concerns inheritance when a "fee-farm" (fee as in knight's fee) was involved.
- Clause 38 stated that no-one could be put on trial based solely on the unsupported word of an official.
- Clause 40 disallowed the selling of justice, or its denial or delay.
- Clauses 41 and 42 guaranteed the safety and right of entry and exit of foreign merchants.
- Clause 43 gave special provision for tax on reverted estates
- Clause 46 provided for the guardianship of monasteries.
- Clauses 47 and 48 abolished most of Forest Law (these clauses were split out of the main charter and formed part of a separate charter, the Charter of the Forest).
- Clause 54 said that no man may be imprisoned on the testimony of a woman except on the death of her husband.

Clauses in the 1225/1297 Charter but not in the Runnymede Charter

A few clauses are in the 1225/1297 charter but not in the 1215 charter. These have also since been repealed. Using the 1297 clause numbers:

- Clause 13 concerned the Assize of darrein presentment.
- Clause 32 said that a free man should not give away or sell so much of his land that he would not be able to meet his feudal obligations to his lord.
- Clause 35 concerned the county court, the frankpledge and tithes.
- Clause 36 said that it was not permitted to give land to a religious house and then receive it back; in such a case the land would revert to the feudal lord.

2B. extent source text

The Magna Carta
(The Great Charter)

Preamble: John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to the archbishop, bishops, abbots, earls, barons, justiciaries, foresters, sheriffs, stewards, servants, and to all his bailiffs and liege subjects, greetings. Know that, having regard to God and for the salvation of our soul, and those of all our ancestors and heirs, and unto the honor of God and the advancement of his holy Church and for the rectifying of our realm, we have granted as underwritten by advice of our venerable fathers, Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman Church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, bishops; of Master Pandulf, subdeacon and member of the household of our lord the Pope, of brother Aymeric (master of the Knights of the Temple in England), and of the illustrious men William Marshal, earl of Pembroke, William, earl of Salisbury, William, earl of Warenne, William, earl of Arundel, Alan of Galloway (constable of Scotland), Waren Fitz Gerold, Peter Fitz Herbert, Hubert De Burgh (seneschal of Poitou), Hugh de Neville, Matthew Fitz Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert of Roppesley, John Marshal, John Fitz Hugh, and others, our liegemen.

1. In the first place we have granted to God, and by this our present charter confirmed for us and our heirs forever that the English Church shall be free, and shall have her rights entire, and her liberties inviolate; and we will that it be thus observed; which is apparent from this that the freedom of elections, which is reckoned most important and very essential to the English Church, we, of our pure and unconstrained will, did grant, and did by our charter confirm and did obtain the ratification of the same from our lord, Pope Innocent III, before the quarrel arose between us and our barons: and this we will observe, and our will is that it be observed in good faith by our heirs forever. We have also granted to all freemen of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever.
2. If any of our earls or barons, or others holding of us in chief by military service shall have died, and at the time of his death his heir shall be full of age and owe "relief", he shall have his inheritance by the old relief, to wit, the heir or heirs of an earl, for the whole barony of an earl by £100; the heir or heirs of a baron, £100 for a whole barony; the heir or heirs of a knight, 100s, at most, and whoever owes less let him give less, according to the ancient custom of fees.
3. If, however, the heir of any one of the aforesaid has been under age and in wardship, let him have his inheritance without relief and without fine when he comes of age.
4. The guardian of the land of an heir who is thus under age, shall take from the land of the heir nothing but reasonable produce, reasonable customs, and reasonable services, and that without destruction or waste of men or goods; and if we have committed the wardship of the lands of any such minor to the sheriff, or to any other who is responsible to us for its issues, and he has made destruction or waster of what he holds in wardship, we will take of him amends, and the land shall be committed to two lawful and discreet men of that fee, who shall be responsible for the issues to us or to him to whom we shall assign them; and if we have given or sold the wardship of any such land to anyone and he has therein made destruction or waste, he shall lose that wardship, and it shall be transferred to two lawful and discreet men of that fief, who shall be responsible to us in like manner as aforesaid.

5. The guardian, moreover, so long as he has the wardship of the land, shall keep up the houses, parks, fishponds, stanks, mills, and other things pertaining to the land, out of the issues of the same land; and he shall restore to the heir, when he has come to full age, all his land, stocked with ploughs and wainage, according as the season of husbandry shall require, and the issues of the land can reasonable bear.
6. Heirs shall be married without disparagement, yet so that before the marriage takes place the nearest in blood to that heir shall have notice.
7. A widow, after the death of her husband, shall forthwith and without difficulty have her marriage portion and inheritance; nor shall she give anything for her dower, or for her marriage portion, or for the inheritance which her husband and she held on the day of the death of that husband; and she may remain in the house of her husband for forty days after his death, within which time her dower shall be assigned to her.
8. No widow shall be compelled to marry, so long as she prefers to live without a husband; provided always that she gives security not to marry without our consent, if she holds of us, or without the consent of the lord of whom she holds, if she holds of another.
9. Neither we nor our bailiffs will seize any land or rent for any debt, as long as the chattels of the debtor are sufficient to repay the debt; nor shall the sureties of the debtor be distrained so long as the principal debtor is able to satisfy the debt; and if the principal debtor shall fail to pay the debt, having nothing wherewith to pay it, then the sureties shall answer for the debt; and let them have the lands and rents of the debtor, if they desire them, until they are indemnified for the debt which they have paid for him, unless the principal debtor can show proof that he is discharged thereof as against the said sureties.
10. If one who has borrowed from the Jews any sum, great or small, die before that loan be repaid, the debt shall not bear interest while the heir is under age, of whomsoever he may hold; and if the debt fall into our hands, we will not take anything except the principal sum contained in the bond.
11. And if anyone die indebted to the Jews, his wife shall have her dower and pay nothing of that debt; and if any children of the deceased are left under age, necessaries shall be provided for them in keeping with the holding of the deceased; and out of the residue the debt shall be paid, reserving, however, service due to feudal lords; in like manner let it be done touching debts due to others than Jews.
12. No scutage not aid shall be imposed on our kingdom, unless by common counsel of our kingdom, except for ransoming our person, for making our eldest son a knight, and for once marrying our eldest daughter; and for these there shall not be levied more than a reasonable aid. In like manner it shall be done concerning aids from the city of London.
13. And the city of London shall have all it ancient liberties and free customs, as well by land as by water; furthermore, we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.
14. And for obtaining the common counsel of the kingdom anent the assessing of an aid (except in the three cases aforesaid) or of a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, severally by our letters; and we will moveover cause to be summoned generally, through our sheriffs and bailiffs, and others who hold of us in chief, for a fixed date, namely, after the expiry of at least forty days, and at a fixed place; and in all letters of such summons we will specify the reason of the summons. And when the summons has thus been made, the business shall proceed on the day appointed, according to the counsel of such as are present, although not all who were summoned have come.
15. We will not for the future grant to anyone license to take an aid from his own free tenants, except to ransom his person, to make his eldest son a knight, and once to marry his eldest daughter; and on each of these occasions there shall be levied only a

reasonable aid.
16. No one shall be distrained for performance of greater service for a knight's fee, or for any other free tenement, than is due therefrom.
17. Common pleas shall not follow our court, but shall be held in some fixed place.
18. Inquests of novel disseisin, of mort d'ancestor, and of darrein presentment shall not be held elsewhere than in their own county courts, and that in manner following; We, or, if we should be out of the realm, our chief justiciar, will send two justiciaries through every county four times a year, who shall alone with four knights of the county chosen by the county, hold the said assizes in the county court, on the day and in the place of meeting of that court.
19. And if any of the said assizes cannot be taken on the day of the county court, let there remain of the knights and freeholders, who were present at the county court on that day, as many as may be required for the efficient making of judgments, according as the business be more or less.
20. A freeman shall not be amerced for a slight offense, except in accordance with the degree of the offense; and for a grave offense he shall be amerced in accordance with the gravity of the offense, yet saving always his "contentment"; and a merchant in the same way, saving his "merchandise"; and a villein shall be amerced in the same way, saving his "wainage" if they have fallen into our mercy: and none of the aforesaid amercements shall be imposed except by the oath of honest men of the neighborhood.
21. Earls and barons shall not be amerced except through their peers, and only in accordance with the degree of the offense.
22. A clerk shall not be amerced in respect of his lay holding except after the manner of the others aforesaid; further, he shall not be amerced in accordance with the extent of his ecclesiastical benefice.
23. No village or individual shall be compelled to make bridges at river banks, except those who from of old were legally bound to do so.
24. No sheriff, constable, coroners, or others of our bailiffs, shall hold pleas of our Crown.
25. All counties, hundred, wapentakes, and trithings (except our demesne manors) shall remain at the old rents, and without any additional payment.
26. If anyone holding of us a lay fief shall die, and our sheriff or bailiff shall exhibit our letters patent of summons for a debt which the deceased owed us, it shall be lawful for our sheriff or bailiff to attach and enroll the chattels of the deceased, found upon the lay fief, to the value of that debt, at the sight of law worthy men, provided always that nothing whatever be thence removed until the debt which is evident shall be fully paid to us; and the residue shall be left to the executors to fulfill the will of the deceased; and if there be nothing due from him to us, all the chattels shall go to the deceased, saving to his wife and children their reasonable shares.
27. If any freeman shall die intestate, his chattels shall be distributed by the hands of his nearest kinsfolk and friends, under supervision of the Church, saving to every one the debts which the deceased owed to him.
28. No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.
29. No constable shall compel any knight to give money in lieu of castle-guard, when he is willing to perform it in his own person, or (if he himself cannot do it from any reasonable cause) then by another responsible man. Further, if we have led or sent him upon military service, he shall be relieved from guard in proportion to the time during which he has been on service because of us.
30. No sheriff or bailiff of ours, or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.
31. Neither we nor our bailiffs shall take, for our castles or for any other work of

ours, wood which is not ours, against the will of the owner of that wood.
32. We will not retain beyond one year and one day, the lands those who have been convicted of felony, and the lands shall thereafter be handed over to the lords of the fiefs.
33. All kydells for the future shall be removed altogether from Thames and Medway, and throughout all England, except upon the seashore.
34. The writ which is called praecipe shall not for the future be issued to anyone, regarding any tenement whereby a freeman may lose his court.
35. Let there be one measure of wine throughout our whole realm; and one measure of ale; and one measure of corn, to wit, "the London quarter"; and one width of cloth (whether dyed, or russet, or "halberget"), to wit, two ells within the selvedges; of weights also let it be as of measures.
36. Nothing in future shall be given or taken for a writ of inquisition of life or limbs, but freely it shall be granted, and never denied.
37. If anyone holds of us by fee-farm, either by socage or by burage, or of any other land by knight's service, we will not (by reason of that fee-farm, socage, or burgage), have the wardship of the heir, or of such land of his as if of the fief of that other; nor shall we have wardship of that fee-farm, socage, or burgage, unless such fee-farm owes knight's service. We will not by reason of any small serjeancy which anyone may hold of us by the service of rendering to us knives, arrows, or the like, have wardship of his heir or of the land which he holds of another lord by knight's service.
38. No bailiff for the future shall, upon his own unsupported complaint, put anyone to his "law", without credible witnesses brought for this purposes.
39. No freemen shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land.
40. To no one will we sell, to no one will we refuse or delay, right or justice.
41. All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quit from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.
42. It shall be lawful in future for anyone (excepting always those imprisoned or outlawed in accordance with the law of the kingdom, and natives of any country at war with us, and merchants, who shall be treated as if above provided) to leave our kingdom and to return, safe and secure by land and water, except for a short period in time of war, on grounds of public policy- reserving always the allegiance due to us.
43. If anyone holding of some escheat (such as the honor of Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats which are in our hands and are baronies) shall die, his heir shall give no other relief, and perform no other service to us than he would have done to the baron if that barony had been in the baron's hand; and we shall hold it in the same manner in which the baron held it.
44. Men who dwell without the forest need not henceforth come before our justiciaries of the forest upon a general summons, unless they are in plea, or sureties of one or more, who are attached for the forest.
45. We will appoint as justices, constables, sheriffs, or bailiffs only such as know the law of the realm and mean to observe it well.
46. All barons who have founded abbeys, concerning which they hold charters from the kings of England, or of which they have long continued possession, shall have

the wardship of them, when vacant, as they ought to have.
47. All forests that have been made such in our time shall forthwith be disafforsted; and a similar course shall be followed with regard to river banks that have been placed "in defense" by us in our time.
48. All evil customs connected with forests and warrens, foresters and warreners, sheriffs and their officers, river banks and their wardens, shall immediately by inquired into in each county by twelve sworn knights of the same county chosen by the honest men of the same county, and shall, within forty days of the said inquest, be utterly abolished, so as never to be restored, provided always that we previously have intimation thereof, or our justiciar, if we should not be in England.
49. We will immediately restore all hostages and charters delivered to us by Englishmen, as sureties of the peace of faithful service.
50. We will entirely remove from their bailiwicks, the relations of Gerard of Athee (so that in future they shall have no bailiwick in England); namely, Engelard of Cigogne, Peter, Guy, and Andrew of Chanceaux, Guy of Cigogne, Geoffrey of Martigny with his brothers, Philip Mark with his brothers and his nephew Geoffrey, and the whole brood of the same.
51. As soon as peace is restored, we will banish from the kingdom all foreign born knights, crossbowmen, serjeants, and mercenary soldiers who have come with horses and arms to the kingdom's hurt.
52. If anyone has been dispossessed or removed by us, without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty barons of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseised or removed, by our father, King Henry, or by our brother, King Richard, and which we retain in our hand (or which as possessed by others, to whom we are bound to warrant them) we shall have respite until the usual term of crusaders; excepting those things about which a plea has been raised, or an inquest made by our order, before our taking of the cross; but as soon as we return from the expedition, we will immediately grant full justice therein.
53. We shall have, moreover, the same respite and in the same manner in rendering justice concerning the disafforestation or retention of those forests which Henry our father and Richard our broter afforested, and concerning the wardship of lands which are of the fief of another (namely, such wardships as we have hitherto had by reason of a fief which anyone held of us by knight's service), and concerning abbeys founded on other fiefs than our own, in which the lord of the fee claims to have right; and when we have returned, or if we desist from our expedition, we will immediately grant full justice to all who complain of such things.
54. No one shall be arrested or imprisoned upon the appeal of a woman, for the death of any other than her husband.
55. All fines made with us unjustly and against the law of the land, and all amercements, imposed unjustly and against the law of the land, shall be entirely remitted, or else it shall be done concerning them according to the decision of the five and twenty barons whom mention is made below in the clause for securing the pease, or according to the judgment of the majority of the same, along with the aforesaid Stephen, archbishop of Canterbury, if he can be present, and such others as he may wish to bring with him for this purpose, and if he cannot be present the business shall nevertheless proceed without him, provided always that if any one or more of the aforesaid five and twenty barons are in a similar suit, they shall be removed as far as concerns this particular judgment, others being substituted in their places after having been selected by the rest of the same five and twenty for this purpose only, and after having been sworn.
56. If we have disseised or removed Welshmen from lands or liberties, or other

things, without the legal judgment of their peers in England or in Wales, they shall be immediately restored to them; and if a dispute arise over this, then let it be decided in the marches by the judgment of their peers; for the tenements in England according to the law of England, for tenements in Wales according to the law of Wales, and for tenements in the marches according to the law of the marches. Welshmen shall do the same to us and ours.

57. Further, for all those possessions from which any Welshman has, without the lawful judgment of his peers, been disseised or removed by King Henry our father, or King Richard our brother, and which we retain in our hand (or which are possessed by others, and which we ought to warrant), we will have respite until the usual term of crusaders; excepting those things about which a plea has been raised or an inquest made by our order before we took the cross; but as soon as we return (or if perchance we desist from our expedition), we will immediately grant full justice in accordance with the laws of the Welsh and in relation to the foresaid regions.

58. We will immediately give up the son of Llywelyn and all the hostages of Wales, and the charters delivered to us as security for the peace.

59. We will do towards Alexander, king of Scots, concerning the return of his sisters and his hostages, and concerning his franchises, and his right, in the same manner as we shall do towards our owher barons of England, unless it ought to be otherwise according to the charters which we hold from William his father, formerly king of Scots; and this shall be according to the judgment of his peers in our court.

60. Moreover, all these aforesaid customs and liberties, the observances of which we have granted in our kingdom as far as pertains to us towards our men, shall be observed b all of our kingdom, as well clergy as laymen, as far as pertains to them towards their men.

61. Since, moveover, for God and the amendment of our kingdom and for the better allaying of the quarrel that has arisen between us and our barons, we have granted all these concessions, desirous that they should enjoy them in complete and firm endurance forever, we give and grant to them the underwritten security, namely, that the barons choose five and twenty barons of the kingdom, whomsoever they will, who shall be bound with all their might, to observe and hold, and cause to be observed, the peace and liberties we have granted and confirmed to them by this our present Charter, so that if we, or our justiciar, or our bailiffs or any one of our officers, shall in anything be at fault towards anyone, or shall have broken any one of the articles of this peace or of this security, and the offense be notified to four barons of the foresaid five and twenty, the said four barons shall repair to us (or our justiciar, if we are out of the realm) and, laying the transgression before us, petition to have that transgression redressed without delay. And if we shall not have corrected the transgression (or, in the event of our being out of the realm, if our justiciar shall not have corrected it) within forty days, reckoning from the time it has been intimated to us (or to our justiciar, if we should be out of the realm), the four barons aforesaid shall refer that matter to the rest of the five and twenty barons, and those five and twenty barons shall, together with the community of the whole realm, distrain and distress us in all possible ways, namely, by seizing our castles, lands, possessions, and in any other way they can, until redress has been obtained as they deem fit, saving harmless our own person, and the persons of our queen and children; and when redress has been obtained, they shall resume their old relations towards us. And let whoever in the country desires it, swear to obey the orders of the said five and twenty barons for the execution of all the aforesaid matters, and along with them, to molest us to the utmost of his power; and we publicly and freely grant leave to everyone who wishes to swear, and we shall never forbid anyone to swear. All those, moveover, in the land who of themselves and of their own accord are unwilling to swear to the twenty five to help them in constraining and molesting us, we shall by our command compel the same to swear to the effect

foresaid. And if any one of the five and twenty barons shall have died or departed from the land, or be incapacitated in any other manner which would prevent the foresaid provisions being carried out, those of the said twenty five barons who are left shall choose another in his place according to their own judgment, and he shall be sworn in the same way as the others. Further, in all matters, the execution of which is entrusted,to these twenty five barons, if perchance these twenty five are present and disagree about anything, or if some of them, after being summoned, are unwilling or unable to be present, that which the majority of those present ordain or command shall be held as fixed and established, exactly as if the whole twenty five had concurred in this; and the said twenty five shall swear that they will faithfully observe all that is aforesaid, and cause it to be observed with all their might. And we shall procure nothing from anyone, directly or indirectly, whereby any part of these concessions and liberties might be revoked or diminished; and if any such things has been procured, let it be void and null, and we shall never use it personally or by another.

62. And all the will, hatreds, and bitterness that have arisen between us and our men, clergy and lay, from the date of the quarrel, we have completely remitted and pardoned to everyone. Moreover, all trespasses occasioned by the said quarrel, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, both clergy and laymen, and completely forgiven, as far as pertains to us. And on this head, we have caused to be made for them letters testimonial patent of the lord Stephen, archbishop of Canterbury, of the lord Henry, archbishop of Dublin, of the bishops aforesaid, and of Master Pandulf as touching this security and the concessions aforesaid.

63. Wherefore we will and firmly order that the English Church be free, and that the men in our kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely and quietly, fully and wholly, for themselves and their heirs, of us and our heirs, in all respects and in all places forever, as is aforesaid. An oath, moreover, has been taken, as well on our part as on the art of the barons, that all these conditions aforesaid shall be kept in good faith and without evil intent.

Given under our hand - the above named and many others being witnesses - in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

book 2: Modern and AD texts
section 1: Europe
Part 2. the Prince
2A. historical background
2B. extent source text

2A. historical background

The Prince (Italian: *Il Princip)* is a 16th-century political treatise by the Italian diplomat and political theorist Niccolò Machiavelli. From correspondence a version appears to have been distributed in 1513, using a Latin title, *De Principatibus* (*About Principalities*). However, the printed version was not published until 1532, five years after Machiavelli's death. This was done with the permission of the Medici pope Clement VII, but "long before then, in fact since the first appearance of the *Prince* in manuscript, controversy had swirled about his writings".
Although it was written as if it were a traditional work in the *mirrors for princes* style, it is generally agreed that it was especially innovative. This is only partly because it was written in the vernacular Italian rather than Latin, a practice which had become increasingly popular since the publication of Dante's *Divine Comedy* and other works of Renaissance literature.
The Prince is sometimes claimed to be one of the first works of modern philosophy, especially modern political philosophy, in which the effective truth is taken to be more important than any abstract ideal. It was also in direct conflict with the dominant Catholic and scholastic doctrines of the time concerning how to consider politics and ethics.
Although it is relatively short, the treatise is the most remembered of Machiavelli's works and the one most responsible for bringing the word "Machiavellian" into usage as a pejorative. It also helped make "Old Nick" an English term for the devil, and even contributed to the modern negative connotations of the words "politics" and "politician" in western countries. In terms of subject matter it overlaps with the much longer *Discourses on Livy*, which was written a few years later. In its use of near-contemporary Italians as examples of people who perpetrated criminal deeds for politics, another lesser-known work by Machiavelli which *The Prince* has been compared to is the *Life of Castruccio Castracani*.
The descriptions within *The Prince* have the general theme of accepting that the aims of princes—such as glory and survival—can justify the use of immoral means to achieve those ends.
“
He who neglects what is done for what ought to be done, sooner effects his ruin than his preservation.
”
—Machiavelli, "Chapter 15", *The Prince*.

Summary
The work has a recognizable structure, for the most part indicated by the author himself, which can be summarized as follows.

The subject matter: new princedoms (chapters 1 and 2)
The Prince starts by describing the subject matter it will handle. In the first sentence Machiavelli uses the word "state" (Italian *stato* which could also mean "status") in order to neutrally cover "all forms of organization of supreme political power, whether republican or princely". The way in which the word state came to acquire this modern type of meaning during the Renaissance has been the subject of many academic discussions, with this sentence and similar ones in the works of Machiavelli being considered particularly important.
Machiavelli said that *The Prince* would be about princedoms, mentioning that he has written about republics elsewhere (possibly referring to the *Discourses on Livy* although this is debated), but in fact he mixes discussion of republics into this in many places, effectively treating republics as a type of princedom also, and one with many strengths. More importantly, and less traditionally, he distinguishes new

princedoms from hereditary established princedoms. He deals with hereditary princedoms quickly in Chapter 2, saying that they are much easier to rule. For such a prince, "unless extraordinary vices cause him to be hated, it is reasonable to expect that his subjects will be naturally well disposed towards him". Gilbert (1938:19–23), comparing to traditional presentations of advice for princes, stated that the novelty in chapters 1 and 2 is the "deliberate purpose of dealing with a new ruler who will need to establish himself in defiance of custom". Normally, these types of works were addressed only to hereditary princes. He thinks Machiavelli may have been influenced by Tacitus as well his own experience, but finds no clear predecessor for this.
This categorization of regime types is also "un-Aristotelian" and apparently simpler than the traditional one found for example in Aristotle's *Politics*, which divides regimes into those ruled by a single monarch, an oligarchy, or by the people, in a democracy. He also ignores the classical distinctions between the good and corrupt forms, for example between monarchy and tyranny. Strauss (1958:272) points out that Machiavelli frequently uses the words "prince" and "tyrant" as synonyms, "regardless of whether he speaks of criminal or non-criminal tyrants".
Xenophon, on the other hand, made exactly the same distinction between types of rulers in the opening of his *Education of Cyrus* where he says that, concerning the knowledge of how to rule human beings, Cyrus the Great, his exemplary prince, was very different "from all other kings, both those who have inherited their thrones from their fathers and those who have gained their crowns by their own efforts".
Machiavelli divides the subject of new states into two types, "mixed" cases and purely new states.

"Mixed" princedoms (chapters 3–5)

New princedoms are either totally new, or they are “mixed” meaning that they are new parts of an older state, already belonging to that prince.

New conquests added to older states (chapter 3)

Machiavelli generalizes that there were several virtuous Roman ways to hold a newly acquired province, using a republic as an example of how new princes can act:

- to install one's princedom in the new acquisition, or to install colonies of one's people there, which is better.
- to indulge the lesser powers of the area without increasing their power.
- to put down the powerful people.
- not to allow a foreign power to gain reputation.

More generally, Machiavelli emphasizes that one should have regard not only for present problems but also for the future ones. One should not “enjoy the benefit of time” but rather the benefit of one's virtue and prudence, because time can bring evil as well as good.

Conquered kingdoms (chapter 4)

In some cases the old king of the conquered kingdom depended on his lords. 16th century France, or in other words France as it was at the time of writing of the Prince, is given by Machiavelli as an example of such a kingdom. These are easy to enter but difficult to hold.
When the kingdom revolves around the king, then it is difficult to enter but easy to hold. The solution is to eliminate the old bloodline of the prince. Machiavelli used the Persian empire of Darius III, conquered by Alexander the Great, to illustrate this point and then noted that the Medici, if they think about it, will find this historical example similar to the "kingdom of the Turk" (Ottoman Empire) in their time – making this a potentially easier conquest to hold than France would be.

Conquered Free States, with their own laws and orders (Chapter 5)

Gilbert (1938:34) notes that this chapter is quite atypical of any previous books for princes. Gilbert supposed the need to discuss conquering free republics is linked to Machiavelli's project to unite Italy, which contained some free republics. As he also notes, the chapter in any case makes it clear that holding such a state is highly difficult for a prince. Machiavelli gives three options:-

- Ruin them, like Rome destroyed Carthage, and also like Machiavelli says the Romans eventually had to do in Greece, even though they had wanted to avoid it.
- Go to live there (or install colonies, if you are a prince of a republic).
- Let them keep their own orders but install a puppet regime.

Totally New States (Chapters 6–9)

Conquests by virtue (Chapter 6)

Machiavelli described Moses as a conquering prince, who founded new modes and orders by force of arms, which he used willingly to kill many of his own people. The Bible describes the reasons behind his success differently.

Princes who rise to power through their own skill and resources (their "virtue") rather than luck tend to have a hard time rising to the top, but once they reach the top they are very secure in their position. This is because they effectively crush their opponents and earn great respect from everyone else. Because they are strong and more self-sufficient, they have to make fewer compromises with their allies.

Machiavelli writes that reforming an existing order is one of the most dangerous and difficult things a prince can do. Part of the reason is that people are naturally resistant to change and reform. Those who benefited from the old order will resist change very fiercely. By contrast, those who stand to benefit from the new order will be less fierce in their support, because the new order is unfamiliar and they are not certain it will live up to its promises. Moreover, it is impossible for the prince to satisfy everybody's expectations. Inevitably, he will disappoint some of his followers. Therefore, a prince must have the means to force his supporters to keep supporting him even when they start having second thoughts, otherwise he will lose his power. Only armed prophets, like Moses, succeed in bringing lasting change. Machiavelli claims that Moses killed uncountable numbers of his own people in order to enforce his will.

Machiavelli was not the first thinker to notice this pattern. Allan Gilbert wrote: "In wishing new laws and yet seeing danger in them Machiavelli was not himself an innovator," because this idea was traditional and could be found in Aristotle's writings. But Machiavelli went much further than any other author in his emphasis on this aim, and Gilbert associates Machiavelli's emphasis upon such drastic aims with the level of corruption to be found in Italy.

Conquest by fortune, meaning by someone else's virtue (Chapter 7)

According to Machiavelli, when a prince comes to power through luck or the blessings of powerful figures within the regime, he typically has an easy time gaining power but a hard time keeping it thereafter, because his power is dependent on his benefactors' goodwill. He does not command the loyalty of the armies and officials that maintain his authority, and these can be withdrawn from him at a whim. Having risen the easy way, it is not even certain such a prince has the skill and strength to stand on his own feet.

This is not necessarily true in every case. Machiavelli cites Cesare Borgia as an example of a lucky prince who escaped this pattern. Through cunning political maneuvers, he managed to secure his power base. Cesare was made commander of the papal armies by his father, Pope Alexander VI, but was also heavily dependent on mercenary armies loyal to the Orsini brothers and the support of the French king. Borgia won over the allegiance of the Orsini's followers with better pay and

prestigious government posts. When some of his mercenary captains started to plot against him, he had them imprisoned and executed. When it looked like the king of France would to abandon him, Borgia sought new alliances.
Finally, Machiavelli makes a point that bringing new benefits to a conquered people will not be enough to cancel the memory of old injuries, an idea Allan Gilbert said can be found in Tacitus and Seneca the Younger.

Conquests by “criminal virtue” (Chapter 8)

Conquests by "criminal virtue" are ones in which the new prince secures his power through cruel, immoral deeds, such as the execution of political rivals. Machiavelli advises that a prince should carefully calculate all the wicked deeds he needs to do to secure his power, and then execute them all in one stroke, such that he need not commit any more wickedness for the rest of his reign. In this way, his subjects will slowly forget his cruel deeds and his reputation can recover. Princes who fail to do this, who hesitate in their ruthlessness, find that their problems mushroom over time and they are forced to commit wicked deeds throughout their reign. Thus they continuously mar their reputations and alienate their people.
Machiavelli's case study is Agathocles of Syracuse. After Agathocles became Praetor of Syracuse, he called a meeting of the city's elite. At his signal, his soldiers killed all the senators and the wealthiest citizens, completely destroying the old oligarchy. He declared himself ruler with no opposition. So secure was his power that he could afford to absent himself to go off on military campaigns in Africa.
Gilbert (1938:51–55) remarks that this chapter is even less traditional than those it follows, not only in its treatment of criminal behavior, but also in the advice to take power from people at a stroke, noting that precisely the opposite had been advised by Aristotle in his *Politics* (5.11.1315a13). On the other hand Gilbert shows that another piece of advice in this chapter, to give benefits when it will not appear forced, was traditional.

Becoming a prince by the selection of one's fellow citizens (Chapter 9)

These "civic principalities" do not require real virtue, only “fortunate astuteness”. Machiavelli breaks this case into two basic types, depending upon which section of the populace supports the new prince.

Supported by the great
(those who wish to command the people)

This, according to Machiavelli, is an unstable situation, which must be avoided after the initial coming to power. The great should be made and unmade every day at your convenience. There are two types of great people that might be encountered:

1. Those who are bound to the prince. Concerning these it is important to distinguish between two types of obligated great people, those who are rapacious and those who are not. It is the latter who can and should be honoured.
2. Those who are not bound to the new prince. Once again these need to be divided into two types: those with a weak spirit (a prince can make use of them if they are of good counsel) and those who shun being bound because of their own ambition (these should be watched and feared as enemies).

Supported by the people
(those who wish not to be commanded by the great)

How to win over people depends on circumstances. Machiavelli advises:

- Do not get frightened in adversity.
- One should avoid ruling via magistrates, if one wishes to be able to “ascend” to absolute rule quickly and safely.
- One should make sure that the people need the prince, especially if a

time of need should come.

How to judge the strength of principalities (Chapter 10)
The way to judge the strength of a princedom is to see whether it can defend itself, or whether it needs to depend on allies. This does not just mean that the cities should be prepared and the people trained. A prince who is hated is also exposed.

Ecclesiastical principates (Chapter 11)
This type of "princedom" refers for example explicitly to the Catholic church, which is of course not traditionally thought of as a princedom. According to Machiavelli, these are relatively easy to maintain, once founded. They do not need to defend themselves militarily, nor to govern their subjects.
Machiavelli discusses the recent history of the Church as if it were a princedom that was in competition to conquer Italy against other princes. He points to factionalism as a historical weak point in the Church, and points to the recent example of the Borgia family as a better strategy which almost worked. He then explicitly proposes that the Medici are now in a position to try the same thing.

Defense and military (Chapter 12–14)
Having discussed the various types of principalities, Machiavelli turns to the ways a state can attack other territories or defend itself. The two most essential foundations for any state, whether old or new, are sound laws and strong military forces. A self-sufficient prince is one who can meet any enemy on the battlefield. He should be "armed" with his own arms. However, a prince that relies solely on fortifications or on the help of others and stands on the defensive is not self-sufficient. If he cannot raise a formidable army, but must rely on defense, he must fortify his city. A well-fortified city is unlikely to be attacked, and if it is, most armies cannot endure an extended siege. However, during a siege a virtuous prince will keep the morale of his subjects high while removing all dissenters. Thus, as long as the city is properly defended and has enough supplies, a wise prince can withstand any siege.
Machiavelli stands strongly against the use of mercenaries, and in this he was innovative, and he also had personal experience in Florence. He believes they are useless to a ruler because they are undisciplined, cowardly, and without any loyalty, being motivated only by money. Machiavelli attributes the Italian city states' weakness to their reliance on mercenary armies.
Machiavelli also warns against using auxiliary forces, troops borrowed from an ally, because if they win, the employer is under their favor and if they lose, he is ruined. Auxiliary forces are more dangerous than mercenary forces because they are united and controlled by capable leaders who may turn against the employer.
The main concern for a prince should be war, or the preparation thereof, not books. Through war a hereditary prince maintains his power or a private citizen rises to power. Machiavelli advises that a prince must frequently hunt in order to keep his body fit and learn the landscape surrounding his kingdom. Through this, he can best learn how to protect his territory and advance upon others. For intellectual strength, he is advised to study great military men so he may imitate their successes and avoid their mistakes. A prince who is diligent in times of peace will be ready in times of adversity. Machiavelli writes, "thus, when fortune turns against him he will be prepared to resist it."

The Qualities of a Prince (Chapters 14–19)
Each of the following chapters presents a discussion about a particular virtue or vice that a prince might have, and is therefore structured in a way which appears like traditional advice for a prince. However, the advice is far from traditional.

A Prince's Duty Concerning Military Matters (Chapter 14)

Machiavelli believes that a prince's main focus should be on perfecting the art of war. He believes that by taking this profession a ruler will be able to protect his kingdom. He claims that "being disarmed makes you despised." He believes that the only way to ensure loyalty from one's soldiers is to understand military matters. The two activities Machiavelli recommends practicing to prepare for war are physical and mental. Physically, he believes rulers should learn the landscape of their territories. Mentally, he encouraged the study of past military events. He also warns against idleness.

Reputation of a prince (Chapter 15)

Because, says Machiavelli, he wants to write something useful to those who understand, he thought it more fitting "to go directly to the effectual truth ("*verità effettuale*") of the thing than to the imagination of it". This section is one where Machiavelli's pragmatic ideal can be seen most clearly. The prince should, ideally, be virtuous, but he should be willing and able to abandon those virtues if it becomes necessary. Concerning the behavior of a prince toward his subjects, Machiavelli announces that he will depart from what other writers say, and writes:

Men have imagined republics and principalities that never really existed at all. Yet the way men live is so far removed from the way they ought to live that anyone who abandons what is for what should be pursues his downfall rather than his preservation; for a man who strives after goodness in all his acts is sure to come to ruin, since there are so many men who are not good.

Since there are many possible qualities that a prince can be said to possess, he must not be overly concerned about having all the good ones. Also, a prince may be perceived to be merciful, faithful, humane, frank, and religious, but most important is only to *seem* to have these qualities. A *prince* cannot truly have these qualities because at times it is *necessary* to act against them. In fact, he must sometimes deliberately choose evil. Although a bad reputation should be avoided, it is sometimes necessary to have one.

Generosity vs. parsimony (Chapter 16)

If a prince is overly generous to his subjects, Machiavelli asserts he will not be appreciated, and will only cause greed for more. Additionally, being overly generous is not economical, because eventually all resources will be exhausted. This results in higher taxes, and will bring grief upon the prince. Then, if he decides to discontinue or limit his generosity, he will be labeled as a miser. Thus, Machiavelli summarizes that guarding against the people's hatred is more important than building up a reputation for generosity. A wise prince should be willing to be more reputed a miser than be hated for trying to be too generous.

On the other hand: "of what is not yours or your subjects' one can be a bigger giver, as were Cyrus, Caesar, and Alexander, because spending what is someone else's does not take reputation from you but adds it to you; only spending your own hurts you".

Cruelty vs. Mercy (Chapter 17)

In addressing the question of whether it is better to be loved or feared, Machiavelli writes, "The answer is that one would like to be both the one and the other; but because it is difficult to combine them, it is far safer to be feared than loved if you cannot be both." As Machiavelli asserts, commitments made in peace are not always kept in adversity; however, commitments made in fear are kept out of fear. Yet, a prince must ensure that he is not feared to the point of hatred, which is very possible.

This chapter is possibly the most well-known of the work, and it is important because of the reasoning behind Machiavelli's famous idea that it is better to be feared than

loved[20] – his justification is purely pragmatic; as he notes, “Men worry less about doing an injury to one who makes himself loved than to one who makes himself feared.” Fear is simply a means to an end, and that end is security for the prince. The fear instilled should never be excessive, for that could be dangerous to the prince. Above all, Machiavelli argues, a prince should not interfere with the property of their subjects, their women, or the life of somebody without proper justification.
Regarding the troops of the prince, fear is absolutely necessary to keep a large garrison united and a prince should not mind the thought of cruelty in that regard. For a prince who leads his own army, it is imperative for him to observe cruelty because that is the only way he can command his soldiers' absolute respect. Machiavelli compares two great military leaders: Hannibal and Scipio Africanus. Although Hannibal's army consisted of men of various races, they were never rebellious because they feared their leader. Machiavelli says this required "inhuman cruelty" which he refers to as a virtue. Scipio's men, on the other hand, were known for their mutiny and dissension, due to Scipio's "excessive mercy" – which was however a source of glory because he lived in a republic.

In what way princes should keep their word (Chapter 18)
Machiavelli notes that a prince is praised for keeping his word. However, he also notes that a prince is also praised for the illusion of being reliable in keeping his word. A prince, therefore, should only keep his word when it suits his purposes, but do his utmost to maintain the illusion that he does keep his word and that he is reliable in that regard. Therefore, a prince should not break his word unnecessarily.
As Machiavelli notes, “He should appear to be compassionate, faithful to his word, guileless, and devout. And indeed he should be so. But his disposition should be such that, if he needs to be the opposite, he knows how.” As noted in chapter 15, the prince must appear to be virtuous, and should be virtuous, but he should be able to be otherwise when the time calls for it; that includes being able to lie, though however much he lies he should always keep the appearance of being truthful.

Avoiding contempt and hatred (Chapter 19)
Machiavelli observes that most men are content as long as they are not deprived of their property and women. A prince should command respect through his conduct, because a prince that is highly respected by his people is unlikely to face internal struggles. Additionally, a prince who does not raise the contempt of the nobles and keeps the people satisfied, Machiavelli assures, should have no fear of conspirators. Machiavelli advises monarchs to have both internal and external fears. Internal fears exist inside his kingdom and focus on his subjects, Machiavelli warns to be suspicious of everyone when hostile attitudes emerge. External fears are of foreign powers.

The Prudence of the Prince (Chapters 20–25)
Whether ruling conquests with fortresses works (Chapter 20)
Machiavelli mentions that placing fortresses in conquered territories, although it sometimes works, often fails. Using fortresses can be a good plan, but Machiavelli says he shall "blame anyone who, trusting in fortresses, thinks little of being hated by the people".

Gaining honors (Chapter 21)
A prince truly earns honor by completing great feats. King Ferdinand of Spain is cited by Machiavelli as an example of a monarch who gained esteem by showing his ability through great feats and who, in the name of religion, conquered many territories and kept his subjects occupied so that they had no chance to rebel. Regarding two warring states, Machiavelli asserts it is always wiser to choose a side,

rather than to be neutral. Machiavelli then provides the following reasons why:

- If your allies win, you benefit whether or not you have more power than they have.
- If you are more powerful, then your allies are under your command; if your allies are stronger, they will always feel a certain obligation to you for your help.
- If your side loses, you still have an ally in the loser.

Machiavelli also notes that it is wise for a prince not to ally with a stronger force unless compelled to do so. In conclusion, the most important virtue is having the wisdom to discern what ventures will come with the most reward and then pursuing them courageously.

Nobles and staff (Chapter 22)

The selection of good servants is reflected directly upon the prince's intelligence, so if they are loyal, the prince is considered wise; however, when they are otherwise, the prince is open to adverse criticism. Machiavelli asserts that there are three types of intelligence:

- The kind that understands things for itself—which is excellent to have.
- The kind that understands what others can understand—which is good to have.
- The kind that does not understand for itself, nor through others—which is useless to have.

If the prince does not have the first type of intelligence, he should at the very least have the second type. For, as Machiavelli states, "A prince needs to have the discernment to recognize the good or bad in what another says or does even though he has no acumen himself".

Avoiding flatterers (Chapter 23)

This chapter displays a low opinion of flatterers; Machiavelli notes that "Men are so happily absorbed in their own affairs and indulge in such self-deception that it is difficult for them not to fall victim to this plague; and some efforts to protect oneself from flatterers involve the risk of becoming despised." Flatterers were seen as a great danger to a prince, because their flattery could cause him to avoid wise counsel in favor of rash action, but avoiding all advice, flattery or otherwise, was equally bad; a middle road had to be taken. A prudent prince should have a select group of wise counselors to advise him truthfully on matters all the time. All their opinions should be taken into account. Ultimately, the decision should be made by the counselors and carried out absolutely. If a prince is given to changing his mind, his reputation will suffer. A prince must have the wisdom to recognize good advice from bad. Machiavelli gives a negative example in Emperor Maximilian I; Maximilian, who was secretive, never consulted others, but once he ordered his plans and met dissent, he immediately changed them.

Prudence and chance

Why the princes of Italy lost their states (Chapter 24)

After first mentioning that a new prince can quickly become as respected as a hereditary one, Machiavelli says princes in Italy who had long standing power and lost it can not blame bad luck, but should blame their own indolence. One "should never fall in the belief that you can find someone to pick you up". They all showed:

- A defect of arms, already discussed.
- Either had a hostile populace or else they did not know to secure themselves with the great.

Fortune (Chapter 25)

As pointed out by Gilbert (1938:206) it was traditional in the genre of Mirrors of Princes to mention fortune, but "Fortune pervades The Prince as she does no other similar work". Machiavelli argues that fortune is only the judge of half of our actions and that we have control over the other half with "sweat", prudence and virtue. Even more unusual, rather than simply suggesting caution as a prudent way to try to avoid the worst of bad luck, Machiavelli holds that the greatest princes in history tend to be ones who take more risks, and rise to power through their own labour, virtue, prudence, and particularly by their ability to adapt to changing circumstances.
Machiavelli even encourages risk taking as a reaction to risk. In a well-known metaphor, Machiavelli writes that "it is better to be impetuous than cautious, because fortune is a woman; and it is necessary, if one wants to hold her down, to beat her and strike her down." Gilbert (p. 217) points out that Machiavelli's friend the historian and diplomat Francesco Guicciardini expressed similar ideas about fortune.
Machiavelli compares fortune to a torrential river that cannot be easily controlled during flooding season. In periods of calm, however, people can erect dams and levees in order to minimize its impact. Fortune, Machiavelli argues, seems to strike at the places where no resistance is offered, as had recently been the case in Italy. As de Alvarez (1999:125–130) points out that what Machiavelli actually says is that Italians in his time leave things not just to fortune, but to "fortune and God". Machiavelli is indicating in this passage, as in some others in his works, that Christianity itself was making Italians helpless and lazy concerning their own politics, as if they would leave dangerous rivers uncontrolled.

Exhortation to Seize Italy and to Free Her from the Barbarians (Chapter 26)

Pope Leo X was pope at the time the book was written and a member of the de Medici family. This chapter directly appeals to the Medici to use what has been summarized in order to conquer Italy using Italian armies, following the advice in the book. Gilbert (1938:222–230) showed that including such exhortation was not unusual in the genre of books full of advice for princes. But it is unusual that the Medici family's position of Papal power is openly named as something that should be used as a personal power base, as a tool of secular politics. Indeed one example is the Borgia family's "recent" and controversial attempts to use church power in secular politics, often brutally executed. This continues a controversial theme throughout the book.

Analysis

As shown by his letter of dedication, Machiavelli's work eventually came to be dedicated to Lorenzo di Piero de' Medici, grandson of "Lorenzo the Magnificent", and a member of the ruling Florentine Medici family, whose uncle Giovanni became Pope Leo X in 1513. It is known from his personal correspondence that it was written during 1513, the year after the Medici took control of Florence, and a few months after Machiavelli's arrest, torture, and banishment by the in-coming Medici regime. It was discussed for a long time with Francesco Vettori, a friend of Machiavelli who he wanted to pass it and commend it to the Medici. The book had originally been intended for Giuliano di Lorenzo de' Medici, young Lorenzo's uncle, who however died in 1516. It is not certain that the work was ever read by any of the Medici before it was printed. Machiavelli describes the contents as being an un-embellished summary of his knowledge about the nature of princes and "the actions of great men", based not only on reading but also, unusually, on real experience.
The types of political behavior which are discussed with apparent approval by Machiavelli in *The Prince* were regarded as shocking by contemporaries, and its immorality is still a subject of serious discussion. Although the work advises princes how to tyrannize, Machiavelli is generally thought to have preferred some form of free republic. Some commentators justify his acceptance of immoral and criminal

actions by leaders by arguing that he lived during a time of continuous political conflict and instability in Italy, and that his influence has increased the "pleasures, equality and freedom" of many people, loosening the grip of medieval Catholicism's "classical teleology", which "disregarded not only the needs of individuals and the wants of the common man, but stifled innovation, enterprise, and enquiry into cause and effect relationships that now allow us to control nature".

On the other hand, Strauss (1958:11) notes that "even if we were forced to grant that Machiavelli was essentially a patriot or a scientist, we would not be forced to deny that he was a teacher of evil". Furthermore, Machiavelli "was too thoughtful not to know what he was doing and too generous not to admit it to his reasonable friends"

Machiavelli emphasized the need for realism, as opposed to idealism. In *The Prince* he does not explain what he thinks the best ethical or political goals are, except the control of one's own fortune, as opposed to waiting to see what chance brings. Machiavelli took it for granted that would-be leaders naturally aim at glory or honor. He associated these goals with a need for "virtue" and "prudence" in a leader, and saw such virtues as essential to good politics and indeed the common good. That great men should develop and use their virtue and prudence was a traditional theme of advice to Christian princes. And that more virtue meant less reliance on chance was a classically influenced "humanist commonplace" in Machiavelli's time, as Fischer (2000:75) says, even if it was somewhat controversial. However, Machiavelli went far beyond other authors in his time, who in his opinion left things to fortune, and therefore to bad rulers, because of their Christian beliefs. He used the words "virtue" and "prudence" to refer to glory-seeking and spirited excellence of character, in strong contrast to the traditional Christian uses of those terms, but more keeping with the original pre-Christian Greek and Roman concepts from which they derived. He encouraged ambition and risk taking. So in another break with tradition, he treated not only stability, but also radical innovation, as possible aims of a prince in a political community. Managing major reforms can show off a Prince's virtue and give him glory. He clearly felt Italy needed major reform in his time, and this opinion of his time is widely shared.

Machiavelli's descriptions encourage leaders to attempt to control their fortune gloriously, to the extreme extent that some situations may call for a fresh "founding" (or re-founding) of the "modes and orders" that define a community, despite the danger and necessary evil and lawlessness of such a project. Founding a wholly new state, or even a new religion, using injustice and immorality has even been called the chief theme of the *Prince*. For a political theorist to do this in public was one of Machiavelli's clearest breaks not just with medieval scholasticism, but with the classical tradition of political philosophy, especially the favorite philosopher of Catholicism at the time, Aristotle. This is one of Machiavelli's most lasting influences upon modernity.

Nevertheless Machiavelli was heavily influenced by classical pre-Christian political philosophy. According to Strauss (1958:291) Machiavelli refers to Xenophon more than Plato, Aristotle, and Cicero put together. Xenophon wrote one of the classic mirrors of princes, the *Education of Cyrus*. Gilbert (1938:236) wrote: "The Cyrus of Xenophon was a hero to many a literary man of the sixteenth century, but for Machiavelli he lived". Xenophon also, as Strauss pointed out, wrote a dialogue, *Hiero* which showed a wise man dealing sympathetically with a tyrant, coming close to what Machiavelli would do in questioning the ideal of "the imagined prince". Xenophon however, like Plato and Aristotle, was a follower of Socrates, and his works show approval of a "teleological argument", while Machiavelli rejected such arguments. On this matter, Strauss (1958:222–223) gives evidence that Machiavelli may have seen himself as having learned something from Democritus, Epicurus and classical materialism, which was however not associated with political realism, or even any interest in politics.

On the topic of rhetoric Machiavelli, in his introduction, stated that “I have not embellished or crammed this book with rounded periods or big, impressive words, or with any blandishment or superfluous decoration of the kind which many are in the habit of using to describe or adorn what they have produced”. This has been interpreted as showing a distancing from traditional rhetoric styles, but there are echoes of classical rhetoric in several areas. In Chapter 18, for example, he uses a metaphor of a lion and a fox, examples of cunning and force; according to Zerba (2004:217), “the Roman author from whom Machiavelli in all likelihood drew the simile of the lion and the fox” was Cicero. The *Rhetorica ad Herennium*, a work which was believed during Machiavelli’s time to have been written by Cicero, was used widely to teach rhetoric, and it is likely that Machiavelli was familiar with it. Unlike Cicero's more widely accepted works however, according to Cox (1997:1122), “Ad Herennium ... offers a model of an ethical system that not only condones the practice of force and deception but appears to regard them as habitual and indeed germane to political activity”. This makes it an ideal text for Machiavelli to have used.

Influence

there were in circulation approximately fifteen editions of the *Prince* and nineteen of the *Discourses* and French translations of each before they were placed on the Index of Paul IV in 1559, a measure which nearly stopped publication in Catholic areas except in France. Three principal writers took the field against Machiavelli between the publication of his works and their condemnation in 1559 and again by the Tridentine Index in 1564. These were the English cardinal Reginald Pole and the Portuguese bishop Jeronymo Osorio, both of whom lived for many years in Italy, and the Italian humanist and later bishop, Ambrogio Caterino Politi.

Machiavelli's ideas on how to accrue honor and power as a leader had a profound impact on political leaders throughout the modern west, helped by the new technology of the printing press. Pole reported that it was spoken of highly by Thomas Cromwell in England and had influenced Henry VIII in his turn towards Protestantism, and in his tactics, for example during the Pilgrimage of Grace. A copy was also possessed by the Catholic king and emperor Charles V. In France, after an initially mixed reaction, Machiavelli came to be associated with Catherine de Medici and the St Bartholomew's Day Massacre. As Bireley (1990:17) reports, in the 16th century, Catholic writers "associated Machiavelli with the Protestants, whereas Protestant authors saw him as Italian and Catholic". In fact, he was apparently influencing both Catholic and Protestant kings.

One of the most important early works dedicated to criticism of Machiavelli, especially *The Prince*, was that of the Huguenot, Innocent Gentillet, *Discourse against Machiavelli*, commonly also referred to as *Anti Machiavel*, published in Geneva in 1576. He accused Machiavelli of being an atheist and accused politicians of his time by saying that they treated his works as the "Koran of the courtiers". Another theme of Gentillet was more in the spirit of Machiavelli himself: he questioned the effectiveness of immoral strategies (just as Machiavelli had himself done, despite also explaining how they could sometimes work). This became the theme of much future political discourse in Europe during the 17th century. This includes the Catholic Counter Reformation writers summarised by Bireley: Giovanni Botero, Justus Lipsius, Carlo Scribani, Adam Contzen, Pedro de Ribadeneira, and Diego Saavedra Fajardo. These authors criticized Machiavelli, but also followed him in many ways. They accepted the need for a prince to be concerned with reputation, and even a need for cunning and deceit, but compared to Machiavelli, and like later modernist writers, they emphasized economic progress much more than the riskier ventures of war. These authors tended to cite Tacitus as their source for realist political advice, rather than Machiavelli, and this pretense came to be known as "Tacitism".

Modern materialist philosophy developed in the 16th, 17th and 18th century, starting

in the generations after Machiavelli. The importance of Machiavelli's realism was noted by many important figures in this endeavor, for example Bodin, Francis Bacon, Harrington, John Milton, Spinoza, Rousseau, Hume, Edward Gibbon, and Adam Smith. Although he was not always mentioned by name as an inspiration, due to his controversy, he is also thought to have been an influence for other major philosophers, such as Montaigne, Descartes, Hobbes, Locke and Montesquieu.

In literature:-

- Machiavelli is featured as a character in the prologue of Christopher Marlowe's *The Jew of Malta*.
- In William Shakespeare's tragedy, *Othello*, the antagonist Iago has been noted by some literary critics as being archetypal in adhering to Machiavelli's ideals by advancing himself through machination and duplicity with the consequence of causing the demise of both Othello and Desdemona.

Amongst later political leaders:-

- The republicanism in seventeenth century England which led to the English civil war, Glorious Revolution and subsequent development of the English Constitution was strongly influenced by Machiavelli's political thought.
- Most of the founding fathers of the American Revolution are known or often proposed to have been strongly influenced by Machiavelli's political works, including Benjamin Franklin, James Madison, Thomas Jefferson, Alexander Hamilton and John Adams.
- Under the guidance of Voltaire, Frederick the Great of Prussia criticised Machiavelli's conclusions in his "Anti-Machiavel", published in 1740.
- At different stages in his life, Napoleon I of France wrote extensive comments to *The Prince*. After his defeat at Waterloo, these comments were found in the emperor's coach and taken by Prussian military.
- Italian dictator Benito Mussolini wrote a discourse on *The Prince*.

20th century Italian-American mobsters were influenced by *The Prince*. John Gotti and Roy DeMeo would regularly quote *The Prince* and consider it to be the "Mafia Bible".

In the episode Ewings Unite! of the television series Dallas, legendary oil baron J.R. Ewing wills his copy of *The Prince* to his adopted nephew Christopher Ewing telling him to "use it, because being smart and sneaky is an unbeatable combination".

Interpretation of *The Prince* as political satire or as deceit

As discussed by Johnston (1958) many authors have historically argued that "the book is, first and foremost, a satire, so that many of the things we find in it which are morally absurd, specious, and contradictory, are there quite deliberately in order to ridicule ... the very notion of tyrannical rule". Hence, Johnston says, "the satire has a firm moral purpose – to expose tyranny and promote republican government."

This position was the standard one in Europe during the 18th century, amongst the Enlightenment *philosophes*. Diderot thought it was a satire. And in his *The Social Contract*, the French philosopher Jean-Jacques Rousseau said:

Machiavelli was a proper man and a good citizen; but, being attached to the court of the Medici, he could not help veiling his love of liberty in the midst of his country's oppression. The choice of his detestable hero, Caesar Borgia, clearly enough shows his hidden aim; and the contradiction between the teaching of the Prince and that of the Discourses on Livy and the History of Florence shows that this profound political thinker has so far been studied only by superficial or corrupt readers. The Court of Rome sternly prohibited his book. I can well believe it; for it is that Court it most clearly portrays.

— *Social Contract*, Book 3, n. 23

Whether or not the word "satire" is the best choice, there is more general agreement that despite seeming to be written for someone wanting to be a monarch, and not the

leader of a republic, the *Prince* can be read as deliberately emphasizing the benefits of free republics as opposed to monarchies.
Differences of opinion amongst commentators revolve around whether this sub-text was intended to be understood, let alone understood as deliberately satirical or comic.
One such commentator, Mary Dietz, writes that Machiavelli's agenda was not to be satirical, as Rousseau had argued, but instead was "offering carefully crafted advice (such as arming the people) designed to undo the ruler if taken seriously and followed." By this account, the aim was to reestablish the republic in Florence. She focuses on three categories in which Machiavelli gives paradoxical advice:

- He discourages liberality and favors deceit to guarantee support from the people. Yet Machiavelli is keenly aware of the fact that an earlier pro-republican coup had been thwarted by the people's inaction that itself stemmed from the prince's liberality.
- He supports arming the people despite the fact that he knows the Florentines are decidedly pro-democratic and would oppose the prince
- He encourages the prince to live in the city he conquers. This opposes the Medicis' habitual policy of living outside the city. It also makes it easier for rebels or a civilian militia to attack and overthrow the prince.

According to Dietz the trap never succeeded because Lorenzo did not read the work and did not trust Machiavelli, a consistently staunch republican.
Antonio Gramsci argued that Machiavelli's audience for this work was not even the ruling class but the common people because the rulers already knew these methods through their education.
Hans Baron is one of the few major commentators who argues that Machiavelli must have changed his mind dramatically in favour of free republics, after having written the *Prince*.

2B. extent source text

THE PRINCE

CHAPTER I — HOW MANY KINDS OF PRINCIPALITIES THERE ARE, AND BY WHAT MEANS THEY ARE ACQUIRED

All states, all powers, that have held and hold rule over men have been and are either republics or principalities.
Principalities are either hereditary, in which the family has been long established; or they are new.
The new are either entirely new, as was Milan to Francesco Sforza, or they are, as it were, members annexed to the hereditary state of the prince who has acquired them, as was the kingdom of Naples to that of the King of Spain.
Such dominions thus acquired are either accustomed to live under a prince, or to live in freedom; and are acquired either by the arms of the prince himself, or of others, or else by fortune or by ability.

CHAPTER II — CONCERNING HEREDITARY PRINCIPALITIES

I will leave out all discussion on republics, inasmuch as in another place I have written of them at length, and will address myself only to principalities. In doing so I will keep to the order indicated above, and discuss how such principalities are to be ruled and preserved.
I say at once there are fewer difficulties in holding hereditary states, and those long accustomed to the family of their prince, than new ones; for it is sufficient only not to transgress the customs of his ancestors, and to deal prudently with circumstances as they arise, for a prince of average powers to maintain himself in his state, unless he be deprived of it by some extraordinary and excessive force; and if he should be so deprived of it, whenever anything sinister happens to the usurper, he will regain it.
We have in Italy, for example, the Duke of Ferrara, who could not have withstood the attacks of the Venetians in '84, nor those of Pope Julius in '10, unless he had been long established in his dominions. For the hereditary prince has less cause and less necessity to offend; hence it happens that he will be more loved; and unless extraordinary vices cause him to be hated, it is reasonable to expect that his subjects will be naturally well disposed towards him; and in the antiquity and duration of his rule the memories and motives that make for change are lost, for one change always leaves the toothing for another.

CHAPTER III — CONCERNING MIXED PRINCIPALITIES

But the difficulties occur in a new principality. And firstly, if it be not entirely new, but is, as it were, a member of a state which, taken collectively, may be called composite, the changes arise chiefly from an inherent difficulty which there is in all new principalities; for men change their rulers willingly, hoping to better themselves, and this hope induces them to take up arms against him who rules: wherein they are deceived, because they afterwards find by experience they have gone from bad to worse. This follows also on another natural and common necessity, which always causes a new prince to burden those who have submitted to him with his soldiery and with infinite other hardships which he must put upon his new acquisition.
In this way you have enemies in all those whom you have injured in seizing that principality, and you are not able to keep those friends who put you there because of

your not being able to satisfy them in the way they expected, and you cannot take strong measures against them, feeling bound to them. For, although one may be very strong in armed forces, yet in entering a province one has always need of the goodwill of the natives.

For these reasons Louis the Twelfth, King of France, quickly occupied Milan, and as quickly lost it; and to turn him out the first time it only needed Lodovico's own forces; because those who had opened the gates to him, finding themselves deceived in their hopes of future benefit, would not endure the ill-treatment of the new prince. It is very true that, after acquiring rebellious provinces a second time, they are not so lightly lost afterwards, because the prince, with little reluctance, takes the opportunity of the rebellion to punish the delinquents, to clear out the suspects, and to strengthen himself in the weakest places. Thus to cause France to lose Milan the first time it was enough for the Duke Lodovico(*) to raise insurrections on the borders; but to cause him to lose it a second time it was necessary to bring the whole world against him, and that his armies should be defeated and driven out of Italy; which followed from the causes above mentioned.

(*) Duke Lodovico was Lodovico Moro, a son of Francesco Sforza, who married Beatrice d'Este. He ruled over Milan from 1494 to 1500, and died in 1510.

Nevertheless Milan was taken from France both the first and the second time. The general reasons for the first have been discussed; it remains to name those for the second, and to see what resources he had, and what any one in his situation would have had for maintaining himself more securely in his acquisition than did the King of France.

Now I say that those dominions which, when acquired, are added to an ancient state by him who acquires them, are either of the same country and language, or they are not. When they are, it is easier to hold them, especially when they have not been accustomed to self-government; and to hold them securely it is enough to have destroyed the family of the prince who was ruling them; because the two peoples, preserving in other things the old conditions, and not being unlike in customs, will live quietly together, as one has seen in Brittany, Burgundy, Gascony, and Normandy, which have been bound to France for so long a time: and, although there may be some difference in language, nevertheless the customs are alike, and the people will easily be able to get on amongst themselves. He who has annexed them, if he wishes to hold them, has only to bear in mind two considerations: the one, that the family of their former lord is extinguished; the other, that neither their laws nor their taxes are altered, so that in a very short time they will become entirely one body with the old principality.

But when states are acquired in a country differing in language, customs, or laws, there are difficulties, and good fortune and great energy are needed to hold them, and one of the greatest and most real helps would be that he who has acquired them should go and reside there. This would make his position more secure and durable, as it has made that of the Turk in Greece, who, notwithstanding all the other measures taken by him for holding that state, if he had not settled there, would not have been able to keep it. Because, if one is on the spot, disorders are seen as they spring up, and one can quickly remedy them; but if one is not at hand, they are heard of only when they are great, and then one can no longer remedy them. Besides this, the country is not pillaged by your officials; the subjects are satisfied by prompt recourse to the prince; thus, wishing to be good, they have more cause to love him, and wishing to be otherwise, to fear him. He who would attack that state from the outside must have the utmost caution; as long as the prince resides there it can only be wrested from him with the greatest difficulty.

The other and better course is to send colonies to one or two places, which may be as keys to that state, for it is necessary either to do this or else to keep there a great

number of cavalry and infantry. A prince does not spend much on colonies, for with little or no expense he can send them out and keep them there, and he offends a minority only of the citizens from whom he takes lands and houses to give them to the new inhabitants; and those whom he offends, remaining poor and scattered, are never able to injure him; whilst the rest being uninjured are easily kept quiet, and at the same time are anxious not to err for fear it should happen to them as it has to those who have been despoiled. In conclusion, I say that these colonies are not costly, they are more faithful, they injure less, and the injured, as has been said, being poor and scattered, cannot hurt. Upon this, one has to remark that men ought either to be well treated or crushed, because they can avenge themselves of lighter injuries, of more serious ones they cannot; therefore the injury that is to be done to a man ought to be of such a kind that one does not stand in fear of revenge.

But in maintaining armed men there in place of colonies one spends much more, having to consume on the garrison all the income from the state, so that the acquisition turns into a loss, and many more are exasperated, because the whole state is injured; through the shifting of the garrison up and down all become acquainted with hardship, and all become hostile, and they are enemies who, whilst beaten on their own ground, are yet able to do hurt. For every reason, therefore, such guards are as useless as a colony is useful.

Again, the prince who holds a country differing in the above respects ought to make himself the head and defender of his less powerful neighbours, and to weaken the more powerful amongst them, taking care that no foreigner as powerful as himself shall, by any accident, get a footing there; for it will always happen that such a one will be introduced by those who are discontented, either through excess of ambition or through fear, as one has seen already. The Romans were brought into Greece by the Aetolians; and in every other country where they obtained a footing they were brought in by the inhabitants. And the usual course of affairs is that, as soon as a powerful foreigner enters a country, all the subject states are drawn to him, moved by the hatred which they feel against the ruling power. So that in respect to those subject states he has not to take any trouble to gain them over to himself, for the whole of them quickly rally to the state which he has acquired there. He has only to take care that they do not get hold of too much power and too much authority, and then with his own forces, and with their goodwill, he can easily keep down the more powerful of them, so as to remain entirely master in the country. And he who does not properly manage this business will soon lose what he has acquired, and whilst he does hold it he will have endless difficulties and troubles.

The Romans, in the countries which they annexed, observed closely these measures; they sent colonies and maintained friendly relations with(*) the minor powers, without increasing their strength; they kept down the greater, and did not allow any strong foreign powers to gain authority. Greece appears to me sufficient for an example. The Achaeans and Aetolians were kept friendly by them, the kingdom of Macedonia was humbled, Antiochus was driven out; yet the merits of the Achaeans and Aetolians never secured for them permission to increase their power, nor did the persuasions of Philip ever induce the Romans to be his friends without first humbling him, nor did the influence of Antiochus make them agree that he should retain any lordship over the country. Because the Romans did in these instances what all prudent princes ought to do, who have to regard not only present troubles, but also future ones, for which they must prepare with every energy, because, when foreseen, it is easy to remedy them; but if you wait until they approach, the medicine is no longer in time because the malady has become incurable; for it happens in this, as the physicians say it happens in hectic fever, that in the beginning of the malady it is easy to cure but difficult to detect, but in the course of time, not having been either detected or treated in the beginning, it becomes easy to detect but difficult to cure. This it happens in affairs of state, for when the evils that arise have been

foreseen (which it is only given to a wise man to see), they can be quickly redressed, but when, through not having been foreseen, they have been permitted to grow in a way that every one can see them, there is no longer a remedy. Therefore, the Romans, foreseeing troubles, dealt with them at once, and, even to avoid a war, would not let them come to a head, for they knew that war is not to be avoided, but is only to be put off to the advantage of others; moreover they wished to fight with Philip and Antiochus in Greece so as not to have to do it in Italy; they could have avoided both, but this they did not wish; nor did that ever please them which is for ever in the mouths of the wise ones of our time:—Let us enjoy the benefits of the time—but rather the benefits of their own valour and prudence, for time drives everything before it, and is able to bring with it good as well as evil, and evil as well as good.

(*) See remark in the introduction on the word "intrattenere."

But let us turn to France and inquire whether she has done any of the things mentioned. I will speak of Louis(*) (and not of Charles)(+) as the one whose conduct is the better to be observed, he having held possession of Italy for the longest period; and you will see that he has done the opposite to those things which ought to be done to retain a state composed of divers elements.

(*) Louis XII, King of France, "The Father of the People," born 1462, died 1515.

(+) Charles VIII, King of France, born 1470, died 1498.

King Louis was brought into Italy by the ambition of the Venetians, who desired to obtain half the state of Lombardy by his intervention. I will not blame the course taken by the king, because, wishing to get a foothold in Italy, and having no friends there—seeing rather that every door was shut to him owing to the conduct of Charles—he was forced to accept those friendships which he could get, and he would have succeeded very quickly in his design if in other matters he had not made some mistakes. The king, however, having acquired Lombardy, regained at once the authority which Charles had lost: Genoa yielded; the Florentines became his friends; the Marquess of Mantua, the Duke of Ferrara, the Bentivogli, my lady of Forli, the Lords of Faenza, of Pesaro, of Rimini, of Camerino, of Piombino, the Lucchese, the Pisans, the Sienese—everybody made advances to him to become his friend. Then could the Venetians realize the rashness of the course taken by them, which, in order that they might secure two towns in Lombardy, had made the king master of two-thirds of Italy.

Let any one now consider with what little difficulty the king could have maintained his position in Italy had he observed the rules above laid down, and kept all his friends secure and protected; for although they were numerous they were both weak and timid, some afraid of the Church, some of the Venetians, and thus they would always have been forced to stand in with him, and by their means he could easily have made himself secure against those who remained powerful. But he was no sooner in Milan than he did the contrary by assisting Pope Alexander to occupy the Romagna. It never occurred to him that by this action he was weakening himself, depriving himself of friends and of those who had thrown themselves into his lap, whilst he aggrandized the Church by adding much temporal power to the spiritual, thus giving it greater authority. And having committed this prime error, he was obliged to follow it up, so much so that, to put an end to the ambition of Alexander, and to prevent his becoming the master of Tuscany, he was himself forced to come into Italy.

And as if it were not enough to have aggrandized the Church, and deprived himself of friends, he, wishing to have the kingdom of Naples, divides it with the King of Spain, and where he was the prime arbiter in Italy he takes an associate, so that the ambitious of that country and the malcontents of his own should have somewhere to

shelter; and whereas he could have left in the kingdom his own pensioner as king, he drove him out, to put one there who was able to drive him, Louis, out in turn.
The wish to acquire is in truth very natural and common, and men always do so when they can, and for this they will be praised not blamed; but when they cannot do so, yet wish to do so by any means, then there is folly and blame. Therefore, if France could have attacked Naples with her own forces she ought to have done so; if she could not, then she ought not to have divided it. And if the partition which she made with the Venetians in Lombardy was justified by the excuse that by it she got a foothold in Italy, this other partition merited blame, for it had not the excuse of that necessity.
Therefore Louis made these five errors: he destroyed the minor powers, he increased the strength of one of the greater powers in Italy, he brought in a foreign power, he did not settle in the country, he did not send colonies. Which errors, had he lived, were not enough to injure him had he not made a sixth by taking away their dominions from the Venetians; because, had he not aggrandized the Church, nor brought Spain into Italy, it would have been very reasonable and necessary to humble them; but having first taken these steps, he ought never to have consented to their ruin, for they, being powerful, would always have kept off others from designs on Lombardy, to which the Venetians would never have consented except to become masters themselves there; also because the others would not wish to take Lombardy from France in order to give it to the Venetians, and to run counter to both they would not have had the courage.
And if any one should say: "King Louis yielded the Romagna to Alexander and the kingdom to Spain to avoid war," I answer for the reasons given above that a blunder ought never to be perpetrated to avoid war, because it is not to be avoided, but is only deferred to your disadvantage. And if another should allege the pledge which the king had given to the Pope that he would assist him in the enterprise, in exchange for the dissolution of his marriage(*) and for the cap to Rouen,(+) to that I reply what I shall write later on concerning the faith of princes, and how it ought to be kept.

(*) Louis XII divorced his wife, Jeanne, daughter of Louis XI, and married in 1499 Anne of Brittany, widow of Charles VIII, in order to retain the Duchy of Brittany for the crown.

(+) The Archbishop of Rouen. He was Georges d'Amboise, created a cardinal by Alexander VI. Born 1460, died 1510.

Thus King Louis lost Lombardy by not having followed any of the conditions observed by those who have taken possession of countries and wished to retain them. Nor is there any miracle in this, but much that is reasonable and quite natural. And on these matters I spoke at Nantes with Rouen, when Valentino, as Cesare Borgia, the son of Pope Alexander, was usually called, occupied the Romagna, and on Cardinal Rouen observing to me that the Italians did not understand war, I replied to him that the French did not understand statecraft, meaning that otherwise they would not have allowed the Church to reach such greatness. And in fact it has been seen that the greatness of the Church and of Spain in Italy has been caused by France, and her ruin may be attributed to them. From this a general rule is drawn which never or rarely fails: that he who is the cause of another becoming powerful is ruined; because that predominancy has been brought about either by astuteness or else by force, and both are distrusted by him who has been raised to power.

CHAPTER IV — WHY THE KINGDOM OF DARIUS, CONQUERED BY ALEXANDER, DID NOT REBEL AGAINST THE SUCCESSORS OF ALEXANDER AT HIS DEATH

Considering the difficulties which men have had to hold to a newly acquired state, some might wonder how, seeing that Alexander the Great became the master of Asia in a few years, and died whilst it was scarcely settled (whence it might appear reasonable that the whole empire would have rebelled), nevertheless his successors maintained themselves, and had to meet no other difficulty than that which arose among themselves from their own ambitions.

I answer that the principalities of which one has record are found to be governed in two different ways; either by a prince, with a body of servants, who assist him to govern the kingdom as ministers by his favour and permission; or by a prince and barons, who hold that dignity by antiquity of blood and not by the grace of the prince. Such barons have states and their own subjects, who recognize them as lords and hold them in natural affection. Those states that are governed by a prince and his servants hold their prince in more consideration, because in all the country there is no one who is recognized as superior to him, and if they yield obedience to another they do it as to a minister and official, and they do not bear him any particular affection.

The examples of these two governments in our time are the Turk and the King of France. The entire monarchy of the Turk is governed by one lord, the others are his servants; and, dividing his kingdom into sanjaks, he sends there different administrators, and shifts and changes them as he chooses. But the King of France is placed in the midst of an ancient body of lords, acknowledged by their own subjects, and beloved by them; they have their own prerogatives, nor can the king take these away except at his peril. Therefore, he who considers both of these states will recognize great difficulties in seizing the state of the Turk, but, once it is conquered, great ease in holding it. The causes of the difficulties in seizing the kingdom of the Turk are that the usurper cannot be called in by the princes of the kingdom, nor can he hope to be assisted in his designs by the revolt of those whom the lord has around him. This arises from the reasons given above; for his ministers, being all slaves and bondmen, can only be corrupted with great difficulty, and one can expect little advantage from them when they have been corrupted, as they cannot carry the people with them, for the reasons assigned. Hence, he who attacks the Turk must bear in mind that he will find him united, and he will have to rely more on his own strength than on the revolt of others; but, if once the Turk has been conquered, and routed in the field in such a way that he cannot replace his armies, there is nothing to fear but the family of this prince, and, this being exterminated, there remains no one to fear, the others having no credit with the people; and as the conqueror did not rely on them before his victory, so he ought not to fear them after it.

The contrary happens in kingdoms governed like that of France, because one can easily enter there by gaining over some baron of the kingdom, for one always finds malcontents and such as desire a change. Such men, for the reasons given, can open the way into the state and render the victory easy; but if you wish to hold it afterwards, you meet with infinite difficulties, both from those who have assisted you and from those you have crushed. Nor is it enough for you to have exterminated the family of the prince, because the lords that remain make themselves the heads of fresh movements against you, and as you are unable either to satisfy or exterminate them, that state is lost whenever time brings the opportunity.

Now if you will consider what was the nature of the government of Darius, you will find it similar to the kingdom of the Turk, and therefore it was only necessary for Alexander, first to overthrow him in the field, and then to take the country from him. After which victory, Darius being killed, the state remained secure to Alexander, for the above reasons. And if his successors had been united they would have enjoyed it securely and at their ease, for there were no tumults raised in the kingdom except those they provoked themselves.

But it is impossible to hold with such tranquillity states constituted like that of

France. Hence arose those frequent rebellions against the Romans in Spain, France, and Greece, owing to the many principalities there were in these states, of which, as long as the memory of them endured, the Romans always held an insecure possession; but with the power and long continuance of the empire the memory of them passed away, and the Romans then became secure possessors. And when fighting afterwards amongst themselves, each one was able to attach to himself his own parts of the country, according to the authority he had assumed there; and the family of the former lord being exterminated, none other than the Romans were acknowledged.

When these things are remembered no one will marvel at the ease with which Alexander held the Empire of Asia, or at the difficulties which others have had to keep an acquisition, such as Pyrrhus and many more; this is not occasioned by the little or abundance of ability in the conqueror, but by the want of uniformity in the subject state.

CHAPTER V — CONCERNING THE WAY TO GOVERN CITIES OR PRINCIPALITIES WHICH LIVED UNDER THEIR OWN LAWS BEFORE THEY WERE ANNEXED

Whenever those states which have been acquired as stated have been accustomed to live under their own laws and in freedom, there are three courses for those who wish to hold them: the first is to ruin them, the next is to reside there in person, the third is to permit them to live under their own laws, drawing a tribute, and establishing within it an oligarchy which will keep it friendly to you. Because such a government, being created by the prince, knows that it cannot stand without his friendship and interest, and does it utmost to support him; and therefore he who would keep a city accustomed to freedom will hold it more easily by the means of its own citizens than in any other way.

There are, for example, the Spartans and the Romans. The Spartans held Athens and Thebes, establishing there an oligarchy, nevertheless they lost them. The Romans, in order to hold Capua, Carthage, and Numantia, dismantled them, and did not lose them. They wished to hold Greece as the Spartans held it, making it free and permitting its laws, and did not succeed. So to hold it they were compelled to dismantle many cities in the country, for in truth there is no safe way to retain them otherwise than by ruining them. And he who becomes master of a city accustomed to freedom and does not destroy it, may expect to be destroyed by it, for in rebellion it has always the watchword of liberty and its ancient privileges as a rallying point, which neither time nor benefits will ever cause it to forget. And whatever you may do or provide against, they never forget that name or their privileges unless they are disunited or dispersed, but at every chance they immediately rally to them, as Pisa after the hundred years she had been held in bondage by the Florentines.

But when cities or countries are accustomed to live under a prince, and his family is exterminated, they, being on the one hand accustomed to obey and on the other hand not having the old prince, cannot agree in making one from amongst themselves, and they do not know how to govern themselves. For this reason they are very slow to take up arms, and a prince can gain them to himself and secure them much more easily. But in republics there is more vitality, greater hatred, and more desire for vengeance, which will never permit them to allow the memory of their former liberty to rest; so that the safest way is to destroy them or to reside there.

CHAPTER VI — CONCERNING NEW PRINCIPALITIES WHICH ARE ACQUIRED BY ONE'S OWN ARMS AND ABILITY

Let no one be surprised if, in speaking of entirely new principalities as I shall do, I adduce the highest examples both of prince and of state; because men, walking almost

always in paths beaten by others, and following by imitation their deeds, are yet unable to keep entirely to the ways of others or attain to the power of those they imitate. A wise man ought always to follow the paths beaten by great men, and to imitate those who have been supreme, so that if his ability does not equal theirs, at least it will savour of it. Let him act like the clever archers who, designing to hit the mark which yet appears too far distant, and knowing the limits to which the strength of their bow attains, take aim much higher than the mark, not to reach by their strength or arrow to so great a height, but to be able with the aid of so high an aim to hit the mark they wish to reach.

I say, therefore, that in entirely new principalities, where there is a new prince, more or less difficulty is found in keeping them, accordingly as there is more or less ability in him who has acquired the state. Now, as the fact of becoming a prince from a private station presupposes either ability or fortune, it is clear that one or other of these things will mitigate in some degree many difficulties. Nevertheless, he who has relied least on fortune is established the strongest. Further, it facilitates matters when the prince, having no other state, is compelled to reside there in person.

But to come to those who, by their own ability and not through fortune, have risen to be princes, I say that Moses, Cyrus, Romulus, Theseus, and such like are the most excellent examples. And although one may not discuss Moses, he having been a mere executor of the will of God, yet he ought to be admired, if only for that favour which made him worthy to speak with God. But in considering Cyrus and others who have acquired or founded kingdoms, all will be found admirable; and if their particular deeds and conduct shall be considered, they will not be found inferior to those of Moses, although he had so great a preceptor. And in examining their actions and lives one cannot see that they owed anything to fortune beyond opportunity, which brought them the material to mould into the form which seemed best to them. Without that opportunity their powers of mind would have been extinguished, and without those powers the opportunity would have come in vain.

It was necessary, therefore, to Moses that he should find the people of Israel in Egypt enslaved and oppressed by the Egyptians, in order that they should be disposed to follow him so as to be delivered out of bondage. It was necessary that Romulus should not remain in Alba, and that he should be abandoned at his birth, in order that he should become King of Rome and founder of the fatherland. It was necessary that Cyrus should find the Persians discontented with the government of the Medes, and the Medes soft and effeminate through their long peace. Theseus could not have shown his ability had he not found the Athenians dispersed. These opportunities, therefore, made those men fortunate, and their high ability enabled them to recognize the opportunity whereby their country was ennobled and made famous.

Those who by valorous ways become princes, like these men, acquire a principality with difficulty, but they keep it with ease. The difficulties they have in acquiring it rise in part from the new rules and methods which they are forced to introduce to establish their government and its security. And it ought to be remembered that there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things, because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new. This coolness arises partly from fear of the opponents, who have the laws on their side, and partly from the incredulity of men, who do not readily believe in new things until they have had a long experience of them. Thus it happens that whenever those who are hostile have the opportunity to attack they do it like partisans, whilst the others defend lukewarmly, in such wise that the prince is endangered along with them.

It is necessary, therefore, if we desire to discuss this matter thoroughly, to inquire whether these innovators can rely on themselves or have to depend on others: that is

to say, whether, to consummate their enterprise, have they to use prayers or can they use force? In the first instance they always succeed badly, and never compass anything; but when they can rely on themselves and use force, then they are rarely endangered. Hence it is that all armed prophets have conquered, and the unarmed ones have been destroyed. Besides the reasons mentioned, the nature of the people is variable, and whilst it is easy to persuade them, it is difficult to fix them in that persuasion. And thus it is necessary to take such measures that, when they believe no longer, it may be possible to make them believe by force.

If Moses, Cyrus, Theseus, and Romulus had been unarmed they could not have enforced their constitutions for long—as happened in our time to Fra Girolamo Savonarola, who was ruined with his new order of things immediately the multitude believed in him no longer, and he had no means of keeping steadfast those who believed or of making the unbelievers to believe. Therefore such as these have great difficulties in consummating their enterprise, for all their dangers are in the ascent, yet with ability they will overcome them; but when these are overcome, and those who envied them their success are exterminated, they will begin to be respected, and they will continue afterwards powerful, secure, honoured, and happy.

To these great examples I wish to add a lesser one; still it bears some resemblance to them, and I wish it to suffice me for all of a like kind: it is Hiero the Syracusan.(*) This man rose from a private station to be Prince of Syracuse, nor did he, either, owe anything to fortune but opportunity; for the Syracusans, being oppressed, chose him for their captain, afterwards he was rewarded by being made their prince. He was of so great ability, even as a private citizen, that one who writes of him says he wanted nothing but a kingdom to be a king. This man abolished the old soldiery, organized the new, gave up old alliances, made new ones; and as he had his own soldiers and allies, on such foundations he was able to build any edifice: thus, whilst he had endured much trouble in acquiring, he had but little in keeping.

(*) Hiero II, born about 307 B.C., died 216 B.C.

CHAPTER VII — CONCERNING NEW PRINCIPALITIES WHICH ARE ACQUIRED EITHER BY THE ARMS OF OTHERS OR BY GOOD FORTUNE

Those who solely by good fortune become princes from being private citizens have little trouble in rising, but much in keeping atop; they have not any difficulties on the way up, because they fly, but they have many when they reach the summit. Such are those to whom some state is given either for money or by the favour of him who bestows it; as happened to many in Greece, in the cities of Ionia and of the Hellespont, where princes were made by Darius, in order that they might hold the cities both for his security and his glory; as also were those emperors who, by the corruption of the soldiers, from being citizens came to empire. Such stand simply elevated upon the goodwill and the fortune of him who has elevated them—two most inconstant and unstable things. Neither have they the knowledge requisite for the position; because, unless they are men of great worth and ability, it is not reasonable to expect that they should know how to command, having always lived in a private condition; besides, they cannot hold it because they have not forces which they can keep friendly and faithful.

States that rise unexpectedly, then, like all other things in nature which are born and grow rapidly, cannot leave their foundations and correspondencies(*) fixed in such a way that the first storm will not overthrow them; unless, as is said, those who unexpectedly become princes are men of so much ability that they know they have to be prepared at once to hold that which fortune has thrown into their laps, and that those foundations, which others have laid BEFORE they became princes, they must lay AFTERWARDS.

(*) "Le radici e corrispondenze," their roots (i.e.

foundations) and correspondencies or relations with other states—a common meaning of "correspondence" and "correspondency" in the sixteenth and seventeenth centuries.

Concerning these two methods of rising to be a prince by ability or fortune, I wish to adduce two examples within our own recollection, and these are Francesco Sforza(*) and Cesare Borgia. Francesco, by proper means and with great ability, from being a private person rose to be Duke of Milan, and that which he had acquired with a thousand anxieties he kept with little trouble. On the other hand, Cesare Borgia, called by the people Duke Valentino, acquired his state during the ascendancy of his father, and on its decline he lost it, notwithstanding that he had taken every measure and done all that ought to be done by a wise and able man to fix firmly his roots in the states which the arms and fortunes of others had bestowed on him.

(*) Francesco Sforza, born 1401, died 1466. He married Bianca Maria Visconti, a natural daughter of Filippo Visconti, the Duke of Milan, on whose death he procured his own elevation to the duchy. Machiavelli was the accredited agent of the Florentine Republic to Cesare Borgia (1478-1507) during the transactions which led up to the assassinations of the Orsini and Vitelli at Sinigalia, and along with his letters to his chiefs in Florence he has left an account, written ten years before "The Prince," of the proceedings of the duke in his "Descritione del modo tenuto dal duca Valentino nello ammazzare Vitellozzo Vitelli," etc., a translation of which is appended to the present work.

Because, as is stated above, he who has not first laid his foundations may be able with great ability to lay them afterwards, but they will be laid with trouble to the architect and danger to the building. If, therefore, all the steps taken by the duke be considered, it will be seen that he laid solid foundations for his future power, and I do not consider it superfluous to discuss them, because I do not know what better precepts to give a new prince than the example of his actions; and if his dispositions were of no avail, that was not his fault, but the extraordinary and extreme malignity of fortune.

Alexander the Sixth, in wishing to aggrandize the duke, his son, had many immediate and prospective difficulties. Firstly, he did not see his way to make him master of any state that was not a state of the Church; and if he was willing to rob the Church he knew that the Duke of Milan and the Venetians would not consent, because Faenza and Rimini were already under the protection of the Venetians. Besides this, he saw the arms of Italy, especially those by which he might have been assisted, in hands that would fear the aggrandizement of the Pope, namely, the Orsini and the Colonnesi and their following. It behoved him, therefore, to upset this state of affairs and embroil the powers, so as to make himself securely master of part of their states. This was easy for him to do, because he found the Venetians, moved by other reasons, inclined to bring back the French into Italy; he would not only not oppose this, but he would render it more easy by dissolving the former marriage of King Louis. Therefore the king came into Italy with the assistance of the Venetians and the consent of Alexander. He was no sooner in Milan than the Pope had soldiers from him for the attempt on the Romagna, which yielded to him on the reputation of the king. The duke, therefore, having acquired the Romagna and beaten the Colonnesi, while wishing to hold that and to advance further, was hindered by two things: the one, his forces did not appear loyal to him, the other, the goodwill of France: that is to say, he feared that the forces of the Orsini, which he was using, would not stand to him, that not only might they hinder him from winning more, but might themselves seize what he had won, and that the king might also do the same. Of the Orsini he had a

warning when, after taking Faenza and attacking Bologna, he saw them go very unwillingly to that attack. And as to the king, he learned his mind when he himself, after taking the Duchy of Urbino, attacked Tuscany, and the king made him desist from that undertaking; hence the duke decided to depend no more upon the arms and the luck of others.

For the first thing he weakened the Orsini and Colonnesi parties in Rome, by gaining to himself all their adherents who were gentlemen, making them his gentlemen, giving them good pay, and, according to their rank, honouring them with office and command in such a way that in a few months all attachment to the factions was destroyed and turned entirely to the duke. After this he awaited an opportunity to crush the Orsini, having scattered the adherents of the Colonna house. This came to him soon and he used it well; for the Orsini, perceiving at length that the aggrandizement of the duke and the Church was ruin to them, called a meeting of the Magione in Perugia. From this sprung the rebellion at Urbino and the tumults in the Romagna, with endless dangers to the duke, all of which he overcame with the help of the French. Having restored his authority, not to leave it at risk by trusting either to the French or other outside forces, he had recourse to his wiles, and he knew so well how to conceal his mind that, by the mediation of Signor Pagolo—whom the duke did not fail to secure with all kinds of attention, giving him money, apparel, and horses—the Orsini were reconciled, so that their simplicity brought them into his power at Sinigalia.(*) Having exterminated the leaders, and turned their partisans into his friends, the duke laid sufficiently good foundations to his power, having all the Romagna and the Duchy of Urbino; and the people now beginning to appreciate their prosperity, he gained them all over to himself. And as this point is worthy of notice, and to be imitated by others, I am not willing to leave it out.

(*) Sinigalia, 31st December 1502.

When the duke occupied the Romagna he found it under the rule of weak masters, who rather plundered their subjects than ruled them, and gave them more cause for disunion than for union, so that the country was full of robbery, quarrels, and every kind of violence; and so, wishing to bring back peace and obedience to authority, he considered it necessary to give it a good governor. Thereupon he promoted Messer Ramiro d'Orco,(*) a swift and cruel man, to whom he gave the fullest power. This man in a short time restored peace and unity with the greatest success. Afterwards the duke considered that it was not advisable to confer such excessive authority, for he had no doubt but that he would become odious, so he set up a court of judgment in the country, under a most excellent president, wherein all cities had their advocates. And because he knew that the past severity had caused some hatred against himself, so, to clear himself in the minds of the people, and gain them entirely to himself, he desired to show that, if any cruelty had been practised, it had not originated with him, but in the natural sternness of the minister. Under this pretence he took Ramiro, and one morning caused him to be executed and left on the piazza at Cesena with the block and a bloody knife at his side. The barbarity of this spectacle caused the people to be at once satisfied and dismayed.

(*) Ramiro d'Orco. Ramiro de Lorqua.

But let us return whence we started. I say that the duke, finding himself now sufficiently powerful and partly secured from immediate dangers by having armed himself in his own way, and having in a great measure crushed those forces in his vicinity that could injure him if he wished to proceed with his conquest, had next to consider France, for he knew that the king, who too late was aware of his mistake, would not support him. And from this time he began to seek new alliances and to temporize with France in the expedition which she was making towards the kingdom of Naples against the Spaniards who were besieging Gaeta. It was his intention to secure himself against them, and this he would have quickly accomplished had Alexander lived.

Such was his line of action as to present affairs. But as to the future he had to fear, in the first place, that a new successor to the Church might not be friendly to him and might seek to take from him that which Alexander had given him, so he decided to act in four ways. Firstly, by exterminating the families of those lords whom he had despoiled, so as to take away that pretext from the Pope. Secondly, by winning to himself all the gentlemen of Rome, so as to be able to curb the Pope with their aid, as has been observed. Thirdly, by converting the college more to himself. Fourthly, by acquiring so much power before the Pope should die that he could by his own measures resist the first shock. Of these four things, at the death of Alexander, he had accomplished three. For he had killed as many of the dispossessed lords as he could lay hands on, and few had escaped; he had won over the Roman gentlemen, and he had the most numerous party in the college. And as to any fresh acquisition, he intended to become master of Tuscany, for he already possessed Perugia and Piombino, and Pisa was under his protection. And as he had no longer to study France (for the French were already driven out of the kingdom of Naples by the Spaniards, and in this way both were compelled to buy his goodwill), he pounced down upon Pisa. After this, Lucca and Siena yielded at once, partly through hatred and partly through fear of the Florentines; and the Florentines would have had no remedy had he continued to prosper, as he was prospering the year that Alexander died, for he had acquired so much power and reputation that he would have stood by himself, and no longer have depended on the luck and the forces of others, but solely on his own power and ability.

But Alexander died five years after he had first drawn the sword. He left the duke with the state of Romagna alone consolidated, with the rest in the air, between two most powerful hostile armies, and sick unto death. Yet there were in the duke such boldness and ability, and he knew so well how men are to be won or lost, and so firm were the foundations which in so short a time he had laid, that if he had not had those armies on his back, or if he had been in good health, he would have overcome all difficulties. And it is seen that his foundations were good, for the Romagna awaited him for more than a month. In Rome, although but half alive, he remained secure; and whilst the Baglioni, the Vitelli, and the Orsini might come to Rome, they could not effect anything against him. If he could not have made Pope him whom he wished, at least the one whom he did not wish would not have been elected. But if he had been in sound health at the death of Alexander,(*) everything would have been different to him. On the day that Julius the Second(+) was elected, he told me that he had thought of everything that might occur at the death of his father, and had provided a remedy for all, except that he had never anticipated that, when the death did happen, he himself would be on the point to die.

(*) Alexander VI died of fever, 18th August 1503.

(+) Julius II was Giuliano della Rovere, Cardinal of San Pietro ad Vincula, born 1443, died 1513.

When all the actions of the duke are recalled, I do not know how to blame him, but rather it appears to be, as I have said, that I ought to offer him for imitation to all those who, by the fortune or the arms of others, are raised to government. Because he, having a lofty spirit and far-reaching aims, could not have regulated his conduct otherwise, and only the shortness of the life of Alexander and his own sickness frustrated his designs. Therefore, he who considers it necessary to secure himself in his new principality, to win friends, to overcome either by force or fraud, to make himself beloved and feared by the people, to be followed and revered by the soldiers, to exterminate those who have power or reason to hurt him, to change the old order of things for new, to be severe and gracious, magnanimous and liberal, to destroy a disloyal soldiery and to create new, to maintain friendship with kings and princes in such a way that they must help him with zeal and offend with caution, cannot find a more lively example than the actions of this man.

Only can he be blamed for the election of Julius the Second, in whom he made a bad choice, because, as is said, not being able to elect a Pope to his own mind, he could have hindered any other from being elected Pope; and he ought never to have consented to the election of any cardinal whom he had injured or who had cause to fear him if they became pontiffs. For men injure either from fear or hatred. Those whom he had injured, amongst others, were San Pietro ad Vincula, Colonna, San Giorgio, and Ascanio.(*) The rest, in becoming Pope, had to fear him, Rouen and the Spaniards excepted; the latter from their relationship and obligations, the former from his influence, the kingdom of France having relations with him. Therefore, above everything, the duke ought to have created a Spaniard Pope, and, failing him, he ought to have consented to Rouen and not San Pietro ad Vincula. He who believes that new benefits will cause great personages to forget old injuries is deceived. Therefore, the duke erred in his choice, and it was the cause of his ultimate ruin.

(*) San Giorgio is Raffaello Riario. Ascanio is Ascanio Sforza.

CHAPTER VIII — CONCERNING THOSE WHO HAVE OBTAINED A PRINCIPALITY BY WICKEDNESS

Although a prince may rise from a private station in two ways, neither of which can be entirely attributed to fortune or genius, yet it is manifest to me that I must not be silent on them, although one could be more copiously treated when I discuss republics. These methods are when, either by some wicked or nefarious ways, one ascends to the principality, or when by the favour of his fellow-citizens a private person becomes the prince of his country. And speaking of the first method, it will be illustrated by two examples—one ancient, the other modern—and without entering further into the subject, I consider these two examples will suffice those who may be compelled to follow them.

Agathocles, the Sicilian,(*) became King of Syracuse not only from a private but from a low and abject position. This man, the son of a potter, through all the changes in his fortunes always led an infamous life. Nevertheless, he accompanied his infamies with so much ability of mind and body that, having devoted himself to the military profession, he rose through its ranks to be Praetor of Syracuse. Being established in that position, and having deliberately resolved to make himself prince and to seize by violence, without obligation to others, that which had been conceded to him by assent, he came to an understanding for this purpose with Amilcar, the Carthaginian, who, with his army, was fighting in Sicily. One morning he assembled the people and the senate of Syracuse, as if he had to discuss with them things relating to the Republic, and at a given signal the soldiers killed all the senators and the richest of the people; these dead, he seized and held the princedom of that city without any civil commotion. And although he was twice routed by the Carthaginians, and ultimately besieged, yet not only was he able to defend his city, but leaving part of his men for its defence, with the others he attacked Africa, and in a short time raised the siege of Syracuse. The Carthaginians, reduced to extreme necessity, were compelled to come to terms with Agathocles, and, leaving Sicily to him, had to be content with the possession of Africa.

(*) Agathocles the Sicilian, born 361 B.C., died 289 B.C.

Therefore, he who considers the actions and the genius of this man will see nothing, or little, which can be attributed to fortune, inasmuch as he attained pre-eminence, as is shown above, not by the favour of any one, but step by step in the military profession, which steps were gained with a thousand troubles and perils, and were afterwards boldly held by him with many hazardous dangers. Yet it cannot be called talent to slay fellow-citizens, to deceive friends, to be without faith, without mercy, without religion; such methods may gain empire, but not glory. Still, if the courage of Agathocles in entering into and extricating himself from dangers be considered,

together with his greatness of mind in enduring and overcoming hardships, it cannot be seen why he should be esteemed less than the most notable captain. Nevertheless, his barbarous cruelty and inhumanity with infinite wickedness do not permit him to be celebrated among the most excellent men. What he achieved cannot be attributed either to fortune or genius.

In our times, during the rule of Alexander the Sixth, Oliverotto da Fermo, having been left an orphan many years before, was brought up by his maternal uncle, Giovanni Fogliani, and in the early days of his youth sent to fight under Pagolo Vitelli, that, being trained under his discipline, he might attain some high position in the military profession. After Pagolo died, he fought under his brother Vitellozzo, and in a very short time, being endowed with wit and a vigorous body and mind, he became the first man in his profession. But it appearing a paltry thing to serve under others, he resolved, with the aid of some citizens of Fermo, to whom the slavery of their country was dearer than its liberty, and with the help of the Vitelleschi, to seize Fermo. So he wrote to Giovanni Fogliani that, having been away from home for many years, he wished to visit him and his city, and in some measure to look upon his patrimony; and although he had not laboured to acquire anything except honour, yet, in order that the citizens should see he had not spent his time in vain, he desired to come honourably, so would be accompanied by one hundred horsemen, his friends and retainers; and he entreated Giovanni to arrange that he should be received honourably by the Fermians, all of which would be not only to his honour, but also to that of Giovanni himself, who had brought him up.

Giovanni, therefore, did not fail in any attentions due to his nephew, and he caused him to be honourably received by the Fermians, and he lodged him in his own house, where, having passed some days, and having arranged what was necessary for his wicked designs, Oliverotto gave a solemn banquet to which he invited Giovanni Fogliani and the chiefs of Fermo. When the viands and all the other entertainments that are usual in such banquets were finished, Oliverotto artfully began certain grave discourses, speaking of the greatness of Pope Alexander and his son Cesare, and of their enterprises, to which discourse Giovanni and others answered; but he rose at once, saying that such matters ought to be discussed in a more private place, and he betook himself to a chamber, whither Giovanni and the rest of the citizens went in after him. No sooner were they seated than soldiers issued from secret places and slaughtered Giovanni and the rest. After these murders Oliverotto, mounted on horseback, rode up and down the town and besieged the chief magistrate in the palace, so that in fear the people were forced to obey him, and to form a government, of which he made himself the prince. He killed all the malcontents who were able to injure him, and strengthened himself with new civil and military ordinances, in such a way that, in the year during which he held the principality, not only was he secure in the city of Fermo, but he had become formidable to all his neighbours. And his destruction would have been as difficult as that of Agathocles if he had not allowed himself to be overreached by Cesare Borgia, who took him with the Orsini and Vitelli at Sinigalia, as was stated above. Thus one year after he had committed this parricide, he was strangled, together with Vitellozzo, whom he had made his leader in valour and wickedness.

Some may wonder how it can happen that Agathocles, and his like, after infinite treacheries and cruelties, should live for long secure in his country, and defend himself from external enemies, and never be conspired against by his own citizens; seeing that many others, by means of cruelty, have never been able even in peaceful times to hold the state, still less in the doubtful times of war. I believe that this follows from severities(*) being badly or properly used. Those may be called properly used, if of evil it is possible to speak well, that are applied at one blow and are necessary to one's security, and that are not persisted in afterwards unless they can be turned to the advantage of the subjects. The badly employed are those which, notwithstanding

they may be few in the commencement, multiply with time rather than decrease. Those who practise the first system are able, by aid of God or man, to mitigate in some degree their rule, as Agathocles did. It is impossible for those who follow the other to maintain themselves.

(*) Mr Burd suggests that this word probably comes near the modern equivalent of Machiavelli's thought when he speaks of "crudelta" than the more obvious "cruelties."

Hence it is to be remarked that, in seizing a state, the usurper ought to examine closely into all those injuries which it is necessary for him to inflict, and to do them all at one stroke so as not to have to repeat them daily; and thus by not unsettling men he will be able to reassure them, and win them to himself by benefits. He who does otherwise, either from timidity or evil advice, is always compelled to keep the knife in his hand; neither can he rely on his subjects, nor can they attach themselves to him, owing to their continued and repeated wrongs. For injuries ought to be done all at one time, so that, being tasted less, they offend less; benefits ought to be given little by little, so that the flavour of them may last longer.

And above all things, a prince ought to live amongst his people in such a way that no unexpected circumstances, whether of good or evil, shall make him change; because if the necessity for this comes in troubled times, you are too late for harsh measures; and mild ones will not help you, for they will be considered as forced from you, and no one will be under any obligation to you for them.

CHAPTER IX — CONCERNING A CIVIL PRINCIPALITY

But coming to the other point—where a leading citizen becomes the prince of his country, not by wickedness or any intolerable violence, but by the favour of his fellow citizens—this may be called a civil principality: nor is genius or fortune altogether necessary to attain to it, but rather a happy shrewdness. I say then that such a principality is obtained either by the favour of the people or by the favour of the nobles. Because in all cities these two distinct parties are found, and from this it arises that the people do not wish to be ruled nor oppressed by the nobles, and the nobles wish to rule and oppress the people; and from these two opposite desires there arises in cities one of three results, either a principality, self-government, or anarchy.

A principality is created either by the people or by the nobles, accordingly as one or other of them has the opportunity; for the nobles, seeing they cannot withstand the people, begin to cry up the reputation of one of themselves, and they make him a prince, so that under his shadow they can give vent to their ambitions. The people, finding they cannot resist the nobles, also cry up the reputation of one of themselves, and make him a prince so as to be defended by his authority. He who obtains sovereignty by the assistance of the nobles maintains himself with more difficulty than he who comes to it by the aid of the people, because the former finds himself with many around him who consider themselves his equals, and because of this he can neither rule nor manage them to his liking. But he who reaches sovereignty by popular favour finds himself alone, and has none around him, or few, who are not prepared to obey him.

Besides this, one cannot by fair dealing, and without injury to others, satisfy the nobles, but you can satisfy the people, for their object is more righteous than that of the nobles, the latter wishing to oppress, while the former only desire not to be oppressed. It is to be added also that a prince can never secure himself against a hostile people, because of their being too many, whilst from the nobles he can secure himself, as they are few in number. The worst that a prince may expect from a hostile people is to be abandoned by them; but from hostile nobles he has not only to fear abandonment, but also that they will rise against him; for they, being in these

affairs more far-seeing and astute, always come forward in time to save themselves, and to obtain favours from him whom they expect to prevail. Further, the prince is compelled to live always with the same people, but he can do well without the same nobles, being able to make and unmake them daily, and to give or take away authority when it pleases him.

Therefore, to make this point clearer, I say that the nobles ought to be looked at mainly in two ways: that is to say, they either shape their course in such a way as binds them entirely to your fortune, or they do not. Those who so bind themselves, and are not rapacious, ought to be honoured and loved; those who do not bind themselves may be dealt with in two ways; they may fail to do this through pusillanimity and a natural want of courage, in which case you ought to make use of them, especially of those who are of good counsel; and thus, whilst in prosperity you honour them, in adversity you do not have to fear them. But when for their own ambitious ends they shun binding themselves, it is a token that they are giving more thought to themselves than to you, and a prince ought to guard against such, and to fear them as if they were open enemies, because in adversity they always help to ruin him.

Therefore, one who becomes a prince through the favour of the people ought to keep them friendly, and this he can easily do seeing they only ask not to be oppressed by him. But one who, in opposition to the people, becomes a prince by the favour of the nobles, ought, above everything, to seek to win the people over to himself, and this he may easily do if he takes them under his protection. Because men, when they receive good from him of whom they were expecting evil, are bound more closely to their benefactor; thus the people quickly become more devoted to him than if he had been raised to the principality by their favours; and the prince can win their affections in many ways, but as these vary according to the circumstances one cannot give fixed rules, so I omit them; but, I repeat, it is necessary for a prince to have the people friendly, otherwise he has no security in adversity.

Nabis,(*) Prince of the Spartans, sustained the attack of all Greece, and of a victorious Roman army, and against them he defended his country and his government; and for the overcoming of this peril it was only necessary for him to make himself secure against a few, but this would not have been sufficient had the people been hostile. And do not let any one impugn this statement with the trite proverb that "He who builds on the people, builds on the mud," for this is true when a private citizen makes a foundation there, and persuades himself that the people will free him when he is oppressed by his enemies or by the magistrates; wherein he would find himself very often deceived, as happened to the Gracchi in Rome and to Messer Giorgio Scali(+) in Florence. But granted a prince who has established himself as above, who can command, and is a man of courage, undismayed in adversity, who does not fail in other qualifications, and who, by his resolution and energy, keeps the whole people encouraged—such a one will never find himself deceived in them, and it will be shown that he has laid his foundations well.

(*) Nabis, tyrant of Sparta, conquered by the Romans under Flamininus in 195 B.C.; killed 192 B.C.

(+) Messer Giorgio Scali. This event is to be found in Machiavelli's "Florentine History," Book III.

These principalities are liable to danger when they are passing from the civil to the absolute order of government, for such princes either rule personally or through magistrates. In the latter case their government is weaker and more insecure, because it rests entirely on the goodwill of those citizens who are raised to the magistracy, and who, especially in troubled times, can destroy the government with great ease, either by intrigue or open defiance; and the prince has not the chance amid tumults to exercise absolute authority, because the citizens and subjects,

accustomed to receive orders from magistrates, are not of a mind to obey him amid these confusions, and there will always be in doubtful times a scarcity of men whom he can trust. For such a prince cannot rely upon what he observes in quiet times, when citizens have need of the state, because then every one agrees with him; they all promise, and when death is far distant they all wish to die for him; but in troubled times, when the state has need of its citizens, then he finds but few. And so much the more is this experiment dangerous, inasmuch as it can only be tried once. Therefore a wise prince ought to adopt such a course that his citizens will always in every sort and kind of circumstance have need of the state and of him, and then he will always find them faithful.

CHAPTER X — CONCERNING THE WAY IN WHICH THE STRENGTH OF ALL PRINCIPALITIES OUGHT TO BE MEASURED

It is necessary to consider another point in examining the character of these principalities: that is, whether a prince has such power that, in case of need, he can support himself with his own resources, or whether he has always need of the assistance of others. And to make this quite clear I say that I consider those who are able to support themselves by their own resources who can, either by abundance of men or money, raise a sufficient army to join battle against any one who comes to attack them; and I consider those always to have need of others who cannot show themselves against the enemy in the field, but are forced to defend themselves by sheltering behind walls. The first case has been discussed, but we will speak of it again should it recur. In the second case one can say nothing except to encourage such princes to provision and fortify their towns, and not on any account to defend the country. And whoever shall fortify his town well, and shall have managed the other concerns of his subjects in the way stated above, and to be often repeated, will never be attacked without great caution, for men are always adverse to enterprises where difficulties can be seen, and it will be seen not to be an easy thing to attack one who has his town well fortified, and is not hated by his people.

The cities of Germany are absolutely free, they own but little country around them, and they yield obedience to the emperor when it suits them, nor do they fear this or any other power they may have near them, because they are fortified in such a way that every one thinks the taking of them by assault would be tedious and difficult, seeing they have proper ditches and walls, they have sufficient artillery, and they always keep in public depots enough for one year's eating, drinking, and firing. And beyond this, to keep the people quiet and without loss to the state, they always have the means of giving work to the community in those labours that are the life and strength of the city, and on the pursuit of which the people are supported; they also hold military exercises in repute, and moreover have many ordinances to uphold them.

Therefore, a prince who has a strong city, and had not made himself odious, will not be attacked, or if any one should attack he will only be driven off with disgrace; again, because that the affairs of this world are so changeable, it is almost impossible to keep an army a whole year in the field without being interfered with. And whoever should reply: If the people have property outside the city, and see it burnt, they will not remain patient, and the long siege and self-interest will make them forget their prince; to this I answer that a powerful and courageous prince will overcome all such difficulties by giving at one time hope to his subjects that the evil will not be for long, at another time fear of the cruelty of the enemy, then preserving himself adroitly from those subjects who seem to him to be too bold.

Further, the enemy would naturally on his arrival at once burn and ruin the country at the time when the spirits of the people are still hot and ready for the defence; and, therefore, so much the less ought the prince to hesitate; because after a time, when

spirits have cooled, the damage is already done, the ills are incurred, and there is no longer any remedy; and therefore they are so much the more ready to unite with their prince, he appearing to be under obligations to them now that their houses have been burnt and their possessions ruined in his defence. For it is the nature of men to be bound by the benefits they confer as much as by those they receive. Therefore, if everything is well considered, it will not be difficult for a wise prince to keep the minds of his citizens steadfast from first to last, when he does not fail to support and defend them.

CHAPTER XI — CONCERNING ECCLESIASTICAL PRINCIPALITIES

It only remains now to speak of ecclesiastical principalities, touching which all difficulties are prior to getting possession, because they are acquired either by capacity or good fortune, and they can be held without either; for they are sustained by the ancient ordinances of religion, which are so all-powerful, and of such a character that the principalities may be held no matter how their princes behave and live. These princes alone have states and do not defend them; and they have subjects and do not rule them; and the states, although unguarded, are not taken from them, and the subjects, although not ruled, do not care, and they have neither the desire nor the ability to alienate themselves. Such principalities only are secure and happy. But being upheld by powers, to which the human mind cannot reach, I shall speak no more of them, because, being exalted and maintained by God, it would be the act of a presumptuous and rash man to discuss them.

Nevertheless, if any one should ask of me how comes it that the Church has attained such greatness in temporal power, seeing that from Alexander backwards the Italian potentates (not only those who have been called potentates, but every baron and lord, though the smallest) have valued the temporal power very slightly—yet now a king of France trembles before it, and it has been able to drive him from Italy, and to ruin the Venetians—although this may be very manifest, it does not appear to me superfluous to recall it in some measure to memory.

Before Charles, King of France, passed into Italy,(*) this country was under the dominion of the Pope, the Venetians, the King of Naples, the Duke of Milan, and the Florentines. These potentates had two principal anxieties: the one, that no foreigner should enter Italy under arms; the other, that none of themselves should seize more territory. Those about whom there was the most anxiety were the Pope and the Venetians. To restrain the Venetians the union of all the others was necessary, as it was for the defence of Ferrara; and to keep down the Pope they made use of the barons of Rome, who, being divided into two factions, Orsini and Colonnesi, had always a pretext for disorder, and, standing with arms in their hands under the eyes of the Pontiff, kept the pontificate weak and powerless. And although there might arise sometimes a courageous pope, such as Sixtus, yet neither fortune nor wisdom could rid him of these annoyances. And the short life of a pope is also a cause of weakness; for in the ten years, which is the average life of a pope, he can with difficulty lower one of the factions; and if, so to speak, one people should almost destroy the Colonnesi, another would arise hostile to the Orsini, who would support their opponents, and yet would not have time to ruin the Orsini. This was the reason why the temporal powers of the pope were little esteemed in Italy.

(*) Charles VIII invaded Italy in 1494.

Alexander the Sixth arose afterwards, who of all the pontiffs that have ever been showed how a pope with both money and arms was able to prevail; and through the instrumentality of the Duke Valentino, and by reason of the entry of the French, he brought about all those things which I have discussed above in the actions of the duke. And although his intention was not to aggrandize the Church, but the duke, nevertheless, what he did contributed to the greatness of the Church, which, after

his death and the ruin of the duke, became the heir to all his labours.
Pope Julius came afterwards and found the Church strong, possessing all the Romagna, the barons of Rome reduced to impotence, and, through the chastisements of Alexander, the factions wiped out; he also found the way open to accumulate money in a manner such as had never been practised before Alexander's time. Such things Julius not only followed, but improved upon, and he intended to gain Bologna, to ruin the Venetians, and to drive the French out of Italy. All of these enterprises prospered with him, and so much the more to his credit, inasmuch as he did everything to strengthen the Church and not any private person. He kept also the Orsini and Colonnesi factions within the bounds in which he found them; and although there was among them some mind to make disturbance, nevertheless he held two things firm: the one, the greatness of the Church, with which he terrified them; and the other, not allowing them to have their own cardinals, who caused the disorders among them. For whenever these factions have their cardinals they do not remain quiet for long, because cardinals foster the factions in Rome and out of it, and the barons are compelled to support them, and thus from the ambitions of prelates arise disorders and tumults among the barons. For these reasons his Holiness Pope Leo(*) found the pontificate most powerful, and it is to be hoped that, if others made it great in arms, he will make it still greater and more venerated by his goodness and infinite other virtues.

(*) Pope Leo X was the Cardinal de' Medici.

CHAPTER XII — HOW MANY KINDS OF SOLDIERY THERE ARE, AND CONCERNING MERCENARIES

Having discoursed particularly on the characteristics of such principalities as in the beginning I proposed to discuss, and having considered in some degree the causes of their being good or bad, and having shown the methods by which many have sought to acquire them and to hold them, it now remains for me to discuss generally the means of offence and defence which belong to each of them.
We have seen above how necessary it is for a prince to have his foundations well laid, otherwise it follows of necessity he will go to ruin. The chief foundations of all states, new as well as old or composite, are good laws and good arms; and as there cannot be good laws where the state is not well armed, it follows that where they are well armed they have good laws. I shall leave the laws out of the discussion and shall speak of the arms.
I say, therefore, that the arms with which a prince defends his state are either his own, or they are mercenaries, auxiliaries, or mixed. Mercenaries and auxiliaries are useless and dangerous; and if one holds his state based on these arms, he will stand neither firm nor safe; for they are disunited, ambitious, and without discipline, unfaithful, valiant before friends, cowardly before enemies; they have neither the fear of God nor fidelity to men, and destruction is deferred only so long as the attack is; for in peace one is robbed by them, and in war by the enemy. The fact is, they have no other attraction or reason for keeping the field than a trifle of stipend, which is not sufficient to make them willing to die for you. They are ready enough to be your soldiers whilst you do not make war, but if war comes they take themselves off or run from the foe; which I should have little trouble to prove, for the ruin of Italy has been caused by nothing else than by resting all her hopes for many years on mercenaries, and although they formerly made some display and appeared valiant amongst themselves, yet when the foreigners came they showed what they were. Thus it was that Charles, King of France, was allowed to seize Italy with chalk in hand;(*) and he who told us that our sins were the cause of it told the truth, but they were not the sins he imagined, but those which I have related. And as they were the sins of princes, it is the princes who have also suffered the penalty.

(*) "With chalk in hand," "col gesso." This is one of the bons mots of Alexander VI, and refers to the ease with which Charles VIII seized Italy, implying that it was only necessary for him to send his quartermasters to chalk up the billets for his soldiers to conquer the country. Cf. "The History of Henry VII," by Lord Bacon: "King Charles had conquered the realm of Naples, and lost it again, in a kind of a felicity of a dream. He passed the whole length of Italy without resistance: so that it was true what Pope Alexander was wont to say: That the Frenchmen came into Italy with chalk in their hands, to mark up their lodgings, rather than with swords to fight."

I wish to demonstrate further the infelicity of these arms. The mercenary captains are either capable men or they are not; if they are, you cannot trust them, because they always aspire to their own greatness, either by oppressing you, who are their master, or others contrary to your intentions; but if the captain is not skilful, you are ruined in the usual way.

And if it be urged that whoever is armed will act in the same way, whether mercenary or not, I reply that when arms have to be resorted to, either by a prince or a republic, then the prince ought to go in person and perform the duty of a captain; the republic has to send its citizens, and when one is sent who does not turn out satisfactorily, it ought to recall him, and when one is worthy, to hold him by the laws so that he does not leave the command. And experience has shown princes and republics, single-handed, making the greatest progress, and mercenaries doing nothing except damage; and it is more difficult to bring a republic, armed with its own arms, under the sway of one of its citizens than it is to bring one armed with foreign arms. Rome and Sparta stood for many ages armed and free. The Switzers are completely armed and quite free.

Of ancient mercenaries, for example, there are the Carthaginians, who were oppressed by their mercenary soldiers after the first war with the Romans, although the Carthaginians had their own citizens for captains. After the death of Epaminondas, Philip of Macedon was made captain of their soldiers by the Thebans, and after victory he took away their liberty.

Duke Filippo being dead, the Milanese enlisted Francesco Sforza against the Venetians, and he, having overcome the enemy at Caravaggio,(*) allied himself with them to crush the Milanese, his masters. His father, Sforza, having been engaged by Queen Johanna(+) of Naples, left her unprotected, so that she was forced to throw herself into the arms of the King of Aragon, in order to save her kingdom. And if the Venetians and Florentines formerly extended their dominions by these arms, and yet their captains did not make themselves princes, but have defended them, I reply that the Florentines in this case have been favoured by chance, for of the able captains, of whom they might have stood in fear, some have not conquered, some have been opposed, and others have turned their ambitions elsewhere. One who did not conquer was Giovanni Acuto,(%) and since he did not conquer his fidelity cannot be proved; but every one will acknowledge that, had he conquered, the Florentines would have stood at his discretion. Sforza had the Bracceschi always against him, so they watched each other. Francesco turned his ambition to Lombardy; Braccio against the Church and the kingdom of Naples. But let us come to that which happened a short while ago. The Florentines appointed as their captain Pagolo Vitelli, a most prudent man, who from a private position had risen to the greatest renown. If this man had taken Pisa, nobody can deny that it would have been proper for the Florentines to keep in with him, for if he became the soldier of their enemies they had no means of resisting, and if they held to him they must obey him. The Venetians, if their achievements are considered, will be seen to have acted safely and gloriously so long as they sent to

war their own men, when with armed gentlemen and plebians they did valiantly. This was before they turned to enterprises on land, but when they began to fight on land they forsook this virtue and followed the custom of Italy. And in the beginning of their expansion on land, through not having much territory, and because of their great reputation, they had not much to fear from their captains; but when they expanded, as under Carmignuola,(#) they had a taste of this mistake; for, having found him a most valiant man (they beat the Duke of Milan under his leadership), and, on the other hand, knowing how lukewarm he was in the war, they feared they would no longer conquer under him, and for this reason they were not willing, nor were they able, to let him go; and so, not to lose again that which they had acquired, they were compelled, in order to secure themselves, to murder him. They had afterwards for their captains Bartolomeo da Bergamo, Roberto da San Severino, the count of Pitigliano,(&) and the like, under whom they had to dread loss and not gain, as happened afterwards at Vaila,($) where in one battle they lost that which in eight hundred years they had acquired with so much trouble. Because from such arms conquests come but slowly, long delayed and inconsiderable, but the losses sudden and portentous.

(*) Battle of Caravaggio, 15th September 1448.

(+) Johanna II of Naples, the widow of Ladislao, King of Naples.

(%) Giovanni Acuto. An English knight whose name was Sir John Hawkwood. He fought in the English wars in France, and was knighted by Edward III; afterwards he collected a body of troops and went into Italy. These became the famous "White Company." He took part in many wars, and died in Florence in 1394. He was born about 1320 at Sible Hedingham, a village in Essex. He married Domnia, a daughter of Bernabo Visconti.

(#) Carmignuola. Francesco Bussone, born at Carmagnola about 1390, executed at Venice, 5th May 1432.

(&) Bartolomeo Colleoni of Bergamo; died 1457. Roberto of San Severino; died fighting for Venice against Sigismund, Duke of Austria, in 1487. "Primo capitano in Italia."— Machiavelli. Count of Pitigliano; Nicolo Orsini, born 1442, died 1510.

($) Battle of Vaila in 1509.

And as with these examples I have reached Italy, which has been ruled for many years by mercenaries, I wish to discuss them more seriously, in order that, having seen their rise and progress, one may be better prepared to counteract them. You must understand that the empire has recently come to be repudiated in Italy, that the Pope has acquired more temporal power, and that Italy has been divided up into more states, for the reason that many of the great cities took up arms against their nobles, who, formerly favoured by the emperor, were oppressing them, whilst the Church was favouring them so as to gain authority in temporal power: in many others their citizens became princes. From this it came to pass that Italy fell partly into the hands of the Church and of republics, and, the Church consisting of priests and the republic of citizens unaccustomed to arms, both commenced to enlist foreigners.

The first who gave renown to this soldiery was Alberigo da Conio,(*) the Romagnian. From the school of this man sprang, among others, Braccio and Sforza, who in their

time were the arbiters of Italy. After these came all the other captains who till now have directed the arms of Italy; and the end of all their valour has been, that she has been overrun by Charles, robbed by Louis, ravaged by Ferdinand, and insulted by the Switzers. The principle that has guided them has been, first, to lower the credit of infantry so that they might increase their own. They did this because, subsisting on their pay and without territory, they were unable to support many soldiers, and a few infantry did not give them any authority; so they were led to employ cavalry, with a moderate force of which they were maintained and honoured; and affairs were brought to such a pass that, in an army of twenty thousand soldiers, there were not to be found two thousand foot soldiers. They had, besides this, used every art to lessen fatigue and danger to themselves and their soldiers, not killing in the fray, but taking prisoners and liberating without ransom. They did not attack towns at night, nor did the garrisons of the towns attack encampments at night; they did not surround the camp either with stockade or ditch, nor did they campaign in the winter. All these things were permitted by their military rules, and devised by them to avoid, as I have said, both fatigue and dangers; thus they have brought Italy to slavery and contempt.

(*) Alberigo da Conio. Alberico da Barbiano, Count of Cunio in Romagna. He was the leader of the famous "Company of St George," composed entirely of Italian soldiers. He died in 1409.

CHAPTER XIII — CONCERNING AUXILIARIES, MIXED SOLDIERY, AND ONE'S OWN

Auxiliaries, which are the other useless arm, are employed when a prince is called in with his forces to aid and defend, as was done by Pope Julius in the most recent times; for he, having, in the enterprise against Ferrara, had poor proof of his mercenaries, turned to auxiliaries, and stipulated with Ferdinand, King of Spain,(*) for his assistance with men and arms. These arms may be useful and good in themselves, but for him who calls them in they are always disadvantageous; for losing, one is undone, and winning, one is their captive.

(*) Ferdinand V (F. II of Aragon and Sicily, F. III of Naples), surnamed "The Catholic," born 1542, died 1516.

And although ancient histories may be full of examples, I do not wish to leave this recent one of Pope Julius the Second, the peril of which cannot fail to be perceived; for he, wishing to get Ferrara, threw himself entirely into the hands of the foreigner. But his good fortune brought about a third event, so that he did not reap the fruit of his rash choice; because, having his auxiliaries routed at Ravenna, and the Switzers having risen and driven out the conquerors (against all expectation, both his and others), it so came to pass that he did not become prisoner to his enemies, they having fled, nor to his auxiliaries, he having conquered by other arms than theirs.

The Florentines, being entirely without arms, sent ten thousand Frenchmen to take Pisa, whereby they ran more danger than at any other time of their troubles.

The Emperor of Constantinople,(*) to oppose his neighbours, sent ten thousand Turks into Greece, who, on the war being finished, were not willing to quit; this was the beginning of the servitude of Greece to the infidels.

(*) Joannes Cantacuzenus, born 1300, died 1383.

Therefore, let him who has no desire to conquer make use of these arms, for they are much more hazardous than mercenaries, because with them the ruin is ready made; they are all united, all yield obedience to others; but with mercenaries, when they have conquered, more time and better opportunities are needed to injure you; they are not all of one community, they are found and paid by you, and a third party,

which you have made their head, is not able all at once to assume enough authority to injure you. In conclusion, in mercenaries dastardy is most dangerous; in auxiliaries, valour. The wise prince, therefore, has always avoided these arms and turned to his own; and has been willing rather to lose with them than to conquer with the others, not deeming that a real victory which is gained with the arms of others.

I shall never hesitate to cite Cesare Borgia and his actions. This duke entered the Romagna with auxiliaries, taking there only French soldiers, and with them he captured Imola and Forli; but afterwards, such forces not appearing to him reliable, he turned to mercenaries, discerning less danger in them, and enlisted the Orsini and Vitelli; whom presently, on handling and finding them doubtful, unfaithful, and dangerous, he destroyed and turned to his own men. And the difference between one and the other of these forces can easily be seen when one considers the difference there was in the reputation of the duke, when he had the French, when he had the Orsini and Vitelli, and when he relied on his own soldiers, on whose fidelity he could always count and found it ever increasing; he was never esteemed more highly than when every one saw that he was complete master of his own forces.

I was not intending to go beyond Italian and recent examples, but I am unwilling to leave out Hiero, the Syracusan, he being one of those I have named above. This man, as I have said, made head of the army by the Syracusans, soon found out that a mercenary soldiery, constituted like our Italian condottieri, was of no use; and it appearing to him that he could neither keep them not let them go, he had them all cut to pieces, and afterwards made war with his own forces and not with aliens.

I wish also to recall to memory an instance from the Old Testament applicable to this subject. David offered himself to Saul to fight with Goliath, the Philistine champion, and, to give him courage, Saul armed him with his own weapons; which David rejected as soon as he had them on his back, saying he could make no use of them, and that he wished to meet the enemy with his sling and his knife. In conclusion, the arms of others either fall from your back, or they weigh you down, or they bind you fast.

Charles the Seventh,(*) the father of King Louis the Eleventh,(+) having by good fortune and valour liberated France from the English, recognized the necessity of being armed with forces of his own, and he established in his kingdom ordinances concerning men-at-arms and infantry. Afterwards his son, King Louis, abolished the infantry and began to enlist the Switzers, which mistake, followed by others, is, as is now seen, a source of peril to that kingdom; because, having raised the reputation of the Switzers, he has entirely diminished the value of his own arms, for he has destroyed the infantry altogether; and his men-at-arms he has subordinated to others, for, being as they are so accustomed to fight along with Switzers, it does not appear that they can now conquer without them. Hence it arises that the French cannot stand against the Switzers, and without the Switzers they do not come off well against others. The armies of the French have thus become mixed, partly mercenary and partly national, both of which arms together are much better than mercenaries alone or auxiliaries alone, but much inferior to one's own forces. And this example proves it, for the kingdom of France would be unconquerable if the ordinance of Charles had been enlarged or maintained.

(*) Charles VII of France, surnamed "The Victorious," born 1403, died 1461.

(+) Louis XI, son of the above, born 1423, died 1483.

But the scanty wisdom of man, on entering into an affair which looks well at first, cannot discern the poison that is hidden in it, as I have said above of hectic fevers. Therefore, if he who rules a principality cannot recognize evils until they are upon him, he is not truly wise; and this insight is given to few. And if the first disaster to the Roman Empire(*) should be examined, it will be found to have commenced only

with the enlisting of the Goths; because from that time the vigour of the Roman Empire began to decline, and all that valour which had raised it passed away to others.

(*) "Many speakers to the House the other night in the debate on the reduction of armaments seemed to show a most lamentable ignorance of the conditions under which the British Empire maintains its existence. When Mr Balfour replied to the allegations that the Roman Empire sank under the weight of its military obligations, he said that this was 'wholly unhistorical.' He might well have added that the Roman power was at its zenith when every citizen acknowledged his liability to fight for the State, but that it began to decline as soon as this obligation was no longer recognized."—Pall Mall Gazette, 15th May 1906.

I conclude, therefore, that no principality is secure without having its own forces; on the contrary, it is entirely dependent on good fortune, not having the valour which in adversity would defend it. And it has always been the opinion and judgment of wise men that nothing can be so uncertain or unstable as fame or power not founded on its own strength. And one's own forces are those which are composed either of subjects, citizens, or dependents; all others are mercenaries or auxiliaries. And the way to make ready one's own forces will be easily found if the rules suggested by me shall be reflected upon, and if one will consider how Philip, the father of Alexander the Great, and many republics and princes have armed and organized themselves, to which rules I entirely commit myself.

CHAPTER XIV — THAT WHICH CONCERNS A PRINCE ON THE SUBJECT OF THE ART OF WAR

A prince ought to have no other aim or thought, nor select anything else for his study, than war and its rules and discipline; for this is the sole art that belongs to him who rules, and it is of such force that it not only upholds those who are born princes, but it often enables men to rise from a private station to that rank. And, on the contrary, it is seen that when princes have thought more of ease than of arms they have lost their states. And the first cause of your losing it is to neglect this art; and what enables you to acquire a state is to be master of the art. Francesco Sforza, through being martial, from a private person became Duke of Milan; and the sons, through avoiding the hardships and troubles of arms, from dukes became private persons. For among other evils which being unarmed brings you, it causes you to be despised, and this is one of those ignominies against which a prince ought to guard himself, as is shown later on. Because there is nothing proportionate between the armed and the unarmed; and it is not reasonable that he who is armed should yield obedience willingly to him who is unarmed, or that the unarmed man should be secure among armed servants. Because, there being in the one disdain and in the other suspicion, it is not possible for them to work well together. And therefore a prince who does not understand the art of war, over and above the other misfortunes already mentioned, cannot be respected by his soldiers, nor can he rely on them. He ought never, therefore, to have out of his thoughts this subject of war, and in peace he should addict himself more to its exercise than in war; this he can do in two ways, the one by action, the other by study.

As regards action, he ought above all things to keep his men well organized and drilled, to follow incessantly the chase, by which he accustoms his body to hardships, and learns something of the nature of localities, and gets to find out how the mountains rise, how the valleys open out, how the plains lie, and to understand the nature of rivers and marshes, and in all this to take the greatest care. Which

knowledge is useful in two ways. Firstly, he learns to know his country, and is better able to undertake its defence; afterwards, by means of the knowledge and observation of that locality, he understands with ease any other which it may be necessary for him to study hereafter; because the hills, valleys, and plains, and rivers and marshes that are, for instance, in Tuscany, have a certain resemblance to those of other countries, so that with a knowledge of the aspect of one country one can easily arrive at a knowledge of others. And the prince that lacks this skill lacks the essential which it is desirable that a captain should possess, for it teaches him to surprise his enemy, to select quarters, to lead armies, to array the battle, to besiege towns to advantage.

Philopoemen,(*) Prince of the Achaeans, among other praises which writers have bestowed on him, is commended because in time of peace he never had anything in his mind but the rules of war; and when he was in the country with friends, he often stopped and reasoned with them: "If the enemy should be upon that hill, and we should find ourselves here with our army, with whom would be the advantage? How should one best advance to meet him, keeping the ranks? If we should wish to retreat, how ought we to pursue?" And he would set forth to them, as he went, all the chances that could befall an army; he would listen to their opinion and state his, confirming it with reasons, so that by these continual discussions there could never arise, in time of war, any unexpected circumstances that he could not deal with.

(*) Philopoemen, "the last of the Greeks," born 252 B.C., died 183 B.C.

But to exercise the intellect the prince should read histories, and study there the actions of illustrious men, to see how they have borne themselves in war, to examine the causes of their victories and defeat, so as to avoid the latter and imitate the former; and above all do as an illustrious man did, who took as an exemplar one who had been praised and famous before him, and whose achievements and deeds he always kept in his mind, as it is said Alexander the Great imitated Achilles, Caesar Alexander, Scipio Cyrus. And whoever reads the life of Cyrus, written by Xenophon, will recognize afterwards in the life of Scipio how that imitation was his glory, and how in chastity, affability, humanity, and liberality Scipio conformed to those things which have been written of Cyrus by Xenophon. A wise prince ought to observe some such rules, and never in peaceful times stand idle, but increase his resources with industry in such a way that they may be available to him in adversity, so that if fortune chances it may find him prepared to resist her blows.

CHAPTER XV — CONCERNING THINGS FOR WHICH MEN, AND ESPECIALLY PRINCES, ARE PRAISED OR BLAMED

It remains now to see what ought to be the rules of conduct for a prince towards subject and friends. And as I know that many have written on this point, I expect I shall be considered presumptuous in mentioning it again, especially as in discussing it I shall depart from the methods of other people. But, it being my intention to write a thing which shall be useful to him who apprehends it, it appears to me more appropriate to follow up the real truth of the matter than the imagination of it; for many have pictured republics and principalities which in fact have never been known or seen, because how one lives is so far distant from how one ought to live, that he who neglects what is done for what ought to be done, sooner effects his ruin than his preservation; for a man who wishes to act entirely up to his professions of virtue soon meets with what destroys him among so much that is evil.

Hence it is necessary for a prince wishing to hold his own to know how to do wrong, and to make use of it or not according to necessity. Therefore, putting on one side imaginary things concerning a prince, and discussing those which are real, I say that all men when they are spoken of, and chiefly princes for being more highly

placed, are remarkable for some of those qualities which bring them either blame or praise; and thus it is that one is reputed liberal, another miserly, using a Tuscan term (because an avaricious person in our language is still he who desires to possess by robbery, whilst we call one miserly who deprives himself too much of the use of his own); one is reputed generous, one rapacious; one cruel, one compassionate; one faithless, another faithful; one effeminate and cowardly, another bold and brave; one affable, another haughty; one lascivious, another chaste; one sincere, another cunning; one hard, another easy; one grave, another frivolous; one religious, another unbelieving, and the like. And I know that every one will confess that it would be most praiseworthy in a prince to exhibit all the above qualities that are considered good; but because they can neither be entirely possessed nor observed, for human conditions do not permit it, it is necessary for him to be sufficiently prudent that he may know how to avoid the reproach of those vices which would lose him his state; and also to keep himself, if it be possible, from those which would not lose him it; but this not being possible, he may with less hesitation abandon himself to them. And again, he need not make himself uneasy at incurring a reproach for those vices without which the state can only be saved with difficulty, for if everything is considered carefully, it will be found that something which looks like virtue, if followed, would be his ruin; whilst something else, which looks like vice, yet followed brings him security and prosperity.

CHAPTER XVI — CONCERNING LIBERALITY AND MEANNESS

Commencing then with the first of the above-named characteristics, I say that it would be well to be reputed liberal. Nevertheless, liberality exercised in a way that does not bring you the reputation for it, injures you; for if one exercises it honestly and as it should be exercised, it may not become known, and you will not avoid the reproach of its opposite. Therefore, any one wishing to maintain among men the name of liberal is obliged to avoid no attribute of magnificence; so that a prince thus inclined will consume in such acts all his property, and will be compelled in the end, if he wish to maintain the name of liberal, to unduly weigh down his people, and tax them, and do everything he can to get money. This will soon make him odious to his subjects, and becoming poor he will be little valued by any one; thus, with his liberality, having offended many and rewarded few, he is affected by the very first trouble and imperilled by whatever may be the first danger; recognizing this himself, and wishing to draw back from it, he runs at once into the reproach of being miserly.

Therefore, a prince, not being able to exercise this virtue of liberality in such a way that it is recognized, except to his cost, if he is wise he ought not to fear the reputation of being mean, for in time he will come to be more considered than if liberal, seeing that with his economy his revenues are enough, that he can defend himself against all attacks, and is able to engage in enterprises without burdening his people; thus it comes to pass that he exercises liberality towards all from whom he does not take, who are numberless, and meanness towards those to whom he does not give, who are few.

We have not seen great things done in our time except by those who have been considered mean; the rest have failed. Pope Julius the Second was assisted in reaching the papacy by a reputation for liberality, yet he did not strive afterwards to keep it up, when he made war on the King of France; and he made many wars without imposing any extraordinary tax on his subjects, for he supplied his additional expenses out of his long thriftiness. The present King of Spain would not have undertaken or conquered in so many enterprises if he had been reputed liberal. A prince, therefore, provided that he has not to rob his subjects, that he can defend himself, that he does not become poor and abject, that he is not forced to become

rapacious, ought to hold of little account a reputation for being mean, for it is one of those vices which will enable him to govern.
And if any one should say: Caesar obtained empire by liberality, and many others have reached the highest positions by having been liberal, and by being considered so, I answer: Either you are a prince in fact, or in a way to become one. In the first case this liberality is dangerous, in the second it is very necessary to be considered liberal; and Caesar was one of those who wished to become pre-eminent in Rome; but if he had survived after becoming so, and had not moderated his expenses, he would have destroyed his government. And if any one should reply: Many have been princes, and have done great things with armies, who have been considered very liberal, I reply: Either a prince spends that which is his own or his subjects' or else that of others. In the first case he ought to be sparing, in the second he ought not to neglect any opportunity for liberality. And to the prince who goes forth with his army, supporting it by pillage, sack, and extortion, handling that which belongs to others, this liberality is necessary, otherwise he would not be followed by soldiers. And of that which is neither yours nor your subjects' you can be a ready giver, as were Cyrus, Caesar, and Alexander; because it does not take away your reputation if you squander that of others, but adds to it; it is only squandering your own that injures you.
And there is nothing wastes so rapidly as liberality, for even whilst you exercise it you lose the power to do so, and so become either poor or despised, or else, in avoiding poverty, rapacious and hated. And a prince should guard himself, above all things, against being despised and hated; and liberality leads you to both. Therefore it is wiser to have a reputation for meanness which brings reproach without hatred, than to be compelled through seeking a reputation for liberality to incur a name for rapacity which begets reproach with hatred.

CHAPTER XVII — CONCERNING CRUELTY AND CLEMENCY, AND WHETHER IT IS BETTER TO BE LOVED THAN FEARED

Coming now to the other qualities mentioned above, I say that every prince ought to desire to be considered clement and not cruel. Nevertheless he ought to take care not to misuse this clemency. Cesare Borgia was considered cruel; notwithstanding, his cruelty reconciled the Romagna, unified it, and restored it to peace and loyalty. And if this be rightly considered, he will be seen to have been much more merciful than the Florentine people, who, to avoid a reputation for cruelty, permitted Pistoia to be destroyed.(*) Therefore a prince, so long as he keeps his subjects united and loyal, ought not to mind the reproach of cruelty; because with a few examples he will be more merciful than those who, through too much mercy, allow disorders to arise, from which follow murders or robberies; for these are wont to injure the whole people, whilst those executions which originate with a prince offend the individual only.

(*) During the rioting between the Cancellieri and Panciatichi factions in 1502 and 1503.

And of all princes, it is impossible for the new prince to avoid the imputation of cruelty, owing to new states being full of dangers. Hence Virgil, through the mouth of Dido, excuses the inhumanity of her reign owing to its being new, saying:

"Res dura, et regni novitas me talia cogunt
Moliri, et late fines custode tueri."(*)

Nevertheless he ought to be slow to believe and to act, nor should he himself show fear, but proceed in a temperate manner with prudence and humanity, so that too much confidence may not make him incautious and too much distrust render him intolerable.

(*) . . . against my will, my fate

A throne unsettled, and an infant state,
Bid me defend my realms with all my pow'rs,
And guard with these severities my shores.

Christopher Pitt.

Upon this a question arises: whether it be better to be loved than feared or feared than loved? It may be answered that one should wish to be both, but, because it is difficult to unite them in one person, it is much safer to be feared than loved, when, of the two, either must be dispensed with. Because this is to be asserted in general of men, that they are ungrateful, fickle, false, cowardly, covetous, and as long as you succeed they are yours entirely; they will offer you their blood, property, life, and children, as is said above, when the need is far distant; but when it approaches they turn against you. And that prince who, relying entirely on their promises, has neglected other precautions, is ruined; because friendships that are obtained by payments, and not by greatness or nobility of mind, may indeed be earned, but they are not secured, and in time of need cannot be relied upon; and men have less scruple in offending one who is beloved than one who is feared, for love is preserved by the link of obligation which, owing to the baseness of men, is broken at every opportunity for their advantage; but fear preserves you by a dread of punishment which never fails.

Nevertheless a prince ought to inspire fear in such a way that, if he does not win love, he avoids hatred; because he can endure very well being feared whilst he is not hated, which will always be as long as he abstains from the property of his citizens and subjects and from their women. But when it is necessary for him to proceed against the life of someone, he must do it on proper justification and for manifest cause, but above all things he must keep his hands off the property of others, because men more quickly forget the death of their father than the loss of their patrimony. Besides, pretexts for taking away the property are never wanting; for he who has once begun to live by robbery will always find pretexts for seizing what belongs to others; but reasons for taking life, on the contrary, are more difficult to find and sooner lapse. But when a prince is with his army, and has under control a multitude of soldiers, then it is quite necessary for him to disregard the reputation of cruelty, for without it he would never hold his army united or disposed to its duties.

Among the wonderful deeds of Hannibal this one is enumerated: that having led an enormous army, composed of many various races of men, to fight in foreign lands, no dissensions arose either among them or against the prince, whether in his bad or in his good fortune. This arose from nothing else than his inhuman cruelty, which, with his boundless valour, made him revered and terrible in the sight of his soldiers, but without that cruelty, his other virtues were not sufficient to produce this effect. And short-sighted writers admire his deeds from one point of view and from another condemn the principal cause of them. That it is true his other virtues would not have been sufficient for him may be proved by the case of Scipio, that most excellent man, not only of his own times but within the memory of man, against whom, nevertheless, his army rebelled in Spain; this arose from nothing but his too great forbearance, which gave his soldiers more license than is consistent with military discipline. For this he was upbraided in the Senate by Fabius Maximus, and called the corrupter of the Roman soldiery. The Locrians were laid waste by a legate of Scipio, yet they were not avenged by him, nor was the insolence of the legate punished, owing entirely to his easy nature. Insomuch that someone in the Senate, wishing to excuse him, said there were many men who knew much better how not to err than to correct the errors of others. This disposition, if he had been continued in the command, would have destroyed in time the fame and glory of Scipio; but, he being under the control of the Senate, this injurious characteristic not only concealed itself, but contributed to his glory.

Returning to the question of being feared or loved, I come to the conclusion that, men loving according to their own will and fearing according to that of the prince, a wise prince should establish himself on that which is in his own control and not in that of others; he must endeavour only to avoid hatred, as is noted.

CHAPTER XVIII(*) — CONCERNING THE WAY IN WHICH PRINCES SHOULD KEEP FAITH

(*) "The present chapter has given greater offence than any other portion of Machiavelli's writings." Burd, "Il Principe," p. 297.

Every one admits how praiseworthy it is in a prince to keep faith, and to live with integrity and not with craft. Nevertheless our experience has been that those princes who have done great things have held good faith of little account, and have known how to circumvent the intellect of men by craft, and in the end have overcome those who have relied on their word. You must know there are two ways of contesting,(*) the one by the law, the other by force; the first method is proper to men, the second to beasts; but because the first is frequently not sufficient, it is necessary to have recourse to the second. Therefore it is necessary for a prince to understand how to avail himself of the beast and the man. This has been figuratively taught to princes by ancient writers, who describe how Achilles and many other princes of old were given to the Centaur Chiron to nurse, who brought them up in his discipline; which means solely that, as they had for a teacher one who was half beast and half man, so it is necessary for a prince to know how to make use of both natures, and that one without the other is not durable. A prince, therefore, being compelled knowingly to adopt the beast, ought to choose the fox and the lion; because the lion cannot defend himself against snares and the fox cannot defend himself against wolves. Therefore, it is necessary to be a fox to discover the snares and a lion to terrify the wolves. Those who rely simply on the lion do not understand what they are about. Therefore a wise lord cannot, nor ought he to, keep faith when such observance may be turned against him, and when the reasons that caused him to pledge it exist no longer. If men were entirely good this precept would not hold, but because they are bad, and will not keep faith with you, you too are not bound to observe it with them. Nor will there ever be wanting to a prince legitimate reasons to excuse this non-observance. Of this endless modern examples could be given, showing how many treaties and engagements have been made void and of no effect through the faithlessness of princes; and he who has known best how to employ the fox has succeeded best.

(*) "Contesting," i.e. "striving for mastery." Mr Burd points out that this passage is imitated directly from Cicero's "De Officiis": "Nam cum sint duo genera decertandi, unum per disceptationem, alterum per vim; cumque illud proprium sit hominis, hoc beluarum; confugiendum est ad posterius, si uti non licet superiore."

But it is necessary to know well how to disguise this characteristic, and to be a great pretender and dissembler; and men are so simple, and so subject to present necessities, that he who seeks to deceive will always find someone who will allow himself to be deceived. One recent example I cannot pass over in silence. Alexander the Sixth did nothing else but deceive men, nor ever thought of doing otherwise, and he always found victims; for there never was a man who had greater power in asserting, or who with greater oaths would affirm a thing, yet would observe it less; nevertheless his deceits always succeeded according to his wishes,(*) because he well understood this side of mankind.

(*) "Nondimanco sempre gli succederono gli inganni (ad

votum)." The words "ad votum" are omitted in the Testina addition, 1550.

Alexander never did what he said,
Cesare never said what he did.

Italian Proverb.

Therefore it is unnecessary for a prince to have all the good qualities I have enumerated, but it is very necessary to appear to have them. And I shall dare to say this also, that to have them and always to observe them is injurious, and that to appear to have them is useful; to appear merciful, faithful, humane, religious, upright, and to be so, but with a mind so framed that should you require not to be so, you may be able and know how to change to the opposite.

And you have to understand this, that a prince, especially a new one, cannot observe all those things for which men are esteemed, being often forced, in order to maintain the state, to act contrary to fidelity,(*) friendship, humanity, and religion. Therefore it is necessary for him to have a mind ready to turn itself accordingly as the winds and variations of fortune force it, yet, as I have said above, not to diverge from the good if he can avoid doing so, but, if compelled, then to know how to set about it.

(*) "Contrary to fidelity" or "faith," "contro alla fede," and "tutto fede," "altogether faithful," in the next paragraph. It is noteworthy that these two phrases, "contro alla fede" and "tutto fede," were omitted in the Testina edition, which was published with the sanction of the papal authorities. It may be that the meaning attached to the word "fede" was "the faith," i.e. the Catholic creed, and not as rendered here "fidelity" and "faithful." Observe that the word "religione" was suffered to stand in the text of the Testina, being used to signify indifferently every shade of belief, as witness "the religion," a phrase inevitably employed to designate the Huguenot heresy. South in his Sermon IX, p. 69, ed. 1843, comments on this passage as follows: "That great patron and Coryphaeus of this tribe, Nicolo Machiavel, laid down this for a master rule in his political scheme: 'That the show of religion was helpful to the politician, but the reality of it hurtful and pernicious.'"

For this reason a prince ought to take care that he never lets anything slip from his lips that is not replete with the above-named five qualities, that he may appear to him who sees and hears him altogether merciful, faithful, humane, upright, and religious. There is nothing more necessary to appear to have than this last quality, inasmuch as men judge generally more by the eye than by the hand, because it belongs to everybody to see you, to few to come in touch with you. Every one sees what you appear to be, few really know what you are, and those few dare not oppose themselves to the opinion of the many, who have the majesty of the state to defend them; and in the actions of all men, and especially of princes, which it is not prudent to challenge, one judges by the result.

For that reason, let a prince have the credit of conquering and holding his state, the means will always be considered honest, and he will be praised by everybody; because the vulgar are always taken by what a thing seems to be and by what comes of it; and in the world there are only the vulgar, for the few find a place there only when the many have no ground to rest on.

One prince(*) of the present time, whom it is not well to name, never preaches anything else but peace and good faith, and to both he is most hostile, and either, if

he had kept it, would have deprived him of reputation and kingdom many a time.

(*) Ferdinand of Aragon. "When Machiavelli was writing 'The Prince' it would have been clearly impossible to mention Ferdinand's name here without giving offence." Burd's "Il Principe," p. 308.

CHAPTER XIX — THAT ONE SHOULD AVOID BEING DESPISED AND HATED

Now, concerning the characteristics of which mention is made above, I have spoken of the more important ones, the others I wish to discuss briefly under this generality, that the prince must consider, as has been in part said before, how to avoid those things which will make him hated or contemptible; and as often as he shall have succeeded he will have fulfilled his part, and he need not fear any danger in other reproaches.

It makes him hated above all things, as I have said, to be rapacious, and to be a violator of the property and women of his subjects, from both of which he must abstain. And when neither their property nor their honor is touched, the majority of men live content, and he has only to contend with the ambition of a few, whom he can curb with ease in many ways.

It makes him contemptible to be considered fickle, frivolous, effeminate, mean-spirited, irresolute, from all of which a prince should guard himself as from a rock; and he should endeavour to show in his actions greatness, courage, gravity, and fortitude; and in his private dealings with his subjects let him show that his judgments are irrevocable, and maintain himself in such reputation that no one can hope either to deceive him or to get round him.

That prince is highly esteemed who conveys this impression of himself, and he who is highly esteemed is not easily conspired against; for, provided it is well known that he is an excellent man and revered by his people, he can only be attacked with difficulty. For this reason a prince ought to have two fears, one from within, on account of his subjects, the other from without, on account of external powers. From the latter he is defended by being well armed and having good allies, and if he is well armed he will have good friends, and affairs will always remain quiet within when they are quiet without, unless they should have been already disturbed by conspiracy; and even should affairs outside be disturbed, if he has carried out his preparations and has lived as I have said, as long as he does not despair, he will resist every attack, as I said Nabis the Spartan did.

But concerning his subjects, when affairs outside are disturbed he has only to fear that they will conspire secretly, from which a prince can easily secure himself by avoiding being hated and despised, and by keeping the people satisfied with him, which it is most necessary for him to accomplish, as I said above at length. And one of the most efficacious remedies that a prince can have against conspiracies is not to be hated and despised by the people, for he who conspires against a prince always expects to please them by his removal; but when the conspirator can only look forward to offending them, he will not have the courage to take such a course, for the difficulties that confront a conspirator are infinite. And as experience shows, many have been the conspiracies, but few have been successful; because he who conspires cannot act alone, nor can he take a companion except from those whom he believes to be malcontents, and as soon as you have opened your mind to a malcontent you have given him the material with which to content himself, for by denouncing you he can look for every advantage; so that, seeing the gain from this course to be assured, and seeing the other to be doubtful and full of dangers, he must be a very rare friend, or a thoroughly obstinate enemy of the prince, to keep faith with you.

And, to reduce the matter into a small compass, I say that, on the side of the conspirator, there is nothing but fear, jealousy, prospect of punishment to terrify

him; but on the side of the prince there is the majesty of the principality, the laws, the protection of friends and the state to defend him; so that, adding to all these things the popular goodwill, it is impossible that any one should be so rash as to conspire. For whereas in general the conspirator has to fear before the execution of his plot, in this case he has also to fear the sequel to the crime; because on account of it he has the people for an enemy, and thus cannot hope for any escape.

Endless examples could be given on this subject, but I will be content with one, brought to pass within the memory of our fathers. Messer Annibale Bentivogli, who was prince in Bologna (grandfather of the present Annibale), having been murdered by the Canneschi, who had conspired against him, not one of his family survived but Messer Giovanni,(*) who was in childhood: immediately after his assassination the people rose and murdered all the Canneschi. This sprung from the popular goodwill which the house of Bentivogli enjoyed in those days in Bologna; which was so great that, although none remained there after the death of Annibale who was able to rule the state, the Bolognese, having information that there was one of the Bentivogli family in Florence, who up to that time had been considered the son of a blacksmith, sent to Florence for him and gave him the government of their city, and it was ruled by him until Messer Giovanni came in due course to the government.

(*) Giovanni Bentivogli, born in Bologna 1438, died at Milan 1508. He ruled Bologna from 1462 to 1506. Machiavelli's strong condemnation of conspiracies may get its edge from his own very recent experience (February 1513), when he had been arrested and tortured for his alleged complicity in the Boscoli conspiracy.

For this reason I consider that a prince ought to reckon conspiracies of little account when his people hold him in esteem; but when it is hostile to him, and bears hatred towards him, he ought to fear everything and everybody. And well-ordered states and wise princes have taken every care not to drive the nobles to desperation, and to keep the people satisfied and contented, for this is one of the most important objects a prince can have.

Among the best ordered and governed kingdoms of our times is France, and in it are found many good institutions on which depend the liberty and security of the king; of these the first is the parliament and its authority, because he who founded the kingdom, knowing the ambition of the nobility and their boldness, considered that a bit to their mouths would be necessary to hold them in; and, on the other side, knowing the hatred of the people, founded in fear, against the nobles, he wished to protect them, yet he was not anxious for this to be the particular care of the king; therefore, to take away the reproach which he would be liable to from the nobles for favouring the people, and from the people for favouring the nobles, he set up an arbiter, who should be one who could beat down the great and favour the lesser without reproach to the king. Neither could you have a better or a more prudent arrangement, or a greater source of security to the king and kingdom. From this one can draw another important conclusion, that princes ought to leave affairs of reproach to the management of others, and keep those of grace in their own hands. And further, I consider that a prince ought to cherish the nobles, but not so as to make himself hated by the people.

It may appear, perhaps, to some who have examined the lives and deaths of the Roman emperors that many of them would be an example contrary to my opinion, seeing that some of them lived nobly and showed great qualities of soul, nevertheless they have lost their empire or have been killed by subjects who have conspired against them. Wishing, therefore, to answer these objections, I will recall the characters of some of the emperors, and will show that the causes of their ruin were not different to those alleged by me; at the same time I will only submit for consideration those things that are noteworthy to him who studies the affairs of

those times.
It seems to me sufficient to take all those emperors who succeeded to the empire from Marcus the philosopher down to Maximinus; they were Marcus and his son Commodus, Pertinax, Julian, Severus and his son Antoninus Caracalla, Macrinus, Heliogabalus, Alexander, and Maximinus.
There is first to note that, whereas in other principalities the ambition of the nobles and the insolence of the people only have to be contended with, the Roman emperors had a third difficulty in having to put up with the cruelty and avarice of their soldiers, a matter so beset with difficulties that it was the ruin of many; for it was a hard thing to give satisfaction both to soldiers and people; because the people loved peace, and for this reason they loved the unaspiring prince, whilst the soldiers loved the warlike prince who was bold, cruel, and rapacious, which qualities they were quite willing he should exercise upon the people, so that they could get double pay and give vent to their own greed and cruelty. Hence it arose that those emperors were always overthrown who, either by birth or training, had no great authority, and most of them, especially those who came new to the principality, recognizing the difficulty of these two opposing humours, were inclined to give satisfaction to the soldiers, caring little about injuring the people. Which course was necessary, because, as princes cannot help being hated by someone, they ought, in the first place, to avoid being hated by every one, and when they cannot compass this, they ought to endeavour with the utmost diligence to avoid the hatred of the most powerful. Therefore, those emperors who through inexperience had need of special favour adhered more readily to the soldiers than to the people; a course which turned out advantageous to them or not, accordingly as the prince knew how to maintain authority over them.
From these causes it arose that Marcus, Pertinax, and Alexander, being all men of modest life, lovers of justice, enemies to cruelty, humane, and benignant, came to a sad end except Marcus; he alone lived and died honoured, because he had succeeded to the throne by hereditary title, and owed nothing either to the soldiers or the people; and afterwards, being possessed of many virtues which made him respected, he always kept both orders in their places whilst he lived, and was neither hated nor despised.
But Pertinax was created emperor against the wishes of the soldiers, who, being accustomed to live licentiously under Commodus, could not endure the honest life to which Pertinax wished to reduce them; thus, having given cause for hatred, to which hatred there was added contempt for his old age, he was overthrown at the very beginning of his administration. And here it should be noted that hatred is acquired as much by good works as by bad ones, therefore, as I said before, a prince wishing to keep his state is very often forced to do evil; for when that body is corrupt whom you think you have need of to maintain yourself—it may be either the people or the soldiers or the nobles—you have to submit to its humours and to gratify them, and then good works will do you harm.
But let us come to Alexander, who was a man of such great goodness, that among the other praises which are accorded him is this, that in the fourteen years he held the empire no one was ever put to death by him unjudged; nevertheless, being considered effeminate and a man who allowed himself to be governed by his mother, he became despised, the army conspired against him, and murdered him.
Turning now to the opposite characters of Commodus, Severus, Antoninus Caracalla, and Maximinus, you will find them all cruel and rapacious-men who, to satisfy their soldiers, did not hesitate to commit every kind of iniquity against the people; and all, except Severus, came to a bad end; but in Severus there was so much valour that, keeping the soldiers friendly, although the people were oppressed by him, he reigned successfully; for his valour made him so much admired in the sight of the soldiers and people that the latter were kept in a way astonished and awed and the

former respectful and satisfied. And because the actions of this man, as a new prince, were great, I wish to show briefly that he knew well how to counterfeit the fox and the lion, which natures, as I said above, it is necessary for a prince to imitate.
Knowing the sloth of the Emperor Julian, he persuaded the army in Sclavonia, of which he was captain, that it would be right to go to Rome and avenge the death of Pertinax, who had been killed by the praetorian soldiers; and under this pretext, without appearing to aspire to the throne, he moved the army on Rome, and reached Italy before it was known that he had started. On his arrival at Rome, the Senate, through fear, elected him emperor and killed Julian. After this there remained for Severus, who wished to make himself master of the whole empire, two difficulties; one in Asia, where Niger, head of the Asiatic army, had caused himself to be proclaimed emperor; the other in the west where Albinus was, who also aspired to the throne. And as he considered it dangerous to declare himself hostile to both, he decided to attack Niger and to deceive Albinus. To the latter he wrote that, being elected emperor by the Senate, he was willing to share that dignity with him and sent him the title of Caesar; and, moreover, that the Senate had made Albinus his colleague; which things were accepted by Albinus as true. But after Severus had conquered and killed Niger, and settled oriental affairs, he returned to Rome and complained to the Senate that Albinus, little recognizing the benefits that he had received from him, had by treachery sought to murder him, and for this ingratitude he was compelled to punish him. Afterwards he sought him out in France, and took from him his government and life. He who will, therefore, carefully examine the actions of this man will find him a most valiant lion and a most cunning fox; he will find him feared and respected by every one, and not hated by the army; and it need not be wondered at that he, a new man, was able to hold the empire so well, because his supreme renown always protected him from that hatred which the people might have conceived against him for his violence.
But his son Antoninus was a most eminent man, and had very excellent qualities, which made him admirable in the sight of the people and acceptable to the soldiers, for he was a warlike man, most enduring of fatigue, a despiser of all delicate food and other luxuries, which caused him to be beloved by the armies. Nevertheless, his ferocity and cruelties were so great and so unheard of that, after endless single murders, he killed a large number of the people of Rome and all those of Alexandria. He became hated by the whole world, and also feared by those he had around him, to such an extent that he was murdered in the midst of his army by a centurion. And here it must be noted that such-like deaths, which are deliberately inflicted with a resolved and desperate courage, cannot be avoided by princes, because any one who does not fear to die can inflict them; but a prince may fear them the less because they are very rare; he has only to be careful not to do any grave injury to those whom he employs or has around him in the service of the state. Antoninus had not taken this care, but had contumeliously killed a brother of that centurion, whom also he daily threatened, yet retained in his bodyguard; which, as it turned out, was a rash thing to do, and proved the emperor's ruin.
But let us come to Commodus, to whom it should have been very easy to hold the empire, for, being the son of Marcus, he had inherited it, and he had only to follow in the footsteps of his father to please his people and soldiers; but, being by nature cruel and brutal, he gave himself up to amusing the soldiers and corrupting them, so that he might indulge his rapacity upon the people; on the other hand, not maintaining his dignity, often descending to the theatre to compete with gladiators, and doing other vile things, little worthy of the imperial majesty, he fell into contempt with the soldiers, and being hated by one party and despised by the other, he was conspired against and was killed.
It remains to discuss the character of Maximinus. He was a very warlike man, and the armies, being disgusted with the effeminacy of Alexander, of whom I have already

spoken, killed him and elected Maximinus to the throne. This he did not possess for long, for two things made him hated and despised; the one, his having kept sheep in Thrace, which brought him into contempt (it being well known to all, and considered a great indignity by every one), and the other, his having at the accession to his dominions deferred going to Rome and taking possession of the imperial seat; he had also gained a reputation for the utmost ferocity by having, through his prefects in Rome and elsewhere in the empire, practised many cruelties, so that the whole world was moved to anger at the meanness of his birth and to fear at his barbarity. First Africa rebelled, then the Senate with all the people of Rome, and all Italy conspired against him, to which may be added his own army; this latter, besieging Aquileia and meeting with difficulties in taking it, were disgusted with his cruelties, and fearing him less when they found so many against him, murdered him.

I do not wish to discuss Heliogabalus, Macrinus, or Julian, who, being thoroughly contemptible, were quickly wiped out; but I will bring this discourse to a conclusion by saying that princes in our times have this difficulty of giving inordinate satisfaction to their soldiers in a far less degree, because, notwithstanding one has to give them some indulgence, that is soon done; none of these princes have armies that are veterans in the governance and administration of provinces, as were the armies of the Roman Empire; and whereas it was then more necessary to give satisfaction to the soldiers than to the people, it is now more necessary to all princes, except the Turk and the Soldan, to satisfy the people rather the soldiers, because the people are the more powerful.

From the above I have excepted the Turk, who always keeps round him twelve thousand infantry and fifteen thousand cavalry on which depend the security and strength of the kingdom, and it is necessary that, putting aside every consideration for the people, he should keep them his friends. The kingdom of the Soldan is similar; being entirely in the hands of soldiers, it follows again that, without regard to the people, he must keep them his friends. But you must note that the state of the Soldan is unlike all other principalities, for the reason that it is like the Christian pontificate, which cannot be called either an hereditary or a newly formed principality; because the sons of the old prince are not the heirs, but he who is elected to that position by those who have authority, and the sons remain only noblemen. And this being an ancient custom, it cannot be called a new principality, because there are none of those difficulties in it that are met with in new ones; for although the prince is new, the constitution of the state is old, and it is framed so as to receive him as if he were its hereditary lord.

But returning to the subject of our discourse, I say that whoever will consider it will acknowledge that either hatred or contempt has been fatal to the above-named emperors, and it will be recognized also how it happened that, a number of them acting in one way and a number in another, only one in each way came to a happy end and the rest to unhappy ones. Because it would have been useless and dangerous for Pertinax and Alexander, being new princes, to imitate Marcus, who was heir to the principality; and likewise it would have been utterly destructive to Caracalla, Commodus, and Maximinus to have imitated Severus, they not having sufficient valour to enable them to tread in his footsteps. Therefore a prince, new to the principality, cannot imitate the actions of Marcus, nor, again, is it necessary to follow those of Severus, but he ought to take from Severus those parts which are necessary to found his state, and from Marcus those which are proper and glorious to keep a state that may already be stable and firm.

CHAPTER XX — ARE FORTRESSES, AND MANY OTHER THINGS TO WHICH PRINCES OFTEN RESORT, ADVANTAGEOUS OR HURTFUL?

1. Some princes, so as to hold securely the state, have disarmed their subjects; others

have kept their subject towns distracted by factions; others have fostered enmities against themselves; others have laid themselves out to gain over those whom they distrusted in the beginning of their governments; some have built fortresses; some have overthrown and destroyed them. And although one cannot give a final judgment on all of these things unless one possesses the particulars of those states in which a decision has to be made, nevertheless I will speak as comprehensively as the matter of itself will admit.

2. There never was a new prince who has disarmed his subjects; rather when he has found them disarmed he has always armed them, because, by arming them, those arms become yours, those men who were distrusted become faithful, and those who were faithful are kept so, and your subjects become your adherents. And whereas all subjects cannot be armed, yet when those whom you do arm are benefited, the others can be handled more freely, and this difference in their treatment, which they quite understand, makes the former your dependents, and the latter, considering it to be necessary that those who have the most danger and service should have the most reward, excuse you. But when you disarm them, you at once offend them by showing that you distrust them, either for cowardice or for want of loyalty, and either of these opinions breeds hatred against you. And because you cannot remain unarmed, it follows that you turn to mercenaries, which are of the character already shown; even if they should be good they would not be sufficient to defend you against powerful enemies and distrusted subjects. Therefore, as I have said, a new prince in a new principality has always distributed arms. Histories are full of examples. But when a prince acquires a new state, which he adds as a province to his old one, then it is necessary to disarm the men of that state, except those who have been his adherents in acquiring it; and these again, with time and opportunity, should be rendered soft and effeminate; and matters should be managed in such a way that all the armed men in the state shall be your own soldiers who in your old state were living near you.

3. Our forefathers, and those who were reckoned wise, were accustomed to say that it was necessary to hold Pistoia by factions and Pisa by fortresses; and with this idea they fostered quarrels in some of their tributary towns so as to keep possession of them the more easily. This may have been well enough in those times when Italy was in a way balanced, but I do not believe that it can be accepted as a precept for to-day, because I do not believe that factions can ever be of use; rather it is certain that when the enemy comes upon you in divided cities you are quickly lost, because the weakest party will always assist the outside forces and the other will not be able to resist. The Venetians, moved, as I believe, by the above reasons, fostered the Guelph and Ghibelline factions in their tributary cities; and although they never allowed them to come to bloodshed, yet they nursed these disputes amongst them, so that the citizens, distracted by their differences, should not unite against them. Which, as we saw, did not afterwards turn out as expected, because, after the rout at Vaila, one party at once took courage and seized the state. Such methods argue, therefore, weakness in the prince, because these factions will never be permitted in a vigorous principality; such methods for enabling one the more easily to manage subjects are only useful in times of peace, but if war comes this policy proves fallacious.

4. Without doubt princes become great when they overcome the difficulties and obstacles by which they are confronted, and therefore fortune, especially when she desires to make a new prince great, who has a greater necessity to earn renown than an hereditary one, causes enemies to arise and form designs against him, in order that he may have the opportunity of overcoming them, and by them to mount higher, as by a ladder which his enemies have raised. For this reason many consider that a wise prince, when he has the opportunity, ought with craft to foster some animosity against himself, so that, having crushed it, his renown may rise higher.

5. Princes, especially new ones, have found more fidelity and assistance in those men

who in the beginning of their rule were distrusted than among those who in the beginning were trusted. Pandolfo Petrucci, Prince of Siena, ruled his state more by those who had been distrusted than by others. But on this question one cannot speak generally, for it varies so much with the individual; I will only say this, that those men who at the commencement of a princedom have been hostile, if they are of a description to need assistance to support themselves, can always be gained over with the greatest ease, and they will be tightly held to serve the prince with fidelity, inasmuch as they know it to be very necessary for them to cancel by deeds the bad impression which he had formed of them; and thus the prince always extracts more profit from them than from those who, serving him in too much security, may neglect his affairs. And since the matter demands it, I must not fail to warn a prince, who by means of secret favours has acquired a new state, that he must well consider the reasons which induced those to favour him who did so; and if it be not a natural affection towards him, but only discontent with their government, then he will only keep them friendly with great trouble and difficulty, for it will be impossible to satisfy them. And weighing well the reasons for this in those examples which can be taken from ancient and modern affairs, we shall find that it is easier for the prince to make friends of those men who were contented under the former government, and are therefore his enemies, than of those who, being discontented with it, were favourable to him and encouraged him to seize it.

6. It has been a custom with princes, in order to hold their states more securely, to build fortresses that may serve as a bridle and bit to those who might design to work against them, and as a place of refuge from a first attack. I praise this system because it has been made use of formerly. Notwithstanding that, Messer Nicolo Vitelli in our times has been seen to demolish two fortresses in Citta di Castello so that he might keep that state; Guido Ubaldo, Duke of Urbino, on returning to his dominion, whence he had been driven by Cesare Borgia, razed to the foundations all the fortresses in that province, and considered that without them it would be more difficult to lose it; the Bentivogli returning to Bologna came to a similar decision. Fortresses, therefore, are useful or not according to circumstances; if they do you good in one way they injure you in another. And this question can be reasoned thus: the prince who has more to fear from the people than from foreigners ought to build fortresses, but he who has more to fear from foreigners than from the people ought to leave them alone. The castle of Milan, built by Francesco Sforza, has made, and will make, more trouble for the house of Sforza than any other disorder in the state. For this reason the best possible fortress is—not to be hated by the people, because, although you may hold the fortresses, yet they will not save you if the people hate you, for there will never be wanting foreigners to assist a people who have taken arms against you. It has not been seen in our times that such fortresses have been of use to any prince, unless to the Countess of Forli,(*) when the Count Girolamo, her consort, was killed; for by that means she was able to withstand the popular attack and wait for assistance from Milan, and thus recover her state; and the posture of affairs was such at that time that the foreigners could not assist the people. But fortresses were of little value to her afterwards when Cesare Borgia attacked her, and when the people, her enemy, were allied with foreigners. Therefore, it would have been safer for her, both then and before, not to have been hated by the people than to have had the fortresses. All these things considered then, I shall praise him who builds fortresses as well as him who does not, and I shall blame whoever, trusting in them, cares little about being hated by the people.

(*) Catherine Sforza, a daughter of Galeazzo Sforza and Lucrezia Landriani, born 1463, died 1509. It was to the Countess of Forli that Machiavelli was sent as envy on 1499. A letter from Fortunati to the countess announces the appointment: "I have been with the signori," wrote

Fortunati, "to learn whom they would send and when. They tell me that Nicolo Machiavelli, a learned young Florentine noble, secretary to my Lords of the Ten, is to leave with me at once." Cf. "Catherine Sforza," by Count Pasolini, translated by P. Sylvester, 1898.

CHAPTER XXI — HOW A PRINCE SHOULD CONDUCT HIMSELF SO AS TO GAIN RENOWN

Nothing makes a prince so much esteemed as great enterprises and setting a fine example. We have in our time Ferdinand of Aragon, the present King of Spain. He can almost be called a new prince, because he has risen, by fame and glory, from being an insignificant king to be the foremost king in Christendom; and if you will consider his deeds you will find them all great and some of them extraordinary. In the beginning of his reign he attacked Granada, and this enterprise was the foundation of his dominions. He did this quietly at first and without any fear of hindrance, for he held the minds of the barons of Castile occupied in thinking of the war and not anticipating any innovations; thus they did not perceive that by these means he was acquiring power and authority over them. He was able with the money of the Church and of the people to sustain his armies, and by that long war to lay the foundation for the military skill which has since distinguished him. Further, always using religion as a plea, so as to undertake greater schemes, he devoted himself with pious cruelty to driving out and clearing his kingdom of the Moors; nor could there be a more admirable example, nor one more rare. Under this same cloak he assailed Africa, he came down on Italy, he has finally attacked France; and thus his achievements and designs have always been great, and have kept the minds of his people in suspense and admiration and occupied with the issue of them. And his actions have arisen in such a way, one out of the other, that men have never been given time to work steadily against him.

Again, it much assists a prince to set unusual examples in internal affairs, similar to those which are related of Messer Bernabo da Milano, who, when he had the opportunity, by any one in civil life doing some extraordinary thing, either good or bad, would take some method of rewarding or punishing him, which would be much spoken about. And a prince ought, above all things, always endeavour in every action to gain for himself the reputation of being a great and remarkable man.

A prince is also respected when he is either a true friend or a downright enemy, that is to say, when, without any reservation, he declares himself in favour of one party against the other; which course will always be more advantageous than standing neutral; because if two of your powerful neighbours come to blows, they are of such a character that, if one of them conquers, you have either to fear him or not. In either case it will always be more advantageous for you to declare yourself and to make war strenuously; because, in the first case, if you do not declare yourself, you will invariably fall a prey to the conqueror, to the pleasure and satisfaction of him who has been conquered, and you will have no reasons to offer, nor anything to protect or to shelter you. Because he who conquers does not want doubtful friends who will not aid him in the time of trial; and he who loses will not harbour you because you did not willingly, sword in hand, court his fate.

Antiochus went into Greece, being sent for by the Aetolians to drive out the Romans. He sent envoys to the Achaeans, who were friends of the Romans, exhorting them to remain neutral; and on the other hand the Romans urged them to take up arms. This question came to be discussed in the council of the Achaeans, where the legate of Antiochus urged them to stand neutral. To this the Roman legate answered: "As for that which has been said, that it is better and more advantageous for your state not to interfere in our war, nothing can be more erroneous; because by not interfering

you will be left, without favour or consideration, the guerdon of the conqueror." Thus it will always happen that he who is not your friend will demand your neutrality, whilst he who is your friend will entreat you to declare yourself with arms. And irresolute princes, to avoid present dangers, generally follow the neutral path, and are generally ruined. But when a prince declares himself gallantly in favour of one side, if the party with whom he allies himself conquers, although the victor may be powerful and may have him at his mercy, yet he is indebted to him, and there is established a bond of amity; and men are never so shameless as to become a monument of ingratitude by oppressing you. Victories after all are never so complete that the victor must not show some regard, especially to justice. But if he with whom you ally yourself loses, you may be sheltered by him, and whilst he is able he may aid you, and you become companions on a fortune that may rise again.

In the second case, when those who fight are of such a character that you have no anxiety as to who may conquer, so much the more is it greater prudence to be allied, because you assist at the destruction of one by the aid of another who, if he had been wise, would have saved him; and conquering, as it is impossible that he should not do with your assistance, he remains at your discretion. And here it is to be noted that a prince ought to take care never to make an alliance with one more powerful than himself for the purposes of attacking others, unless necessity compels him, as is said above; because if he conquers you are at his discretion, and princes ought to avoid as much as possible being at the discretion of any one. The Venetians joined with France against the Duke of Milan, and this alliance, which caused their ruin, could have been avoided. But when it cannot be avoided, as happened to the Florentines when the Pope and Spain sent armies to attack Lombardy, then in such a case, for the above reasons, the prince ought to favour one of the parties.

Never let any Government imagine that it can choose perfectly safe courses; rather let it expect to have to take very doubtful ones, because it is found in ordinary affairs that one never seeks to avoid one trouble without running into another; but prudence consists in knowing how to distinguish the character of troubles, and for choice to take the lesser evil.

A prince ought also to show himself a patron of ability, and to honour the proficient in every art. At the same time he should encourage his citizens to practise their callings peaceably, both in commerce and agriculture, and in every other following, so that the one should not be deterred from improving his possessions for fear lest they be taken away from him or another from opening up trade for fear of taxes; but the prince ought to offer rewards to whoever wishes to do these things and designs in any way to honour his city or state.

Further, he ought to entertain the people with festivals and spectacles at convenient seasons of the year; and as every city is divided into guilds or into societies,(*) he ought to hold such bodies in esteem, and associate with them sometimes, and show himself an example of courtesy and liberality; nevertheless, always maintaining the majesty of his rank, for this he must never consent to abate in anything.

(*) "Guilds or societies," "in arti o in tribu." "Arti" were craft or trade guilds, cf. Florio: "Arte . . . a whole company of any trade in any city or corporation town." The guilds of Florence are most admirably described by Mr Edgcumbe Staley in his work on the subject (Methuen, 1906). Institutions of a somewhat similar character, called "artel," exist in Russia to-day, cf. Sir Mackenzie Wallace's "Russia," ed. 1905: "The sons . . . were always during the working season members of an artel. In some of the larger towns there are artels of a much more complex kind—permanent associations, possessing large capital, and pecuniarily responsible for the acts of the individual

members." The word "artel," despite its apparent similarity, has, Mr Aylmer Maude assures me, no connection with "ars" or "arte." Its root is that of the verb "rotisya," to bind oneself by an oath; and it is generally admitted to be only another form of "rota," which now signifies a "regimental company." In both words the underlying idea is that of a body of men united by an oath. "Tribu" were possibly gentile groups, united by common descent, and included individuals connected by marriage. Perhaps our words "sects" or "clans" would be most appropriate.

CHAPTER XXII — CONCERNING THE SECRETARIES OF PRINCES

The choice of servants is of no little importance to a prince, and they are good or not according to the discrimination of the prince. And the first opinion which one forms of a prince, and of his understanding, is by observing the men he has around him; and when they are capable and faithful he may always be considered wise, because he has known how to recognize the capable and to keep them faithful. But when they are otherwise one cannot form a good opinion of him, for the prime error which he made was in choosing them.

There were none who knew Messer Antonio da Venafro as the servant of Pandolfo Petrucci, Prince of Siena, who would not consider Pandolfo to be a very clever man in having Venafro for his servant. Because there are three classes of intellects: one which comprehends by itself; another which appreciates what others comprehended; and a third which neither comprehends by itself nor by the showing of others; the first is the most excellent, the second is good, the third is useless. Therefore, it follows necessarily that, if Pandolfo was not in the first rank, he was in the second, for whenever one has judgment to know good and bad when it is said and done, although he himself may not have the initiative, yet he can recognize the good and the bad in his servant, and the one he can praise and the other correct; thus the servant cannot hope to deceive him, and is kept honest.

But to enable a prince to form an opinion of his servant there is one test which never fails; when you see the servant thinking more of his own interests than of yours, and seeking inwardly his own profit in everything, such a man will never make a good servant, nor will you ever be able to trust him; because he who has the state of another in his hands ought never to think of himself, but always of his prince, and never pay any attention to matters in which the prince is not concerned.

On the other hand, to keep his servant honest the prince ought to study him, honouring him, enriching him, doing him kindnesses, sharing with him the honours and cares; and at the same time let him see that he cannot stand alone, so that many honours may not make him desire more, many riches make him wish for more, and that many cares may make him dread chances. When, therefore, servants, and princes towards servants, are thus disposed, they can trust each other, but when it is otherwise, the end will always be disastrous for either one or the other.

CHAPTER XXIII — HOW FLATTERERS SHOULD BE AVOIDED

I do not wish to leave out an important branch of this subject, for it is a danger from which princes are with difficulty preserved, unless they are very careful and discriminating. It is that of flatterers, of whom courts are full, because men are so self-complacent in their own affairs, and in a way so deceived in them, that they are preserved with difficulty from this pest, and if they wish to defend themselves they run the danger of falling into contempt. Because there is no other way of guarding oneself from flatterers except letting men understand that to tell you the truth does

not offend you; but when every one may tell you the truth, respect for you abates.
Therefore a wise prince ought to hold a third course by choosing the wise men in his state, and giving to them only the liberty of speaking the truth to him, and then only of those things of which he inquires, and of none others; but he ought to question them upon everything, and listen to their opinions, and afterwards form his own conclusions. With these councillors, separately and collectively, he ought to carry himself in such a way that each of them should know that, the more freely he shall speak, the more he shall be preferred; outside of these, he should listen to no one, pursue the thing resolved on, and be steadfast in his resolutions. He who does otherwise is either overthrown by flatterers, or is so often changed by varying opinions that he falls into contempt.
I wish on this subject to adduce a modern example. Fra Luca, the man of affairs to Maximilian,(*) the present emperor, speaking of his majesty, said: He consulted with no one, yet never got his own way in anything. This arose because of his following a practice the opposite to the above; for the emperor is a secretive man—he does not communicate his designs to any one, nor does he receive opinions on them. But as in carrying them into effect they become revealed and known, they are at once obstructed by those men whom he has around him, and he, being pliant, is diverted from them. Hence it follows that those things he does one day he undoes the next, and no one ever understands what he wishes or intends to do, and no one can rely on his resolutions.

(*) Maximilian I, born in 1459, died 1519, Emperor of the Holy Roman Empire. He married, first, Mary, daughter of Charles the Bold; after her death, Bianca Sforza; and thus became involved in Italian politics.

A prince, therefore, ought always to take counsel, but only when he wishes and not when others wish; he ought rather to discourage every one from offering advice unless he asks it; but, however, he ought to be a constant inquirer, and afterwards a patient listener concerning the things of which he inquired; also, on learning that any one, on any consideration, has not told him the truth, he should let his anger be felt.
And if there are some who think that a prince who conveys an impression of his wisdom is not so through his own ability, but through the good advisers that he has around him, beyond doubt they are deceived, because this is an axiom which never fails: that a prince who is not wise himself will never take good advice, unless by chance he has yielded his affairs entirely to one person who happens to be a very prudent man. In this case indeed he may be well governed, but it would not be for long, because such a governor would in a short time take away his state from him.
But if a prince who is not inexperienced should take counsel from more than one he will never get united counsels, nor will he know how to unite them. Each of the counsellors will think of his own interests, and the prince will not know how to control them or to see through them. And they are not to found otherwise, because men will always prove untrue to you unless they are kept honest by constraint. Therefore it must be inferred that good counsels, whencesoever they come, are born of the wisdom of the prince, and not the wisdom of the prince from good counsels.

CHAPTER XXIV — WHY THE PRINCES OF ITALY HAVE LOST THEIR STATES

The previous suggestions, carefully observed, will enable a new prince to appear well established, and render him at once more secure and fixed in the state than if he had been long seated there. For the actions of a new prince are more narrowly observed than those of an hereditary one, and when they are seen to be able they gain more men and bind far tighter than ancient blood; because men are attracted more by the present than by the past, and when they find the present good they

enjoy it and seek no further; they will also make the utmost defence of a prince if he fails them not in other things. Thus it will be a double glory for him to have established a new principality, and adorned and strengthened it with good laws, good arms, good allies, and with a good example; so will it be a double disgrace to him who, born a prince, shall lose his state by want of wisdom.

And if those seigniors are considered who have lost their states in Italy in our times, such as the King of Naples, the Duke of Milan, and others, there will be found in them, firstly, one common defect in regard to arms from the causes which have been discussed at length; in the next place, some one of them will be seen, either to have had the people hostile, or if he has had the people friendly, he has not known how to secure the nobles. In the absence of these defects states that have power enough to keep an army in the field cannot be lost.

Philip of Macedon, not the father of Alexander the Great, but he who was conquered by Titus Quintius, had not much territory compared to the greatness of the Romans and of Greece who attacked him, yet being a warlike man who knew how to attract the people and secure the nobles, he sustained the war against his enemies for many years, and if in the end he lost the dominion of some cities, nevertheless he retained the kingdom.

Therefore, do not let our princes accuse fortune for the loss of their principalities after so many years' possession, but rather their own sloth, because in quiet times they never thought there could be a change (it is a common defect in man not to make any provision in the calm against the tempest), and when afterwards the bad times came they thought of flight and not of defending themselves, and they hoped that the people, disgusted with the insolence of the conquerors, would recall them. This course, when others fail, may be good, but it is very bad to have neglected all other expedients for that, since you would never wish to fall because you trusted to be able to find someone later on to restore you. This again either does not happen, or, if it does, it will not be for your security, because that deliverance is of no avail which does not depend upon yourself; those only are reliable, certain, and durable that depend on yourself and your valour.

CHAPTER XXV — WHAT FORTUNE CAN EFFECT IN HUMAN AFFAIRS AND HOW TO WITHSTAND HER

It is not unknown to me how many men have had, and still have, the opinion that the affairs of the world are in such wise governed by fortune and by God that men with their wisdom cannot direct them and that no one can even help them; and because of this they would have us believe that it is not necessary to labour much in affairs, but to let chance govern them. This opinion has been more credited in our times because of the great changes in affairs which have been seen, and may still be seen, every day, beyond all human conjecture. Sometimes pondering over this, I am in some degree inclined to their opinion. Nevertheless, not to extinguish our free will, I hold it to be true that Fortune is the arbiter of one-half of our actions,(*) but that she still leaves us to direct the other half, or perhaps a little less.

(*) Frederick the Great was accustomed to say: "The older one gets the more convinced one becomes that his Majesty King Chance does three-quarters of the business of this miserable universe." Sorel's "Eastern Question."

I compare her to one of those raging rivers, which when in flood overflows the plains, sweeping away trees and buildings, bearing away the soil from place to place; everything flies before it, all yield to its violence, without being able in any way to withstand it; and yet, though its nature be such, it does not follow therefore that men, when the weather becomes fair, shall not make provision, both with defences and barriers, in such a manner that, rising again, the waters may pass away by canal,

and their force be neither so unrestrained nor so dangerous. So it happens with fortune, who shows her power where valour has not prepared to resist her, and thither she turns her forces where she knows that barriers and defences have not been raised to constrain her.

And if you will consider Italy, which is the seat of these changes, and which has given to them their impulse, you will see it to be an open country without barriers and without any defence. For if it had been defended by proper valour, as are Germany, Spain, and France, either this invasion would not have made the great changes it has made or it would not have come at all. And this I consider enough to say concerning resistance to fortune in general.

But confining myself more to the particular, I say that a prince may be seen happy to-day and ruined to-morrow without having shown any change of disposition or character. This, I believe, arises firstly from causes that have already been discussed at length, namely, that the prince who relies entirely on fortune is lost when it changes. I believe also that he will be successful who directs his actions according to the spirit of the times, and that he whose actions do not accord with the times will not be successful. Because men are seen, in affairs that lead to the end which every man has before him, namely, glory and riches, to get there by various methods; one with caution, another with haste; one by force, another by skill; one by patience, another by its opposite; and each one succeeds in reaching the goal by a different method. One can also see of two cautious men the one attain his end, the other fail; and similarly, two men by different observances are equally successful, the one being cautious, the other impetuous; all this arises from nothing else than whether or not they conform in their methods to the spirit of the times. This follows from what I have said, that two men working differently bring about the same effect, and of two working similarly, one attains his object and the other does not.

Changes in estate also issue from this, for if, to one who governs himself with caution and patience, times and affairs converge in such a way that his administration is successful, his fortune is made; but if times and affairs change, he is ruined if he does not change his course of action. But a man is not often found sufficiently circumspect to know how to accommodate himself to the change, both because he cannot deviate from what nature inclines him to do, and also because, having always prospered by acting in one way, he cannot be persuaded that it is well to leave it; and, therefore, the cautious man, when it is time to turn adventurous, does not know how to do it, hence he is ruined; but had he changed his conduct with the times fortune would not have changed.

Pope Julius the Second went to work impetuously in all his affairs, and found the times and circumstances conform so well to that line of action that he always met with success. Consider his first enterprise against Bologna, Messer Giovanni Bentivogli being still alive. The Venetians were not agreeable to it, nor was the King of Spain, and he had the enterprise still under discussion with the King of France; nevertheless he personally entered upon the expedition with his accustomed boldness and energy, a move which made Spain and the Venetians stand irresolute and passive, the latter from fear, the former from desire to recover the kingdom of Naples; on the other hand, he drew after him the King of France, because that king, having observed the movement, and desiring to make the Pope his friend so as to humble the Venetians, found it impossible to refuse him. Therefore Julius with his impetuous action accomplished what no other pontiff with simple human wisdom could have done; for if he had waited in Rome until he could get away, with his plans arranged and everything fixed, as any other pontiff would have done, he would never have succeeded. Because the King of France would have made a thousand excuses, and the others would have raised a thousand fears.

I will leave his other actions alone, as they were all alike, and they all succeeded, for the shortness of his life did not let him experience the contrary; but if circumstances

had arisen which required him to go cautiously, his ruin would have followed, because he would never have deviated from those ways to which nature inclined him.
I conclude, therefore that, fortune being changeful and mankind steadfast in their ways, so long as the two are in agreement men are successful, but unsuccessful when they fall out. For my part I consider that it is better to be adventurous than cautious, because fortune is a woman, and if you wish to keep her under it is necessary to beat and ill-use her; and it is seen that she allows herself to be mastered by the adventurous rather than by those who go to work more coldly. She is, therefore, always, woman-like, a lover of young men, because they are less cautious, more violent, and with more audacity command her.

CHAPTER XXVI — AN EXHORTATION TO LIBERATE ITALY FROM THE BARBARIANS

Having carefully considered the subject of the above discourses, and wondering within myself whether the present times were propitious to a new prince, and whether there were elements that would give an opportunity to a wise and virtuous one to introduce a new order of things which would do honour to him and good to the people of this country, it appears to me that so many things concur to favour a new prince that I never knew a time more fit than the present.
And if, as I said, it was necessary that the people of Israel should be captive so as to make manifest the ability of Moses; that the Persians should be oppressed by the Medes so as to discover the greatness of the soul of Cyrus; and that the Athenians should be dispersed to illustrate the capabilities of Theseus: then at the present time, in order to discover the virtue of an Italian spirit, it was necessary that Italy should be reduced to the extremity that she is now in, that she should be more enslaved than the Hebrews, more oppressed than the Persians, more scattered than the Athenians; without head, without order, beaten, despoiled, torn, overrun; and to have endured every kind of desolation.
Although lately some spark may have been shown by one, which made us think he was ordained by God for our redemption, nevertheless it was afterwards seen, in the height of his career, that fortune rejected him; so that Italy, left as without life, waits for him who shall yet heal her wounds and put an end to the ravaging and plundering of Lombardy, to the swindling and taxing of the kingdom and of Tuscany, and cleanse those sores that for long have festered. It is seen how she entreats God to send someone who shall deliver her from these wrongs and barbarous insolencies. It is seen also that she is ready and willing to follow a banner if only someone will raise it.
Nor is there to be seen at present one in whom she can place more hope than in your illustrious house,(*) with its valour and fortune, favoured by God and by the Church of which it is now the chief, and which could be made the head of this redemption. This will not be difficult if you will recall to yourself the actions and lives of the men I have named. And although they were great and wonderful men, yet they were men, and each one of them had no more opportunity than the present offers, for their enterprises were neither more just nor easier than this, nor was God more their friend than He is yours.

(*) Giuliano de Medici. He had just been created a cardinal by Leo X. In 1523 Giuliano was elected Pope, and took the title of Clement VII.

With us there is great justice, because that war is just which is necessary, and arms are hallowed when there is no other hope but in them. Here there is the greatest willingness, and where the willingness is great the difficulties cannot be great if you will only follow those men to whom I have directed your attention. Further than this,

how extraordinarily the ways of God have been manifested beyond example: the sea is divided, a cloud has led the way, the rock has poured forth water, it has rained manna, everything has contributed to your greatness; you ought to do the rest. God is not willing to do everything, and thus take away our free will and that share of glory which belongs to us.

And it is not to be wondered at if none of the above-named Italians have been able to accomplish all that is expected from your illustrious house; and if in so many revolutions in Italy, and in so many campaigns, it has always appeared as if military virtue were exhausted, this has happened because the old order of things was not good, and none of us have known how to find a new one. And nothing honours a man more than to establish new laws and new ordinances when he himself was newly risen. Such things when they are well founded and dignified will make him revered and admired, and in Italy there are not wanting opportunities to bring such into use in every form.

Here there is great valour in the limbs whilst it fails in the head. Look attentively at the duels and the hand-to-hand combats, how superior the Italians are in strength, dexterity, and subtlety. But when it comes to armies they do not bear comparison, and this springs entirely from the insufficiency of the leaders, since those who are capable are not obedient, and each one seems to himself to know, there having never been any one so distinguished above the rest, either by valour or fortune, that others would yield to him. Hence it is that for so long a time, and during so much fighting in the past twenty years, whenever there has been an army wholly Italian, it has always given a poor account of itself; the first witness to this is Il Taro, afterwards Allesandria, Capua, Genoa, Vaila, Bologna, Mestri.(*)

(*) The battles of Il Taro, 1495; Alessandria, 1499; Capua, 1501; Genoa, 1507; Vaila, 1509; Bologna, 1511; Mestri, 1513.

If, therefore, your illustrious house wishes to follow these remarkable men who have redeemed their country, it is necessary before all things, as a true foundation for every enterprise, to be provided with your own forces, because there can be no more faithful, truer, or better soldiers. And although singly they are good, altogether they will be much better when they find themselves commanded by their prince, honoured by him, and maintained at his expense. Therefore it is necessary to be prepared with such arms, so that you can be defended against foreigners by Italian valour.

And although Swiss and Spanish infantry may be considered very formidable, nevertheless there is a defect in both, by reason of which a third order would not only be able to oppose them, but might be relied upon to overthrow them. For the Spaniards cannot resist cavalry, and the Switzers are afraid of infantry whenever they encounter them in close combat. Owing to this, as has been and may again be seen, the Spaniards are unable to resist French cavalry, and the Switzers are overthrown by Spanish infantry. And although a complete proof of this latter cannot be shown, nevertheless there was some evidence of it at the battle of Ravenna, when the Spanish infantry were confronted by German battalions, who follow the same tactics as the Swiss; when the Spaniards, by agility of body and with the aid of their shields, got in under the pikes of the Germans and stood out of danger, able to attack, while the Germans stood helpless, and, if the cavalry had not dashed up, all would have been over with them. It is possible, therefore, knowing the defects of both these infantries, to invent a new one, which will resist cavalry and not be afraid of infantry; this need not create a new order of arms, but a variation upon the old. And these are the kind of improvements which confer reputation and power upon a new prince.

This opportunity, therefore, ought not to be allowed to pass for letting Italy at last see her liberator appear. Nor can one express the love with which he would be received in all those provinces which have suffered so much from these foreign scourings,

with what thirst for revenge, with what stubborn faith, with what devotion, with what tears. What door would be closed to him? Who would refuse obedience to him? What envy would hinder him? What Italian would refuse him homage? To all of us this barbarous dominion stinks. Let, therefore, your illustrious house take up this charge with that courage and hope with which all just enterprises are undertaken, so that under its standard our native country may be ennobled, and under its auspices may be verified that saying of Petrarch:

Virtu contro al Furore
Prendera l'arme, e fia il combatter corto:
Che l'antico valore
Negli italici cuor non e ancor morto.

Virtue against fury shall advance the fight,
And it i' th' combat soon shall put to flight:
For the old Roman valour is not dead,
Nor in th' Italians' brests extinguished.

Edward Dacre, 1640.

book 2: Modern and AD texts
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Part 3. the 95 Theses
3A. historical background
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3A. historical background

The Ninety-Five Theses (original Latin: *Disputatio pro declaratione virtutis indulgentiarum*) were written by Martin Luther in 1517 and are widely regarded as the initial catalyst for the Protestant Reformation. The disputation protests against clerical abuses, especially nepotism, simony, usury, pluralism, and the sale of indulgences.

Background

Luther's Ninety-Five Theses centers on practices within the Catholic Church regarding baptism and absolution. Significantly, the Theses reject the validity of indulgences (remissions of temporal punishment due for sins which have already been forgiven). They also view with great cynicism the practice of indulgences being sold, and thus the penance for sin representing a financial transaction rather than genuine contrition. Luther argues that the sale of indulgences was a gross violation of the original intention of confession and penance, and that Christians were being falsely told that they could find absolution through the purchase of indulgences.

All Saints' Church in Wittenberg, Saxony, in the Holy Roman Empire, where the Ninety-Five Theses famously appeared, held one of Europe's largest collections of holy relics. These had been piously collected by Frederick III of Saxony. At that time, pious veneration of relics supposedly allowed the viewer to receive relief from temporal punishment for sins in purgatory. By 1520, Frederick had over 19,000 relics, purportedly "including vials of the milk of the Virgin Mary, straws from the manger [of Jesus], and the body of one of the innocents massacred by King Herod."

As part of a fund-raising campaign commissioned by Pope Leo X to finance the renovation of St Peter's Basilica in Rome, Johann Tetzel, a Dominican priest, began the selling of indulgences in the German lands. Albert of Mainz, the Archbishop of Mainz in Germany, had borrowed heavily to pay for his high church rank and was deeply in debt. He agreed to allow the sale of the indulgences in his territory in exchange for a cut of the proceeds. Luther was apparently not aware of this. Even though Luther's prince, Frederick III, and the prince of the neighboring territory, George, Duke of Saxony, forbade the sale thereof in their respective lands, people in Wittenberg traveled to purchase them. When these people came to confession, they presented their plenary indulgences for which they paid, claiming they no longer had to repent of their sins, since the document promised to forgive all their sins. Luther was outraged that they had paid money for what was theirs by right as a free gift from God. He felt compelled to expose the fraud that was being sold to the people. This exposure was to take place in the form of a public scholarly debate at the University of Wittenberg. The Ninety-Five Theses outlined the items to be discussed and issued the challenge to any and all comers.

Luther objected to a saying attributed to Johann Tetzel that "As soon as the coin in the coffer rings, the soul from purgatory [also attested as 'into heaven'] springs."[2] He insisted that since forgiveness was God's alone to grant, those who claimed that indulgences absolved buyers from all punishments and granted them salvation were in error. Christians, he said, must not slacken in following Christ on account of such false assurances.

Initial dissemination

On 31 October 1517, Luther posted the ninety-five theses, which he had composed in Latin, on the door of the Castle Church of Wittenberg, according to university custom.

On the same day, Luther sent a hand-written copy, accompanied with honourable comments, to the archbishop Albert of Mainz and Magdeburg, responsible for the practice of the indulgence sales, and to the bishop of Brandenburg, the superior of

Luther. He enclosed in his letter a copy of his "Disputation of Martin Luther on the Power and Efficacy of Indulgences," which came to be known as *The Ninety-Five Theses*. Hans Hillerbrand writes that Luther had no intention of confronting the church but saw his disputation as a scholarly objection to church practices, and the tone of the writing is accordingly "searching, rather than doctrinaire." Hillerbrand writes that there is nevertheless an undercurrent of challenge in several of the theses, particularly in Thesis 86, which asks: "Why does the pope, whose wealth today is greater than the wealth of the richest Crassus, build the basilica of Saint Peter with the money of poor believers rather than with his own money?"
Within two weeks, copies of the Theses had spread throughout Germany; within two months throughout Europe. In January 1518 Christoph von Scheurl and other friends of Luther translated the *Ninety-Five Theses* from Latin into German, printed, and widely copied them, making the controversy one of the first in history to be aided by the printing press.

Reaction

On June 15, 1520, Pope Leo X issued a rebuttal to Luther's Ninety-Five Theses, a papal encyclical titled *Exsurge Domine* ("Arise, O Lord"), from its opening words. This document outlined the Magisterium of the Church's findings of where the pope believed Luther had erred.
As early as October 29, 1521, the chapel at Wittenberg began to turn away from private Masses. In 1522, much of the city began celebrating Lutheran services instead of Roman Catholic services. Luther's popularity grew rapidly, mostly because the general Roman Catholic church members were dissatisfied with the corruption and "worldly" desires and habits of the Roman Curia.
As the Reformation progressed, another element drew adherents to the ideas and practices that gradually became known as Lutheranism. Luther and others had urged that greater balance be observed in the attention given to the Hebrew and Christian Scriptures, along with the long-accepted sources of tradition and reason in the formation of doctrine. This concept, called *sola scriptura*, offered a basis for querying the tight hold Catholic prelates then had over both the content of faith, and over potentially abusive corollary practices like indulgential penance (the sale of indulgences). As availability of the recently invented movable type printing press spread, literacy also grew among a populace now able to own books, including Bibles. The laity, now able to read and examine traditional creedal content, was encouraged to test its fidelity to Scriptures; the Bible began to take on the character of an ur-text for faith; and a new emphasis on personal piety resulted. This required a different kind of internal balance between the new, wider accessibility of texts, and the need for informed interpretation of the Scriptures: attendance at public preaching and lecturing events grew. It also allowed individual ownership of a previously more contained theological process, so that individuals found themselves more invested in understanding and living out their faith.
Placing his theses on a door as Luther did was not a new process, but his publication of his objections was paradigmatic of the resultant shift from internal to extramural debate on matters that had previously been taken as given.

3B. extent source text

Disputation on the Power and Efficacy of Indulgences Commonly Known as The 95 Theses
by Dr. Martin Luther

Out of love and concern for the truth, and with the object of eliciting it, the following heads will be the subject of a public discussion at Wittenberg under the presidency of the reverend father, Martin Luther, Augustinian, Master of Arts and Sacred Theology, and duly appointed Lecturer on these subjects in that place. He requests that whoever cannot be present personally to debate the matter orally will do so in absence in writing.

1. When our Lord and Master, Jesus Christ, said "Repent", He called for the entire life of believers to be one of repentance.

2. The word cannot be properly understood as referring to the sacrament of penance, i.e. confession and satisfaction, as administered by the clergy.

3. Yet its meaning is not restricted to repentance in one's heart; for such repentance is null unless it produces outward signs in various mortifications of the flesh.

4. As long as hatred of self abides (i.e. true inward repentance) the penalty of sin abides, viz., until we enter the kingdom of heaven.

5. The pope has neither the will nor the power to remit any penalties beyond those imposed either at his own discretion or by canon law.

6. The pope himself cannot remit guilt, but only declare and confirm that it has been remitted by God; or, at most, he can remit it in cases reserved to his discretion. Except for these cases, the guilt remains untouched.

7. God never remits guilt to anyone without, at the same time, making him humbly submissive to the priest, His representative.

8. The penitential canons apply only to men who are still alive, and, according to the canons themselves, none applies to the dead.

9. Accordingly, the Holy Spirit, acting in the person of the pope, manifests grace to us, by the fact that the papal regulations always cease to apply at death, or in any hard case.

10. It is a wrongful act, due to ignorance, when priests retain the canonical penalties on the dead in purgatory.

11. When canonical penalties were changed and made to apply to purgatory, surely it would seem that tares were sown while the bishops were asleep.

12. In former days, the canonical penalties were imposed, not after, but before absolution was pronounced; and were intended to be tests of true contrition.

13. Death puts an end to all the claims of the Church; even the dying are already dead to the canon laws, and are no longer bound by them.

14. Defective piety or love in a dying person is necessarily accompanied by great fear, which is greatest where the piety or love is least.

15. This fear or horror is sufficient in itself, whatever else might be said, to constitute the pain of purgatory, since it approaches very closely to the horror of despair.

16. There seems to be the same difference between hell, purgatory, and heaven as between despair, uncertainty, and assurance.

17. Of a truth, the pains of souls in purgatory ought to be abated, and charity ought to be proportionately increased.

18. Moreover, it does not seem proved, on any grounds of reason or Scripture, that these souls are outside the state of merit, or unable to grow in grace.

19. Nor does it seem proved to be always the case that they are certain and assured of salvation, even if we are very certain ourselves.

20. Therefore the pope, in speaking of the plenary remission of all penalties, does not mean "all" in the strict sense, but only those imposed by himself.

21. Hence those who preach indulgences are in error when they say that a man is absolved and saved from every penalty by the pope's indulgences.

22. Indeed, he cannot remit to souls in purgatory any penalty which canon law declares should be suffered in the present life.

23. If plenary remission could be granted to anyone at all, it would be only in the cases of the most perfect, i.e. to very few.

24. It must therefore be the case that the major part of the people are deceived by that indiscriminate and high-sounding promise of relief from penalty.

25. The same power as the pope exercises in general over purgatory is exercised in particular by every single bishop in his bishopric and priest in his parish.

26. The pope does excellently when he grants remission to the souls in purgatory on account of intercessions made on their behalf, and not by the power of the keys (which he cannot exercise for them).

27. There is no divine authority for preaching that the soul flies out of the purgatory immediately the money clinks in the bottom of the chest.

28. It is certainly possible that when the money clinks in the bottom of the chest avarice and greed increase; but when the church offers intercession, all depends in the will of God.

29. Who knows whether all souls in purgatory wish to be redeemed in view of what is said of St. Severinus and St. Pascal? (Note: Paschal I, pope 817-24. The legend is that he and Severinus were willing to endure the pains of purgatory for the benefit of the faithful).

30. No one is sure of the reality of his own contrition, much less of receiving plenary forgiveness.

31. One who bona fide buys indulgence is a rare as a bona fide penitent man, i.e. very rare indeed.

32. All those who believe themselves certain of their own salvation by means of letters of indulgence, will be eternally damned, together with their teachers.

33. We should be most carefully on our guard against those who say that the papal indulgences are an inestimable divine gift, and that a man is reconciled to God by them.

34. For the grace conveyed by these indulgences relates simply to the penalties of the sacramental "satisfactions" decreed merely by man.

35. It is not in accordance with Christian doctrines to preach and teach that those who buy off souls, or purchase confessional licenses, have no need to repent of their own sins.

36. Any Christian whatsoever, who is truly repentant, enjoys plenary remission from penalty and guilt, and this is given him without letters of indulgence.

37. Any true Christian whatsoever, living or dead, participates in all the benefits of Christ and the Church; and this participation is granted to him by God without letters of indulgence.

38. Yet the pope's remission and dispensation are in no way to be despised, for, as already said, they proclaim the divine remission.

39. It is very difficult, even for the most learned theologians, to extol to the people the great bounty contained in the indulgences, while, at the same time, praising contrition as a virtue.

40. A truly contrite sinner seeks out, and loves to pay, the penalties of his sins; whereas the very multitude of indulgences dulls men's consciences, and tends to make them hate the penalties.

41. Papal indulgences should only be preached with caution, lest people

gain a wrong understanding, and think that they are preferable to other good works: those of love.

42. Christians should be taught that the pope does not at all intend that the purchase of indulgences should be understood as at all comparable with the works of mercy.

43. Christians should be taught that one who gives to the poor, or lends to the needy, does a better action than if he purchases indulgences.

44. Because, by works of love, love grows and a man becomes a better man; whereas, by indulgences, he does not become a better man, but only escapes certain penalties.

45. Christians should be taught that he who sees a needy person, but passes him by although he gives money for indulgences, gains no benefit from the pope's pardon, but only incurs the wrath of God.

46. Christians should be taught that, unless they have more than they need, they are bound to retain what is only necessary for the upkeep of their home, and should in no way squander it on indulgences.

47. Christians should be taught that they purchase indulgences voluntarily, and are not under obligation to do so.

48. Christians should be taught that, in granting indulgences, the pope has more need, and more desire, for devout prayer on his own behalf than for ready money.

49. Christians should be taught that the pope's indulgences are useful only if one does not rely on them, but most harmful if one loses the fear of God through them.

50. Christians should be taught that, if the pope knew the exactions of the indulgence-preachers, he would rather the church of St. Peter were reduced to ashes than be built with the skin, flesh, and bones of the sheep.

51. Christians should be taught that the pope would be willing, as he ought if necessity should arise, to sell the church of St. Peter, and give, too, his own money to many of those from whom the pardon-merchants conjure money.

52. It is vain to rely on salvation by letters of indulgence, even if the commissary, or indeed the pope himself, were to pledge his own soul for their validity.

53. Those are enemies of Christ and the pope who forbid the word of God to be preached at all in some churches, in order that indulgences may be preached in others.

54. The word of God suffers injury if, in the same sermon, an equal or longer time is devoted to indulgences than to that word.

55. The pope cannot help taking the view that if indulgences (very small matters) are celebrated by one bell, one pageant, or one ceremony, the gospel (a very great matter) should be preached to the accompaniment of a hundred bells, a hundred processions, a hundred ceremonies.

56. The treasures of the church, out of which the pope dispenses indulgences, are not sufficiently spoken of or known among the people of Christ.

57. That these treasures are not temporal are clear from the fact that many of the merchants do not grant them freely, but only collect them.

58. Nor are they the merits of Christ and the saints, because, even apart from the pope, these merits are always working grace in the inner man, and working the cross, death, and hell in the outer man.

59. St. Laurence said that the poor were the treasures of the church, but he used the term in accordance with the custom of his own time.

60. We do not speak rashly in saying that the treasures of the church are the keys of the church, and are bestowed by the merits of Christ.

61. For it is clear that the power of the pope suffices, by itself, for the

remission of penalties and reserved cases.

62. The true treasure of the church is the Holy gospel of the glory and the grace of God.

63. It is right to regard this treasure as most odious, for it makes the first to be the last.

64. On the other hand, the treasure of indulgences is most acceptable, for it makes the last to be the first.

65. Therefore the treasures of the gospel are nets which, in former times, they used to fish for men of wealth.

66. The treasures of the indulgences are the nets which to-day they use to fish for the wealth of men.

67. The indulgences, which the merchants extol as the greatest of favours, are seen to be, in fact, a favourite means for money-getting.

68. Nevertheless, they are not to be compared with the grace of God and the compassion shown in the Cross.

69. Bishops and curates, in duty bound, must receive the commissaries of the papal indulgences with all reverence.

70. But they are under a much greater obligation to watch closely and attend carefully lest these men preach their own fancies instead of what the pope commissioned.

71. Let him be anathema and accursed who denies the apostolic character of the indulgences.

72. On the other hand, let him be blessed who is on his guard against the wantonness and license of the pardon-merchant's words.

73. In the same way, the pope rightly excommunicates those who make any plans to the detriment of the trade in indulgences.

74. It is much more in keeping with his views to excommunicate those who use the pretext of indulgences to plot anything to the detriment of holy love and truth.

75. It is foolish to think that papal indulgences have so much power that they can absolve a man even if he has done the impossible and violated the mother of God.

76. We assert the contrary, and say that the pope's pardons are not able to remove the least venial of sins as far as their guilt is concerned.

77. When it is said that not even St. Peter, if he were now pope, could grant a greater grace, it is blasphemy against St. Peter and the pope.

78. We assert the contrary, and say that he, and any pope whatever, possesses greater graces, viz., the gospel, spiritual powers, gifts of healing, etc., as is declared in I Corinthians 12 [:28].

79. It is blasphemy to say that the insignia of the cross with the papal arms are of equal value to the cross on which Christ died.

80. The bishops, curates, and theologians, who permit assertions of that kind to be made to the people without let or hindrance, will have to answer for it.

81. This unbridled preaching of indulgences makes it difficult for learned men to guard the respect due to the pope against false accusations, or at least from the keen criticisms of the laity.

82. They ask, e.g.: Why does not the pope liberate everyone from purgatory for the sake of love (a most holy thing) and because of the supreme necessity of their souls? This would be morally the best of all reasons. Meanwhile he redeems innumerable souls for money, a most perishable thing, with which to build St. Peter's church, a very minor purpose.

83. Again: Why should funeral and anniversary masses for the dead continue to be said? And why does not the pope repay, or permit to be repaid, the benefactions instituted for these purposes, since it is wrong to pray for those souls

who are now redeemed?

84. Again: Surely this is a new sort of compassion, on the part of God and the pope, when an impious man, an enemy of God, is allowed to pay money to redeem a devout soul, a friend of God; while yet that devout and beloved soul is not allowed to be redeemed without payment, for love's sake, and just because of its need of redemption.

85. Again: Why are the penitential canon laws, which in fact, if not in practice, have long been obsolete and dead in themselves,—why are they, to-day, still used in imposing fines in money, through the granting of indulgences, as if all the penitential canons were fully operative?

86. Again: since the pope's income to-day is larger than that of the wealthiest of wealthy men, why does he not build this one church of St. Peter with his own money, rather than with the money of indigent believers?

87. Again: What does the pope remit or dispense to people who, by their perfect repentance, have a right to plenary remission or dispensation?

88. Again: Surely a greater good could be done to the church if the pope were to bestow these remissions and dispensations, not once, as now, but a hundred times a day, for the benefit of any believer whatever.

89. What the pope seeks by indulgences is not money, but rather the salvation of souls; why then does he suspend the letters and indulgences formerly conceded, and still as efficacious as ever?

90. These questions are serious matters of conscience to the laity. To suppress them by force alone, and not to refute them by giving reasons, is to expose the church and the pope to the ridicule of their enemies, and to make Christian people unhappy.

91. If therefore, indulgences were preached in accordance with the spirit and mind of the pope, all these difficulties would be easily overcome, and indeed, cease to exist.

92. Away, then, with those prophets who say to Christ's people, "Peace, peace," where in there is no peace.

93. Hail, hail to all those prophets who say to Christ's people, "The cross, the cross," where there is no cross.

94. Christians should be exhorted to be zealous to follow Christ, their Head, through penalties, deaths, and hells.

95. And let them thus be more confident of entering heaven through many tribulations rather than through a false assurance of peace.

book 2: Modern and AD texts
section 1: Europe
Part 5. (from) the Leviathan
5A. historical background
5B. extent source text

5A. historical background

Leviathan or The Matter, Forme and Power of a Common Wealth Ecclesiasticall and Civil — commonly referred to as ***Leviathan*** — is a book written by Thomas Hobbes (1588–1679) and published in 1651. Its name derives from the biblical Leviathan. The work concerns the structure of society and legitimate government, and is regarded as one of the earliest and most influential examples of social contract theory. *Leviathan* ranks as a classic western work on statecraft comparable to Machiavelli's *The Prince*. Written during the English Civil War (1642–1651), *Leviathan* argues for a social contract and rule by an absolute sovereign. Hobbes wrote that civil war and the brute situation of a state of nature ("the war of all against all") could only be avoided by strong undivided government.

Part II: Of Common-wealth

The purpose of a commonwealth is given at the start of Part II: *THE final cause, end, or design of men (who naturally love liberty, and dominion over others) in the introduction of that restraint upon themselves, in which we see them live in Commonwealths, is the foresight of their own preservation, and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of war which is necessarily consequent, as hath been shown, to the natural passions of men when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants....*

The commonwealth is instituted when all agree in the following manner: *I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou give up, thy right to him, and authorise all his actions in like manner.*

The sovereign has twelve principal rights:

1. because a successive covenant cannot override a prior one, the subjects cannot (lawfully) change the form of government.
2. because the covenant forming the commonwealth results from subjects giving to the sovereign the right to act for them, the sovereign cannot possibly breach the covenant; and therefore the subjects can never argue to be freed from the covenant because of the actions of the sovereign.
3. the sovereign exists because the majority has consented to his rule; the minority have agreed to abide by this arrangement and must then assent to the sovereign's actions.
4. every subject is author of the acts of the sovereign: hence the sovereign cannot injure any of his subjects and cannot be accused of injustice.
5. following this, the sovereign cannot justly be put to death by the subjects.
6. because the purpose of the commonwealth is peace, and the sovereign has the right to do whatever he thinks necessary for the preserving of peace and security and prevention of discord. Therefore, the sovereign may judge what opinions and doctrines are averse, who shall be allowed to speak to multitudes, and who shall examine the doctrines of all books before they are published.
7. to prescribe the rules of civil law and property.
8. to be judge in all cases.
9. to make war and peace as he sees fit and to command the army.
10. to choose counsellors, ministers, magistrates and officers.
11. to reward with riches and honour or to punish with corporal or pecuniary punishment or ignominy.
12. to establish laws about honour and a scale of worth.

Hobbes explicitly rejects the idea of *Separation of Powers*, in particular the form that would later become the separation of powers under the United States Constitution.

Part 6 is perhaps an under-emphasised feature of Hobbes's argument: he is explicitly in favour of censorship of the press and restrictions on the rights of free speech should they be considered desirable by the sovereign to promote order.

Types of commonwealth

There are three (monarchy, aristocracy and democracy):

The difference of Commonwealths consisted in the difference of the sovereign, or the person representative of all and every one of the multitude. And because the sovereignty is either in one man, or in an assembly of more than one; and into that assembly either every man hath right to enter, or not every one, but certain men distinguished from the rest; it is manifest there can be but three kinds of Commonwealth. For the representative must needs be one man, or more; and if more, then it is the assembly of all, or but of a part. When the representative is one man, then is the Commonwealth a monarchy; when an assembly of all that will come together, then it is a democracy, or popular Commonwealth; when an assembly of a part only, then it is called an aristocracy.

And only three:

Other kind of Commonwealth there can be none: for either one, or more, or all, must have the sovereign power (which I have shown to be indivisible) entire. There be other names of government in the histories and books of policy; as tyranny and oligarchy; but they are not the names of other forms of government, but of the same forms misliked. For they that are discontented under monarchy call it tyranny; and they that are displeased with aristocracy call it oligarchy: so also, they which find themselves grieved under a democracy call it anarchy, which signifies want of government; and yet I think no man believes that want of government is any new kind of government: nor by the same reason ought they to believe that the government is of one kind when they like it, and another when they mislike it or are oppressed by the governors.

And monarchy is the best, on practical grounds:

The difference between these three kinds of Commonwealth consisteth not in the difference of power, but in the difference of convenience or aptitude to produce the peace and security of the people; for which end they were instituted. And to compare monarchy with the other two, we may observe: first, that whosoever beareth the person of the people, or is one of that assembly that bears it, beareth also his own natural person. And though he be careful in his politic person to procure the common interest, yet he is more, or no less, careful to procure the private good of himself, his family, kindred and friends; and for the most part, if the public interest chance to cross the private, he prefers the private: for the passions of men are commonly more potent than their reason. From whence it follows that where the public and private interest are most closely united, there is the public most advanced. Now in monarchy the private interest is the same with the public. The riches, power, and honour of a monarch arise only from the riches, strength, and reputation of his subjects. For no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak through want, or dissension, to maintain a war against their enemies; whereas in a democracy, or aristocracy, the public prosperity confers not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a civil war.

Succession

The right of succession always lies with the sovereign. Democracies and aristocracies have easy succession; monarchy is harder:

The greatest difficulty about the right of succession is in monarchy:

and the difficulty ariseth from this, that at first sight, it is not manifest who is to appoint the successor; nor many times who it is whom he hath appointed. For in both

these cases, there is required a more exact ratiocination than every man is accustomed to use.
Because in general people haven't thought carefully. However, the succession is definitely in the gift of the monarch:
As to the question who shall appoint the successor of a monarch that hath the sovereign authority... we are to consider that either he that is in possession has right to dispose of the succession, or else that right is again in the dissolved multitude. ... Therefore it is manifest that by the institution of monarchy, the disposing of the successor is always left to the judgement and will of the present possessor.
But, it is not always obvious who the monarch has appointed:
And for the question which may arise sometimes, who it is that the monarch in possession hath designed to the succession and inheritance of his power
However, the answer is:
it is determined by his express words and testament; or by other tacit signs sufficient.
And this means:
By express words, or testament, when it is declared by him in his lifetime, viva voce, or by writing; as the first emperors of Rome declared who should be their heirs.
Note that (perhaps rather radically) this does **not** have to be any blood relative:
For the word heir does not of itself imply the children or nearest kindred of a man; but whomsoever a man shall any way declare he would have to succeed him in his estate. If therefore a monarch declare expressly that such a man shall be his heir, either by word or writing, then is that man immediately after the decease of his predecessor invested in the right of being monarch.
However, practically this means:
But where testament and express words are wanting, other natural signs of the will are to be followed: whereof the one is custom. And therefore where the custom is that the next of kindred absolutely succeedeth, there also the next of kindred hath right to the succession; for that, if the will of him that was in possession had been otherwise, he might easily have declared the same in his lifetime...
So we end up back at the first-born son, in practice.

Religion

In *Leviathan*, Hobbes explicitly states that the sovereign has authority to assert power over matters of faith and doctrine, and that if he does not do so, he invites discord. Hobbes presents his own religious theory, but states that he would defer to the will of the sovereign (when that was re-established: again, *Leviathan* was written during the Civil War) as to whether his theory was acceptable. Tuck argues that it further marks Hobbes as a supporter of the religious policy of the post-Civil War English republic, Independency.

Taxation

Thomas Hobbes also touched upon the sovereign's ability to tax in *Leviathan*, although he is not as widely cited for his economic theories as he is for his political theories. Hobbes believed that equal justice includes the equal imposition of taxes. The equality of taxes doesn't depend on equality of wealth, but on the equality of the debt that every man owes to the commonwealth for his defence and the maintenance of the rule of law. Hobbes also supported public support for those unable to maintain themselves by labour, which would presumably be funded by taxation. He advocated public encouragement of works of Navigation etc. to usefully employ the poor who could work.

5B. extent source text

OF COMMONWEALTH
CHAPTER XVII
OF THE CAUSES, GENERATION, AND DEFINITION OF A COMMONWEALTH

THE final cause, end, or design of men (who naturally love liberty, and dominion over others) in the introduction of that restraint upon themselves, in which we see them live in Commonwealths, is the foresight of their own preservation, and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of war which is necessarily consequent, as hath been shown, to the natural passions of men when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants, and observation of those laws of nature set down in the fourteenth and fifteenth chapters.

For the laws of nature, as justice, equity, modesty, mercy, and, in sum, doing to others as we would be done to, of themselves, without the terror of some power to cause them to be observed, are contrary to our natural passions, that carry us to partiality, pride, revenge, and the like. And covenants, without the sword, are but words and of no strength to secure a man at all. Therefore, notwithstanding the laws of nature (which every one hath then kept, when he has the will to keep them, when he can do it safely), if there be no power erected, or not great enough for our security, every man will and may lawfully rely on his own strength and art for caution against all other men. And in all places, where men have lived by small families, to rob and spoil one another has been a trade, and so far from being reputed against the law of nature that the greater spoils they gained, the greater was their honour; and men observed no other laws therein but the laws of honour; that is, to abstain from cruelty, leaving to men their lives and instruments of husbandry. And as small families did then; so now do cities and kingdoms, which are but greater families (for their own security), enlarge their dominions upon all pretences of danger, and fear of invasion, or assistance that may be given to invaders; endeavour as much as they can to subdue or weaken their neighbours by open force, and secret arts, for want of other caution, justly; and are remembered for it in after ages with honour.

Nor is it the joining together of a small number of men that gives them this security; because in small numbers, small additions on the one side or the other make the advantage of strength so great as is sufficient to carry the victory, and therefore gives encouragement to an invasion. The multitude sufficient to confide in for our security is not determined by any certain number, but by comparison with the enemy we fear; and is then sufficient when the odds of the enemy is not of so visible and conspicuous moment to determine the event of war, as to move him to attempt.

And be there never so great a multitude; yet if their actions be directed according to their particular judgements, and particular appetites, they can expect thereby no defence, nor protection, neither against a common enemy, nor against the injuries of one another. For being distracted in opinions concerning the best use and application of their strength, they do not help, but hinder one another, and reduce their strength by mutual opposition to nothing: whereby they are easily, not only subdued by a very few that agree together, but also, when there is no common enemy, they make war upon each other for their particular interests. For if we could suppose a great multitude of men to consent in the observation of justice, and other laws of nature, without a common power to keep them all in awe, we might as well suppose all mankind to do the same; and then there neither would be, nor need to be, any civil government or Commonwealth at all, because there would be peace without subjection.

Nor is it enough for the security, which men desire should last all the time of their

life, that they be governed and directed by one judgement for a limited time; as in one battle, or one war. For though they obtain a victory by their unanimous endeavour against a foreign enemy, yet afterwards, when either they have no common enemy, or he that by one part is held for an enemy is by another part held for a friend, they must needs by the difference of their interests dissolve, and fall again into a war amongst themselves.

It is true that certain living creatures, as bees and ants, live sociably one with another (which are therefore by Aristotle numbered amongst political creatures), and yet have no other direction than their particular judgements and appetites; nor speech, whereby one of them can signify to another what he thinks expedient for the common benefit: and therefore some man may perhaps desire to know why mankind cannot do the same. To which I answer,

First, that men are continually in competition for honour and dignity, which these creatures are not; and consequently amongst men there ariseth on that ground, envy, and hatred, and finally war; but amongst these not so.

Secondly, that amongst these creatures the common good differeth not from the private; and being by nature inclined to their private, they procure thereby the common benefit. But man, whose joy consisteth in comparing himself with other men, can relish nothing but what is eminent.

Thirdly, that these creatures, having not, as man, the use of reason, do not see, nor think they see, any fault in the administration of their common business: whereas amongst men there are very many that think themselves wiser and abler to govern the public better than the rest, and these strive to reform and innovate, one this way, another that way; and thereby bring it into distraction and civil war.

Fourthly, that these creatures, though they have some use of voice in making known to one another their desires and other affections, yet they want that art of words by which some men can represent to others that which is good in the likeness of evil; and evil, in the likeness of good; and augment or diminish the apparent greatness of good and evil, discontenting men and troubling their peace at their pleasure.

Fifthly, irrational creatures cannot distinguish between injury and damage; and therefore as long as they be at ease, they are not offended with their fellows: whereas man is then most troublesome when he is most at ease; for then it is that he loves to show his wisdom, and control the actions of them that govern the Commonwealth.

Lastly, the agreement of these creatures is natural; that of men is by covenant only, which is artificial: and therefore it is no wonder if there be somewhat else required, besides covenant, to make their agreement constant and lasting; which is a common power to keep them in awe and to direct their actions to the common benefit.

The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another, and thereby to secure them in such sort as that by their own industry and by the fruits of the earth they may nourish themselves and live contentedly, is to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and every one to own and acknowledge himself to be author of whatsoever he that so beareth their person shall act, or cause to be acted, in those things which concern the common peace and safety; and therein to submit their wills, every one to his will, and their judgements to his judgement. This is more than consent, or concord; it is a real unity of them all in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man: I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou give up, thy right to him, and authorise all his actions in like manner. This done, the multitude so united in one person is called a COMMONWEALTH; in Latin, CIVITAS. This

is the generation of that great LEVIATHAN, or rather, to speak more reverently, of that mortal god to which we owe, under the immortal God, our peace and defence. For by this authority, given him by every particular man in the Commonwealth, he hath the use of so much power and strength conferred on him that, by terror thereof, he is enabled to form the wills of them all, to peace at home, and mutual aid against their enemies abroad. And in him consisteth the essence of the Commonwealth; which, to define it, is: one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all as he shall think expedient for their peace and common defence.

And he that carryeth this person is called sovereign, and said to have sovereign power; and every one besides, his subject.

The attaining to this sovereign power is by two ways. One, by natural force: as when a man maketh his children to submit themselves, and their children, to his government, as being able to destroy them if they refuse; or by war subdueth his enemies to his will, giving them their lives on that condition. The other, is when men agree amongst themselves to submit to some man, or assembly of men, voluntarily, on confidence to be protected by him against all others. This latter may be called a political Commonwealth, or Commonwealth by Institution; and the former, a Commonwealth by acquisition. And first, I shall speak of a Commonwealth by institution.

CHAPTER XVIII
OF THE RIGHTS OF SOVEREIGNS BY INSTITUTION

A COMMONWEALTH is said to be instituted when a multitude of men do agree, and covenant, every one with every one, that to whatsoever man, or assembly of men, shall be given by the major part the right to present the person of them all, that is to say, to be their representative; every one, as well he that voted for it as he that voted against it, shall authorize all the actions and judgements of that man, or assembly of men, in the same manner as if they were his own, to the end to live peaceably amongst themselves, and be protected against other men.

From this institution of a Commonwealth are derived all the rights and faculties of him, or them, on whom the sovereign power is conferred by the consent of the people assembled.

First, because they covenant, it is to be understood they are not obliged by former covenant to anything repugnant hereunto. And consequently they that have already instituted a Commonwealth, being thereby bound by covenant to own the actions and judgements of one, cannot lawfully make a new covenant amongst themselves to be obedient to any other, in anything whatsoever, without his permission. And therefore, they that are subjects to a monarch cannot without his leave cast off monarchy and return to the confusion of a disunited multitude; nor transfer their person from him that beareth it to another man, other assembly of men: for they are bound, every man to every man, to own and be reputed author of all that already is their sovereign shall do and judge fit to be done; so that any one man dissenting, all the rest should break their covenant made to that man, which is injustice: and they have also every man given the sovereignty to him that beareth their person; and therefore if they depose him, they take from him that which is his own, and so again it is injustice. Besides, if he that attempteth to depose his sovereign be killed or punished by him for such attempt, he is author of his own punishment, as being, by the institution, author of all his sovereign shall do; and because it is injustice for a man to do anything for which he may be punished by his own authority, he is also upon that title unjust. And whereas some men have pretended for their disobedience to their sovereign a new covenant, made, not with men but with God, this also is

unjust: for there is no covenant with God but by mediation of somebody that representeth God's person, which none doth but God's lieutenant who hath the sovereignty under God. But this pretence of covenant with God is so evident a lie, even in the pretenders' own consciences, that it is not only an act of an unjust, but also of a vile and unmanly disposition.

Secondly, because the right of bearing the person of them all is given to him they make sovereign, by covenant only of one to another, and not of him to any of them, there can happen no breach of covenant on the part of the sovereign; and consequently none of his subjects, by any pretence of forfeiture, can be freed from his subjection. That he which is made sovereign maketh no covenant with his subjects before hand is manifest; because either he must make it with the whole multitude, as one party to the covenant, or he must make a several covenant with every man. With the whole, as one party, it is impossible, because as they are not one person: and if he make so many several covenants as there be men, those covenants after he hath the sovereignty are void; because what act soever can be pretended by any one of them for breach thereof is the act both of himself, and of all the rest, because done in the person, and by the right of every one of them in particular. Besides, if any one or more of them pretend a breach of the covenant made by the sovereign at his institution, and others or one other of his subjects, or himself alone, pretend there was no such breach, there is in this case no judge to decide the controversy: it returns therefore to the sword again; and every man recovereth the right of protecting himself by his own strength, contrary to the design they had in the institution. It is therefore in vain to grant sovereignty by way of precedent covenant. The opinion that any monarch receiveth his power by covenant, that is to say, on condition, proceedeth from want of understanding this easy truth: that covenants being but words, and breath, have no force to oblige, contain, constrain, or protect any man, but what it has from the public sword; that is, from the untied hands of that man, or assembly of men, that hath the sovereignty, and whose actions are avouched by them all, and performed by the strength of them all, in him united. But when an assembly of men is made sovereign, then no man imagineth any such covenant to have passed in the institution: for no man is so dull as to say, for example, the people of Rome made a covenant with the Romans to hold the sovereignty on such or such conditions; which not performed, the Romans might lawfully depose the Roman people. That men see not the reason to be alike in a monarchy and in a popular government proceedeth from the ambition of some that are kinder to the government of an assembly, whereof they may hope to participate, than of monarchy, which they despair to enjoy.

Thirdly, because the major part hath by consenting voices declared a sovereign, he that dissented must now consent with the rest; that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest. For if he voluntarily entered into the congregation of them that were assembled, he sufficiently declared thereby his will, and therefore tacitly covenanted, to stand to what the major part should ordain: and therefore if he refuse to stand thereto, or make protestation against any of their decrees, he does contrary to his covenant, and therefore unjustly. And whether he be of the congregation or not, and whether his consent be asked or not, he must either submit to their decrees or be left in the condition of war he was in before; wherein he might without injustice be destroyed by any man whatsoever.

Fourthly, because every subject is by this institution author of all the actions and judgements of the sovereign instituted, it follows that whatsoever he doth, can be no injury to any of his subjects; nor ought he to be by any of them accused of injustice. For he that doth anything by authority from another doth therein no injury to him by whose authority he acteth: but by this institution of a Commonwealth every particular man is author of all the sovereign doth; and consequently he that

complaineth of injury from his sovereign complaineth of that whereof he himself is author, and therefore ought not to accuse any man but himself; no, nor himself of injury, because to do injury to oneself is impossible. It is true that they that have sovereign power may commit iniquity, but not injustice or injury in the proper signification.

Fifthly, and consequently to that which was said last, no man that hath sovereign power can justly be put to death, or otherwise in any manner by his subjects punished. For seeing every subject is author of the actions of his sovereign, he punisheth another for the actions committed by himself.

And because the end of this institution is the peace and defence of them all, and whosoever has right to the end has right to the means, it belonged of right to whatsoever man or assembly that hath the sovereignty to be judge both of the means of peace and defence, and also of the hindrances and disturbances of the same; and to do whatsoever he shall think necessary to be done, both beforehand, for the preserving of peace and security, by prevention of discord at home, and hostility from abroad; and when peace and security are lost, for the recovery of the same. And therefore,

Sixthly, it is annexed to the sovereignty to be judge of what opinions and doctrines are averse, and what conducing to peace; and consequently, on what occasions, how far, and what men are to be trusted withal in speaking to multitudes of people; and who shall examine the doctrines of all books before they be published. For the actions of men proceed from their opinions, and in the well governing of opinions consisteth the well governing of men's actions in order to their peace and concord. And though in matter of doctrine nothing to be regarded but the truth, yet this is not repugnant to regulating of the same by peace. For doctrine repugnant to peace can no more be true, than peace and concord can be against the law of nature. It is true that in a Commonwealth, where by the negligence or unskillfulness of governors and teachers false doctrines are by time generally received, the contrary truths may be generally offensive: yet the most sudden and rough bustling in of a new truth that can be does never break the peace, but only sometimes awake the war. For those men that are so remissly governed that they dare take up arms to defend or introduce an opinion are still in war; and their condition, not peace, but only a cessation of arms for fear of one another; and they live, as it were, in the procincts of battle continually. It belonged therefore to him that hath the sovereign power to be judge, or constitute all judges of opinions and doctrines, as a thing necessary to peace; thereby to prevent discord and civil war.

Seventhly, is annexed to the sovereignty the whole power of prescribing the rules whereby every man may know what goods he may enjoy, and what actions he may do, without being molested by any of his fellow subjects: and this is it men call propriety. For before constitution of sovereign power, as hath already been shown, all men had right to all things, which necessarily causeth war: and therefore this propriety, being necessary to peace, and depending on sovereign power, is the act of that power, in order to the public peace. These rules of propriety (or meum and tuum) and of good, evil, lawful, and unlawful in the actions of subjects are the civil laws; that is to say, the laws of each Commonwealth in particular; though the name of civil law be now restrained to the ancient civil laws of the city of Rome; which being the head of a great part of the world, her laws at that time were in these parts the civil law.

Eighthly, is annexed to the sovereignty the right of judicature; that is to say, of hearing and deciding all controversies which may arise concerning law, either civil or natural, or concerning fact. For without the decision of controversies, there is no protection of one subject against the injuries of another; the laws concerning meum and tuum are in vain, and to every man remaineth, from the natural and necessary appetite of his own conservation, the right of protecting himself by his private

strength, which is the condition of war, and contrary to the end for which every Commonwealth is instituted.

Ninthly, is annexed to the sovereignty the right of making war and peace with other nations and Commonwealths; that is to say, of judging when it is for the public good, and how great forces are to be assembled, armed, and paid for that end, and to levy money upon the subjects to defray the expenses thereof. For the power by which the people are to be defended consisteth in their armies, and the strength of an army in the union of their strength under one command; which command the sovereign instituted, therefore hath, because the command of the militia, without other institution, maketh him that hath it sovereign. And therefore, whosoever is made general of an army, he that hath the sovereign power is always generalissimo.

Tenthly, is annexed to the sovereignty the choosing of all counsellors, ministers, magistrates, and officers, both in peace and war. For seeing the sovereign is charged with the end, which is the common peace and defence, he is understood to have power to use such means as he shall think most fit for his discharge.

Eleventhly, to the sovereign is committed the power of rewarding with riches or honour; and of punishing with corporal or pecuniary punishment, or with ignominy, every subject according to the law he hath formerly made; or if there be no law made, according as he shall judge most to conduce to the encouraging of men to serve the Commonwealth, or deterring of them from doing disservice to the same.

Lastly, considering what values men are naturally apt to set upon themselves, what respect they look for from others, and how little they value other men; from whence continually arise amongst them, emulation, quarrels, factions, and at last war, to the destroying of one another, and diminution of their strength against a common enemy; it is necessary that there be laws of honour, and a public rate of the worth of such men as have deserved or are able to deserve well of the Commonwealth, and that there be force in the hands of some or other to put those laws in execution. But it hath already been shown that not only the whole militia, or forces of the Commonwealth, but also the judicature of all controversies, is annexed to the sovereignty. To the sovereign therefore it belonged also to give titles of honour, and to appoint what order of place and dignity each man shall hold, and what signs of respect in public or private meetings they shall give to one another.

These are the rights which make the essence of sovereignty, and which are the marks whereby a man may discern in what man, or assembly of men, the sovereign power is placed and resideth. For these are incommunicable and inseparable. The power to coin money, to dispose of the estate and persons of infant heirs, to have pre-emption in markets, and all other statute prerogatives may be transferred by the sovereign, and yet the power to protect his subjects be retained. But if he transfer the militia, he retains the judicature in vain, for want of execution of the laws; or if he grant away the power of raising money, the militia is in vain; or if he give away the government of doctrines, men will be frighted into rebellion with the fear of spirits. And so if we consider any one of the said rights, we shall presently see that the holding of all the rest will produce no effect in the conservation of peace and justice, the end for which all Commonwealths are instituted. And this division is it whereof it is said, a kingdom divided in itself cannot stand: for unless this division precede, division into opposite armies can never happen. If there had not first been an opinion received of the greatest part of England that these powers were divided between the King and the Lords and the House of Commons, the people had never been divided and fallen into this Civil War; first between those that disagreed in politics, and after between the dissenters about the liberty of religion, which have so instructed men in this point of sovereign right that there be few now in England that do not see that these rights are inseparable, and will be so generally acknowledged at the next return of peace; and so continue, till their miseries are forgotten, and no longer, except the vulgar be better taught than they have hitherto

been.
And because they are essential and inseparable rights, it follows necessarily that in whatsoever words any of them seem to be granted away, yet if the sovereign power itself be not in direct terms renounced and the name of sovereign no more given by the grantees to him that grants them, the grant is void: for when he has granted all he can, if we grant back the sovereignty, all is restored, as inseparably annexed thereunto.
This great authority being indivisible, and inseparably annexed to the sovereignty, there is little ground for the opinion of them that say of sovereign kings, though they be singulis majores, of greater power than every one of their subjects, yet they be universis minores, of less power than them all together. For if by all together, they mean not the collective body as one person, then all together and every one signify the same; and the speech is absurd. But if by all together, they understand them as one person (which person the sovereign bears), then the power of all together is the same with the sovereign's power; and so again the speech is absurd: which absurdity they see well enough when the sovereignty is in an assembly of the people; but in a monarch they see it not; and yet the power of sovereignty is the same in whomsoever it be placed.
And as the power, so also the honour of the sovereign, ought to be greater than that of any or all the subjects. For in the sovereignty is the fountain of honour. The dignities of lord, earl, duke, and prince are his creatures. As in the presence of the master, the servants are equal, and without any honour at all; so are the subjects, in the presence of the sovereign. And though they shine some more, some less, when they are out of his sight; yet in his presence, they shine no more than the stars in presence of the sun.
But a man may here object that the condition of subjects is very miserable, as being obnoxious to the lusts and other irregular passions of him or them that have so unlimited a power in their hands. And commonly they that live under a monarch think it the fault of monarchy; and they that live under the government of democracy, or other sovereign assembly, attribute all the inconvenience to that form of Commonwealth; whereas the power in all forms, if they be perfect enough to protect them, is the same: not considering that the estate of man can never be without some incommodity or other; and that the greatest that in any form of government can possibly happen to the people in general is scarce sensible, in respect of the miseries and horrible calamities that accompany a civil war, or that dissolute condition of masterless men without subjection to laws and a coercive power to tie their hands from rapine and revenge: nor considering that the greatest pressure of sovereign governors proceedeth, not from any delight or profit they can expect in the damage weakening of their subjects, in whose vigour consisteth their own strength and glory, but in the restiveness of themselves that, unwillingly contributing to their own defence, make it necessary for their governors to draw from them what they can in time of peace that they may have means on any emergent occasion, or sudden need, to resist or take advantage on their enemies. For all men are by nature provided of notable multiplying glasses (that is their passions and self-love) through which every little payment appeareth a great grievance, but are destitute of those prospective glasses (namely moral and civil science) to see afar off the miseries that hang over them and cannot without such payments be avoided.

CHAPTER XIX
OF THE SEVERAL KINDS OF COMMONWEALTH BY INSTITUTION, AND OF SUCCESSION TO THE SOVEREIGN POWER

THE difference of Commonwealths consisteth in the difference of the sovereign, or the person representative of all and every one of the multitude. And because the

sovereignty is either in one man, or in an assembly of more than one; and into that assembly either every man hath right to enter, or not every one, but certain men distinguished from the rest; it is manifest there can be but three kinds of Commonwealth. For the representative must needs be one man, or more; and if more, then it is the assembly of all, or but of a part. When the representative is one man, then is the Commonwealth a monarchy; when an assembly of all that will come together, then it is a democracy, or popular Commonwealth; when an assembly of a part only, then it is called an aristocracy. Other kind of Commonwealth there can be none: for either one, or more, or all, must have the sovereign power (which I have shown to be indivisible) entire.

There be other names of government in the histories and books of policy; as tyranny and oligarchy; but they are not the names of other forms of government, but of the same forms misliked. For they that are discontented under monarchy call it tyranny; and they that are displeased with aristocracy call it oligarchy: so also, they which find themselves grieved under a democracy call it anarchy, which signifies want of government; and yet I think no man believes that want of government is any new kind of government: nor by the same reason ought they to believe that the government is of one kind when they like it, and another when they mislike it or are oppressed by the governors.

It is manifest that men who are in absolute liberty may, if they please, give authority to one man to represent them every one, as well as give such authority to any assembly of men whatsoever; and consequently may subject themselves, if they think good, to a monarch as absolutely as to other representative. Therefore, where there is already erected a sovereign power, there can be no other representative of the same people, but only to certain particular ends, by the sovereign limited. For that were to erect two sovereigns; and every man to have his person represented by two actors that, by opposing one another, must needs divide that power, which (if men will live in peace) is indivisible; and thereby reduce the multitude into the condition of war, contrary to the end for which all sovereignty is instituted. And therefore as it is absurd to think that a sovereign assembly, inviting the people of their dominion to send up their deputies with power to make known their advice or desires should therefore hold such deputies, rather than themselves, for the absolute representative of the people; so it is absurd also to think the same in a monarchy. And I know not how this so manifest a truth should of late be so little observed: that in a monarchy he that had the sovereignty from a descent of six hundred years was alone called sovereign, had the title of Majesty from every one of his subjects, and was unquestionably taken by them for their king, was notwithstanding never considered as their representative; that name without contradiction passing for the title of those men which at his command were sent up by the people to carry their petitions and give him, if he permitted it, their advice. Which may serve as an admonition for those that are the true and absolute representative of a people, to instruct men in the nature of that office, and to take heed how they admit of any other general representation upon any occasion whatsoever, if they mean to discharge the trust committed to them.

The difference between these three kinds of Commonwealth consisteth, not in the difference of power, but in the difference of convenience or aptitude to produce the peace and security of the people; for which end they were instituted. And to compare monarchy with the other two, we may observe: first, that whosoever beareth the person of the people, or is one of that assembly that bears it, beareth also his own natural person. And though he be careful in his politic person to procure the common interest, yet he is more, or no less, careful to procure the private good of himself, his family, kindred and friends; and for the most part, if the public interest chance to cross the private, he prefers the private: for the passions of men are commonly more potent than their reason. From whence it follows that where the

public and private interest are most closely united, there is the public most advanced. Now in monarchy the private interest is the same with the public. The riches, power, and honour of a monarch arise only from the riches, strength, and reputation of his subjects. For no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak through want, or dissension, to maintain a war against their enemies; whereas in a democracy, or aristocracy, the public prosperity confers not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a civil war.

Secondly, that a monarch receiveth counsel of whom, when, and where he pleaseth; and consequently may hear the opinion of men versed in the matter about which he deliberates, of what rank or quality soever, and as long before the time of action and with as much secrecy as he will. But when a sovereign assembly has need of counsel, none are admitted but such as have a right thereto from the beginning; which for the most part are of those who have been versed more in the acquisition of wealth than of knowledge, and are to give their advice in long discourses which may, and do commonly, excite men to action, but not govern them in it. For the understanding is by the flame of the passions never enlightened, but dazzled: nor is there any place or time wherein an assembly can receive counsel secrecy, because of their own multitude.

Thirdly, that the resolutions of a monarch are subject to no other inconstancy than that of human nature; but in assemblies, besides that of nature, there ariseth an inconstancy from the number. For the absence of a few that would have the resolution, once taken, continue firm (which may happen by security, negligence, or private impediments), or the diligent appearance of a few of the contrary opinion, undoes today all that was concluded yesterday.

Fourthly, that a monarch cannot disagree with himself, out of envy or interest; but an assembly may; and that to such a height as may produce a civil war.

Fifthly, that in monarchy there is this inconvenience; that any subject, by the power of one man, for the enriching of a favourite or flatterer, may be deprived of all he possesseth; which I confess is a great an inevitable inconvenience. But the same may as well happen where the sovereign power is in an assembly: for their power is the same; and they are as subject to evil counsel, and to be seduced by orators, as a monarch by flatterers; and becoming one another's flatterers, serve one another's covetousness and ambition by turns. And whereas the favourites of monarchs are few, and they have none else to advance but their own kindred; the favourites of an assembly are many, and the kindred much more numerous than of any monarch. Besides, there is no favourite of a monarch which cannot as well succour his friends as hurt his enemies: but orators, that is to say, favourites of sovereign assemblies, though they have great power to hurt, have little to save. For to accuse requires less eloquence (such is man's nature) than to excuse; and condemnation, than absolution, more resembles justice.

Sixthly, that it is an inconvenience in monarchy that the sovereignty may descend upon an infant, or one that cannot discern between good and evil: and consisteth in this, that the use of his power must be in the hand of another man, or of some assembly of men, which are to govern by his right and in his name as curators and protectors of his person and authority. But to say there is inconvenience in putting the use of the sovereign power into the hand of a man, or an assembly of men, is to say that all government is more inconvenient than confusion and civil war. And therefore all the danger that can be pretended must arise from the contention of those that, for an office of so great honour and profit, may become competitors. To make it appear that this inconvenience proceedeth not from that form of government we call monarchy, we are to consider that the precedent monarch hath appointed who shall have the tuition of his infant successor, either expressly by testament, or tacitly by not controlling the custom in that case received: and then

such inconvenience, if it happen, is to be attributed, not to the monarchy, but to the ambition and injustice of the subjects, which in all kinds of government, where the people are not well instructed in their duty and the rights of sovereignty, is the same. Or else the precedent monarch hath not at all taken order for such tuition; and then the law of nature hath provided this sufficient rule, that the tuition shall be in him that hath by nature most interest in the preservation of the authority of the infant, and to whom least benefit can accrue by his death or diminution. For seeing every man by nature seeketh his own benefit and promotion, to put an infant into the power of those that can promote themselves by his destruction or damage is not tuition, but treachery. So that sufficient provision being taken against all just quarrel about the government under a child, if any contention arise to the disturbance of the public peace, it is not to be attributed to the form of monarchy, but to the ambition of subjects and ignorance of their duty. On the other side, there is no great Commonwealth, the sovereignty whereof is in a great assembly, which is not, as to consultations of peace, and war, and making of laws, in the same condition as if the government were in a child. For as a child wants the judgement to dissent from counsel given him, and is thereby necessitated to take the advice of them, or him, to whom he is committed; so an assembly wanteth the liberty to dissent from the counsel of the major part, be it good or bad. And as a child has need of a tutor, or protector, to preserve his person and authority; so also in great Commonwealths the sovereign assembly, in all great dangers and troubles, have need of custodes libertatis; that is, of dictators, or protectors of their authority; which are as much as temporary monarchs to whom for a time they may commit the entire exercise of their power; and have, at the end of that time, been oftener deprived thereof than infant kings by their protectors, regents, or any other tutors.

Though the kinds of sovereignty be, as I have now shown, but three; that is to say, monarchy, where one man has it; or democracy, where the general assembly of subjects hath it; or aristocracy, where it is in an assembly of certain persons nominated, or otherwise distinguished from the rest: yet he that shall consider the particular Commonwealths that have been and are in the world will not perhaps easily reduce them to three, and may thereby be inclined to think there be other forms arising from these mingled together. As for example, elective kingdoms; where kings have the sovereign power put into their hands for a time; or kingdoms wherein the king hath a power limited: which governments are nevertheless by most writers called monarchy. Likewise if a popular or aristocratical Commonwealth subdue an enemy's country, and govern the same by a president, procurator, or other magistrate, this may seem perhaps, at first sight, to be a democratical or aristocratical government. But it is not so. For elective kings are not sovereigns, but ministers of the sovereign; nor limited kings sovereigns, but ministers of them that have the sovereign power; nor are those provinces which are in subjection to a democracy or aristocracy of another Commonwealth democratically or aristocratically governed, but monarchically.

And first, concerning an elective king, whose power is limited to his life, as it is in many places of Christendom at this day; or to certain years or months, as the dictator's power amongst the Romans; if he have right to appoint his successor, he is no more elective but hereditary. But if he have no power to elect his successor, then there is some other man, or assembly known, which after his decease may elect a new; or else the Commonwealth dieth, and dissolveth with him, and returneth to the condition of war. If it be known who have the power to give the sovereignty after his death, it is known also that the sovereignty was in them before: for none have right to give that which they have not right to possess, and keep to themselves, if they think good. But if there be none that can give the sovereignty after the decease of him that was first elected, then has he power, nay he is obliged by the law of nature, to provide, by establishing his successor, to keep to those that had trusted him with

the government from relapsing into the miserable condition of civil war. And consequently he was, when elected, a sovereign absolute.

Secondly, that king whose power is limited is not superior to him, or them, that have the power to limit it; and he that is not superior is not supreme; that is to say, not sovereign. The sovereignty therefore was always in that assembly which had the right to limit him, and by consequence the government not monarchy, but either democracy or aristocracy; as of old time in Sparta, where the kings had a privilege to lead their armies, but the sovereignty was in the Ephori.

Thirdly, whereas heretofore the Roman people governed the land of Judea, for example, by a president; yet was not Judea therefore a democracy, because they were not governed by any assembly into which any of them had right to enter; nor by an aristocracy, because they were not governed by any assembly into which any man could enter by their election: but they were governed by one person, which though as to the people of Rome was an assembly of the people, or democracy; yet as to the people of Judea, which had no right at all of participating in the government, was a monarch. For though where the people are governed by an assembly, chosen by themselves out of their own number, the government is called a democracy, or aristocracy; yet when they are governed by an assembly not of their own choosing, it is a monarchy; not of one man over another man, but of one people over another people.

Of all these forms of government, the matter being mortal, so that not only monarchs, but also whole assemblies die, it is necessary for the conservation of the peace of men that as there was order taken for an artificial man, so there be order also taken for an artificial eternity of life; without which men that are governed by an assembly should return into the condition of war in every age; and they that are governed by one man, as soon as their governor dieth. This artificial eternity is that which men call the right of succession.

There is no perfect form of government, where the disposing of the succession is not in the present sovereign. For if it be in any other particular man, or private assembly, it is in a person subject, and may be assumed by the sovereign at his pleasure; and consequently the right is in himself. And if it be in no particular man, but left to a new choice; then is the Commonwealth dissolved, and the right is in him that can get it, contrary to the intention of them that did institute the Commonwealth for their perpetual, and not temporary, security.

In a democracy, the whole assembly cannot fail unless the multitude that are to be governed fail. And therefore questions of the right of succession have in that form of government no place at all.

In an aristocracy, when any of the assembly dieth, the election of another into his room belonged to the assembly, as the sovereign, to whom belonged the choosing of all counsellors and officers. For that which the representative doth, as actor, every one of the subjects doth, as author. And though the sovereign assembly may give power to others to elect new men, for supply of their court, yet it is still by their authority that the election is made; and by the same it may, when the public shall require it, be recalled.

The greatest difficulty about the right of succession is in monarchy: and the difficulty ariseth from this, that at first sight, it is not manifest who is to appoint the successor; nor many times who it is whom he hath appointed. For in both these cases, there is required a more exact ratiocination than every man is accustomed to use. As to the question who shall appoint the successor of a monarch that hath the sovereign authority; that is to say, who shall determine of the right of inheritance (for elective kings and princes have not the sovereign power in propriety, but in use only), we are to consider that either he that is in possession has right to dispose of the succession, or else that right is again in the dissolved multitude. For the death of him that hath the sovereign power in property leaves the multitude without any

sovereign at all; that is, without any representative in whom they should be united, and be capable of doing any one action at all: and therefore they are incapable of election of any new monarch, every man having equal right to submit himself to such as he thinks best able to protect him; or, if he can, protect himself by his own sword; which is a return to confusion and to the condition of a war of every man against every man, contrary to the end for which monarchy had its first institution. Therefore it is manifest that by the institution of monarchy, the disposing of the successor is always left to the judgement and will of the present possessor.

And for the question which may arise sometimes, who it is that the monarch in possession hath designed to the succession and inheritance of his power, it is determined by his express words and testament; or by other tacit signs sufficient.

By express words, or testament, when it is declared by him in his lifetime, viva voce, or by writing; as the first emperors of Rome declared who should be their heirs. For the word heir does not of itself imply the children or nearest kindred of a man; but whomsoever a man shall any way declare he would have to succeed him in his estate. If therefore a monarch declare expressly that such a man shall be his heir, either by word or writing, then is that man immediately after the decease of his predecessor invested in the right of being monarch.

But where testament and express words are wanting, other natural signs of the will are to be followed: whereof the one is custom. And therefore where the custom is that the next of kindred absolutely succeedeth, there also the next of kindred hath right to the succession; for that, if the will of him that was in possession had been otherwise, he might easily have declared the same in his lifetime. And likewise where the custom is that the next of the male kindred succeedeth, there also the right of succession is in the next of the kindred male, for the same reason. And so it is if the custom were to advance the female. For whatsoever custom a man may by a word control, and does not, it is a natural sign he would have that custom stand.

But where neither custom nor testament hath preceded, there it is to he understood; first, that a monarch's will is that the government remain monarchical, because he hath approved that government in himself. Secondly, that a child of his own, male or female, be preferred before any other, because men are presumed to be more inclined by nature to advance their own children than the children of other men; and of their own, rather a male than a female, because men are naturally fitter than women for actions of labour and danger. Thirdly, where his own issue faileth, rather a brother than a stranger, and so still the nearer in blood rather than the more remote, because it is always presumed that the nearer of kin is the nearer in affection; and it is evident that a man receives always, by reflection, the most honour from the greatness of his nearest kindred.

But if it be lawful for a monarch to dispose of the succession by words of contract, or testament, men may perhaps object a great inconvenience: for he may sell or give his right of governing to a stranger; which, because strangers (that is, men not used to live under the same government, nor speaking the same language) do commonly undervalue one another, may turn to the oppression of his subjects, which is indeed a great inconvenience: but it proceedeth not necessarily from the subjection to a stranger's government, but from the unskillfulness of the governors, ignorant of the true rules of politics. And therefore the Romans, when they had subdued many nations, to make their government digestible were wont to take away that grievance as much as they thought necessary by giving sometimes to whole nations, and sometimes to principal men of every nation they conquered, not only the privileges, but also the name of Romans; and took many of them into the Senate, and offices of charge, even in the Roman city. And this was it our most wise king, King James, aimed at in endeavouring the union of his two realms of England and Scotland. Which, if he could have obtained, had in all likelihood prevented the civil wars which both those kingdoms, at this present, miserable. It is not therefore any injury

to the people for a monarch to dispose of the succession by will; though by the fault of many princes, it hath been sometimes found inconvenient. Of the lawfulness of it, this also is an argument; that whatsoever inconvenience can arrive by giving a kingdom to a stranger, may arrive also by so marrying with strangers, as the right of succession may descend upon them: yet this by all men is accounted lawful.

CHAPTER XX
OF DOMINION PATERNAL AND DESPOTICAL

A COMMONWEALTH by acquisition is that where the sovereign power is acquired by force; and it is acquired by force when men singly, or many together by plurality of voices, for fear of death, or bonds, do authorise all the actions of that man, or assembly, that hath their lives and liberty in his power.

And this kind of dominion, or sovereignty, differeth from sovereignty by institution only in this, that men who choose their sovereign do it for fear of one another, and not of him whom they institute: but in this case, they subject themselves to him they are afraid of. In both cases they do it for fear: which is to be noted by them that hold all such covenants, as proceed from fear of death or violence, void: which, if it were true, no man in any kind of Commonwealth could be obliged to obedience. It is true that in a Commonwealth once instituted, or acquired, promises proceeding from fear of death or violence are no covenants, nor obliging, when the thing promised is contrary to the laws; but the reason is not because it was made upon fear, but because he that promiseth hath no right in the thing promised. Also, when he may lawfully perform, and doth not, it is not the invalidity of the covenant that absolveth him, but the sentence of the sovereign. Otherwise, whensoever a man lawfully promiseth, he unlawfully breaketh: but when the sovereign, who is the actor, acquitteth him, then he is acquitted by him that extorted the promise, as by the author of such absolution.

But the rights and consequences of sovereignty are the same in both. His power cannot, without his consent, be transferred to another: he cannot forfeit it: he cannot be accused by any of his subjects of injury: he cannot be punished by them: he is judge of what is necessary for peace, and judge of doctrines: he is sole legislator, and supreme judge of controversies, and of the times and occasions of war and peace: to him it belonged to choose magistrates, counsellors, commanders, and all other officers and ministers; and to determine of rewards and punishments, honour and order. The reasons whereof are the same which are alleged in the precedent chapter for the same rights and consequences of sovereignty by institution.

Dominion is acquired two ways: by generation and by conquest. The right of dominion by generation is that which the parent hath over his children, and is called paternal. And is not so derived from the generation, as if therefore the parent had dominion over his child because he begat him, but from the child's consent, either express or by other sufficient arguments declared. For as to the generation, God hath ordained to man a helper, and there be always two that are equally parents: the dominion therefore over the child should belong equally to both, and he be equally subject to both, which is impossible; for no man can obey two masters. And whereas some have attributed the dominion to the man only, as being of the more excellent sex, they misreckon in it. For there is not always that difference of strength or prudence between the man and the woman as that the right can be determined without war. In Commonwealths this controversy is decided by the civil law: and for the most part, but not always, the sentence is in favour of the father, because for the most part Commonwealths have been erected by the fathers, not by the mothers of families. But the question lieth now in the state of mere nature where there are supposed no laws of matrimony, no laws for the education of children, but the law of nature and the natural inclination of the sexes, one to another, and to their children. In this condition of mere nature, either the parents between

themselves dispose of the dominion over the child by contract, or do not dispose thereof at all. If they dispose thereof, the right passeth according to the contract. We find in history that the Amazons contracted with the men of the neighbouring countries, to whom they had recourse for issue, that the issue male should be sent back, but the female remain with themselves: so that the dominion of the females was in the mother.

If there be no contract, the dominion is in the mother. For in the condition of mere nature, where there are no matrimonial laws, it cannot be known who is the father unless it be declared by the mother; and therefore the right of dominion over the child dependeth on her will, and is consequently hers. Again, seeing the infant is first in the power of the mother, so as she may either nourish or expose it; if she nourish it, it oweth its life to the mother, and is therefore obliged to obey her rather than any other; and by consequence the dominion over it is hers. But if she expose it, and another find and nourish it, dominion is in him that nourisheth it. For it ought to obey him by whom it is preserved, because preservation of life being the end for which one man becomes subject to another, every man is supposed to promise obedience to him in whose power it is to save or destroy him.

If the mother be the father's subject, the child is in the father's power; and if the father be the mother's subject (as when a sovereign queen marrieth one of her subjects), the child is subject to the mother, because the father also is her subject.

If a man and a woman, monarchs of two several kingdoms, have a child, and contract concerning who shall have the dominion of him, the right of the dominion passeth by the contract. If they contract not, the dominion followeth the dominion of the place of his residence. For the sovereign of each country hath dominion over all that reside therein.

He that hath the dominion over the child hath dominion also over the children of the child, and over their children's children. For he that hath dominion over the person of a man hath dominion over all that is his, without which dominion were but a title without the effect.

The right of succession to paternal dominion proceedeth in the same manner as doth the right of succession to monarchy, of which I have already sufficiently spoken in the precedent chapter.

Dominion acquired by conquest, or victory in war, is that which some writers call despotical from Despotes, which signifieth a lord or master, and is the dominion of the master over his servant. And this dominion is then acquired to the victor when the vanquished, to avoid the present stroke of death, covenanteth, either in express words or by other sufficient signs of the will, that so long as his life and the liberty of his body is allowed him, the victor shall have the use thereof at his pleasure. And after such covenant made, the vanquished is a servant, and not before: for by the word servant (whether it be derived from servire, to serve, or from servare, to save, which I leave to grammarians to dispute) is not meant a captive, which is kept in prison, or bonds, till the owner of him that took him, or bought him of one that did, shall consider what to do with him: for such men, commonly called slaves, have no obligation at all; but may break their bonds, or the prison; and kill, or carry away captive their master, justly: but one that, being taken, hath corporal liberty allowed him; and upon promise not to run away, nor to do violence to his master, is trusted by him.

It is not therefore the victory that giveth the right of dominion over the vanquished, but his own covenant. Nor is he obliged because he is conquered; that is to say, beaten, and taken, or put to flight; but because he cometh in and submitteth to the victor; nor is the victor obliged by an enemy's rendering himself, without promise of life, to spare him for this his yielding to discretion; which obliges not the victor longer than in his own discretion he shall think fit.

And that which men do when they demand, as it is now called, quarter (which the

Greeks called Zogria, taking alive) is to evade the present fury of the victor by submission, and to compound for their life with ransom or service: and therefore he that hath quarter hath not his life given, but deferred till further deliberation; for it is not a yielding on condition of life, but to discretion. And then only is his life in security, and his service due, when the victor hath trusted him with his corporal liberty. For slaves that work in prisons, or fetters, do it not of duty, but to avoid the cruelty of their task-masters.

The master of the servant is master also of all he hath, and may exact the use thereof; that is to say, of his goods, of his labour, of his servants, and of his children, as often as he shall think fit. For he holdeth his life of his master by the covenant of obedience; that is, of owning and authorising whatsoever the master shall do. And in case the master, if he refuse, kill him, or cast him into bonds, or otherwise punish him for his disobedience, he is himself the author of the same, and cannot accuse him of injury.

In sum, the rights and consequences of both paternal and despotical dominion are the very same with those of a sovereign by institution; and for the same reasons: which reasons are set down in the precedent chapter. So that for a man that is monarch of diverse nations, he hath in one the sovereignty by institution of the people assembled, and in another by conquest; that is by the submission of each particular, to avoid death or bonds; to demand of one nation more than of the other, from the title of conquest, as being a conquered nation, is an act of ignorance of the rights of sovereignty. For the sovereign is absolute over both alike; or else there is no sovereignty at all, and so every man may lawfully protect himself, if he can, with his own sword, which is the condition of war.

By this it appears that a great family, if it be not part of some Commonwealth, is of itself, as to the rights of sovereignty, a little monarchy; whether that family consist of a man and his children, or of a man and his servants, or of a man and his children and servants together; wherein the father or master is the sovereign. But yet a family is not properly a Commonwealth, unless it be of that power by its own number, or by other opportunities, as not to be subdued without the hazard of war. For where a number of men are manifestly too weak to defend themselves united, every one may use his own reason in time of danger to save his own life, either by flight, or by submission to the enemy, as he shall think best; in the same manner as a very small company of soldiers, surprised by an army, may cast down their arms and demand quarter, or run away rather than be put to the sword. And thus much shall suffice concerning what I find by speculation, and deduction, of sovereign rights, from the nature, need, and designs of men in erecting of Commonwealths, and putting themselves under monarchs or assemblies entrusted with power enough for their protection.

Let us now consider what the Scripture teacheth in the same point. To Moses the children of Israel say thus: "Speak thou to us, and we will hear thee; but let not God speak to us, lest we die." [Exodus, 20. 19] This is absolute obedience to Moses. Concerning the right of kings, God Himself, by the mouth of Samuel, saith, "This shall be the right of the king you will have to reign over you. He shall take your sons, and set them to drive his chariots, and to be his horsemen, and to run before his chariots, and gather in his harvest; and to make his engines of war, and instruments of his chariots; and shall take your daughters to make perfumes, to be his cooks, and bakers. He shall take your fields, your vineyards, and your olive-yards, and give them to his servants. He shall take the tithe of your corn and wine, and give it to the men of his chamber, and to his other servants. He shall take your man-servants, and your maidservants, and the choice of your youth, and employ them in his business. He shall take the tithe of your flocks; and you shall be his servants." [I Samuel, 8. 11-17] This is absolute power, and summed up in the last words, you shall be his servants. Again, when the people heard what power their king was to have, yet they consented

thereto, and say thus, "We will be as all other nations, and our king shall judge our causes, and go before us, to conduct our wars." [*Ibid.*, 8. 19, 20] Here is confirmed the right that sovereigns have, both to the militia and to all judicature; in which is contained as absolute power as one man can possibly transfer to another. Again, the prayer of King Solomon to God was this: "Give to thy servant understanding, to judge thy people, and to discern between good and evil." [I Kings, 3. 9] It belonged therefore to the sovereign to be judge, and to prescribe the rules of discerning good and evil: which rules are laws; and therefore in him is the legislative power. Saul sought the life of David; yet when it was in his power to slay Saul, and his servants would have done it, David forbade them, saying, "God forbid I should do such an act against my Lord, the anointed of God." [I Samuel, 24. 6] For obedience of servants St. Paul saith, "Servants obey your masters in all things";[Colossians, 3. 22] and, "Children obey your parents in all things.")[*Ibid.*, 3. 20] There is simple obedience in those that are subject to paternal or despotical dominion. Again, "The scribes and Pharisees sit in Moses' chair, and therefore all that they shall bid you observe, that observe and do." [Matthew, 23. 2, 3] There again is simple obedience. And St. Paul, "Warn them that they subject themselves to princes, and to those that are in authority, and obey them." [Titus, 3. 1] This obedience is also simple. Lastly, our Saviour Himself acknowledges that men ought to pay such taxes as are by kings imposed, where He says, "Give to Caesar that which is Caesar's"; and paid such taxes Himself. And that the king's word is sufficient to take anything from any subject, when there is need; and that the king is judge of that need: for He Himself, as king of the Jews, commanded his Disciples to take the ass and ass's colt to carry him into Jerusalem, saying, "Go into the village over against you, and you shall find a she ass tied, and her colt with her; untie them, and bring them to me. And if any man ask you, what you mean by it, say the Lord hath need of them: and they will let them go." [Matthew, 21. 2, 3] They will not ask whether his necessity be a sufficient title; nor whether he be judge of that necessity; but acquiesce in the will of the Lord.

To these places may be added also that of Genesis, "You shall be as gods, knowing good and evil." [Genesis, 3. 5] And, "Who told thee that thou wast naked? Hast thou eaten of the tree, of which I commanded thee thou shouldest not eat?" [*Ibid.*, 3. 11] For the cognizance or judicature of good and evil, being forbidden by the name of the fruit of the tree of knowledge, as a trial of Adam's obedience, the devil to inflame the ambition of the woman, to whom that fruit already seemed beautiful, told her that by tasting it they should be as gods, knowing good and evil. Whereupon having both eaten, they did indeed take upon them God's office, which is judicature of good and evil, but acquired no new ability to distinguish between them aright. And whereas it is said that, having eaten, they saw they were naked; no man hath so interpreted that place as if they had been formerly blind, and saw not their own skins: the meaning is plain that it was then they first judged their nakedness (wherein it was God's will to create them) to be uncomely; and by being ashamed did tacitly censure God Himself. And thereupon God saith, "Hast thou eaten," etc., as if He should say, doest thou that owest me obedience take upon thee to judge of my commandments? Whereby it is clearly, though allegorically, signified that the commands of them that have the right to command are not by their subjects to be censured nor disputed.

So that it appeareth plainly, to my understanding, both from reason and Scripture, that the sovereign power, whether placed in one man, as in monarchy, or in one assembly of men, as in popular and aristocratical Commonwealths, is as great as possibly men can be imagined to make it. And though of so unlimited a power, men may fancy many evil consequences, yet the consequences of the want of it, which is perpetual war of every man against his neighbour, are much worse. The condition of man in this life shall never be without inconveniences; but there happeneth in no Commonwealth any great inconvenience but what proceeds from the subjects' disobedience and breach of those covenants from which the Commonwealth hath its

being. And whosoever, thinking sovereign power too great, will seek to make it less, must subject himself to the power that can limit it; that is to say, to a greater.
The greatest objection is that of the practice; when men ask where and when such power has by subjects been acknowledged. But one may ask them again, when or where has there been a kingdom long free from sedition and civil war? In those nations whose Commonwealths have been long-lived, and not been destroyed but by foreign war, the subjects never did dispute of the sovereign power. But howsoever, an argument from the practice of men that have not sifted to the bottom, and with exact reason weighed the causes and nature of Commonwealths, and suffer daily those miseries that proceed from the ignorance thereof, is invalid. For though in all places of the world men should lay the foundation of their houses on the sand, it could not thence be inferred that so it ought to be. The skill of making and maintaining Commonwealths consisteth in certain rules, as doth arithmetic and geometry; not, as tennis play, on practice only: which rules neither poor men have the leisure, nor men that have had the leisure have hitherto had the curiosity or the method, to find out.

CHAPTER XXI
OF THE LIBERTY OF SUBJECTS

LIBERTY, or freedom, signifieth properly the absence of opposition (by opposition, I mean external impediments of motion); and may be applied no less to irrational and inanimate creatures than to rational. For whatsoever is so tied, or environed, as it cannot move but within a certain space, which space is determined by the opposition of some external body, we say it hath not liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained with walls or chains; and of the water whilst it is kept in by banks or vessels that otherwise would spread itself into a larger space; we use to say they are not at liberty to move in such manner as without those external impediments they would. But when the impediment of motion is in the constitution of the thing itself, we use not to say it wants the liberty, but the power, to move; as when a stone lieth still, or a man is fastened to his bed by sickness.
And according to this proper and generally received meaning of the word, a freeman is he that, in those things which by his strength and wit he is able to do, is not hindered to do what he has a will to. But when the words free and liberty are applied to anything but bodies, they are abused; for that which is not subject to motion is not to subject to impediment: and therefore, when it is said, for example, the way is free, no liberty of the way is signified, but of those that walk in it without stop. And when we say a gift is free, there is not meant any liberty of the gift, but of the giver, that was not bound by any law or covenant to give it. So when we speak freely, it is not the liberty of voice, or pronunciation, but of the man, whom no law hath obliged to speak otherwise than he did. Lastly, from the use of the words free will, no liberty can be inferred of the will, desire, or inclination, but the liberty of the man; which consisteth in this, that he finds no stop in doing what he has the will, desire, or inclination to do.
Fear and liberty are consistent: as when a man throweth his goods into the sea for fear the ship should sink, he doth it nevertheless very willingly, and may refuse to do it if he will; it is therefore the action of one that was free: so a man sometimes pays his debt, only for fear of imprisonment, which, because no body hindered him from detaining, was the action of a man at liberty. And generally all actions which men do in Commonwealths, for fear of the law, are actions which the doers had liberty to omit.
Liberty and necessity are consistent: as in the water that hath not only liberty, but a necessity of descending by the channel; so, likewise in the actions which men voluntarily do, which, because they proceed their will, proceed from liberty, and yet

because every act of man's will and every desire and inclination proceedeth from some cause, and that from another cause, in a continual chain (whose first link is in the hand of God, the first of all causes), proceed from necessity. So that to him that could see the connexion of those causes, the necessity of all men's voluntary actions would appear manifest. And therefore God, that seeth and disposeth all things, seeth also that the liberty of man in doing what he will is accompanied with the necessity of doing that which God will and no more, nor less. For though men may do many things which God does not command, nor is therefore author of them; yet they can have no passion, nor appetite to anything, of which appetite God's will is not the cause. And did not His will assure the necessity of man's will, and consequently of all that on man's will dependeth, the liberty of men would be a contradiction and impediment to the omnipotence and liberty of God. And this shall suffice, as to the matter in hand, of that natural liberty, which only is properly called liberty.

But as men, for the attaining of peace and conservation of themselves thereby, have made an artificial man, which we call a Commonwealth; so also have they made artificial chains, called civil laws, which they themselves, by mutual covenants, have fastened at one end to the lips of that man, or assembly, to whom they have given the sovereign power, and at the other to their own ears. These bonds, in their own nature but weak, may nevertheless be made to hold, by the danger, though not by the difficulty of breaking them.

In relation to these bonds only it is that I am to speak now of the liberty of subjects. For seeing there is no Commonwealth in the world wherein there be rules enough set down for the regulating of all the actions and words of men (as being a thing impossible): it followeth necessarily that in all kinds of actions, by the laws pretermitted, men have the liberty of doing what their own reasons shall suggest for the most profitable to themselves. For if we take liberty in the proper sense, for corporal liberty; that is to say, freedom from chains and prison, it were very absurd for men to clamour as they do for the liberty they so manifestly enjoy. Again, if we take liberty for an exemption from laws, it is no less absurd for men to demand as they do that liberty by which all other men may be masters of their lives. And yet as absurd as it is, this is it they demand, not knowing that the laws are of no power to protect them without a sword in the hands of a man, or men, to cause those laws to be put in execution. The liberty of a subject lieth therefore only in those things which, in regulating their actions, the sovereign hath pretermitted: such as is the liberty to buy, and sell, and otherwise contract with one another; to choose their own abode, their own diet, their own trade of life, and institute their children as they themselves think fit; and the like.

Nevertheless we are not to understand that by such liberty the sovereign power of life and death is either abolished or limited. For it has been already shown that nothing the sovereign representative can do to a subject, on what pretence soever, can properly be called injustice or injury; because every subject is author of every act the sovereign doth, so that he never wanteth right to any thing, otherwise than as he himself is the subject of God, and bound thereby to observe the laws of nature. And therefore it may and doth often happen in Commonwealths that a subject may be put to death by the command of the sovereign power, and yet neither do the other wrong; as when Jephthah caused his daughter to be sacrificed: in which, and the like cases, he that so dieth had liberty to do the action, for which he is nevertheless, without injury, put to death. And the same holdeth also in a sovereign prince that putteth to death an innocent subject. For though the action be against the law of nature, as being contrary to equity (as was the killing of Uriah by David); yet it was not an injury to Uriah, but to God. Not to Uriah, because the right to do what he pleased was given him by Uriah himself; and yet to God, because David was God's subject and prohibited all iniquity by the law of nature. Which distinction, David himself, when he repented the fact, evidently confirmed, saying, "To thee only have

I sinned." In the same manner, the people of Athens, when they banished the most potent of their Commonwealth for ten years, thought they committed no injustice; and yet they never questioned what crime he had done, but what hurt he would do: nay, they commanded the banishment of they knew not whom; and every citizen bringing his oyster shell into the market place, written with the name of him he desired should be banished, without actually accusing him sometimes banished an Aristides, for his reputation of justice; and sometimes a scurrilous jester, as Hyperbolus, to make a jest of it. And yet a man cannot say the sovereign people of Athens wanted right to banish them; or an Athenian the liberty to jest, or to be just.

The liberty whereof there is so frequent and honourable mention in the histories and philosophy of the ancient Greeks and Romans, and in the writings and discourse of those that from them have received all their learning in the politics, is not the liberty of particular men, but the liberty of the Commonwealth: which is the same with that which every man then should have, if there were no civil laws nor Commonwealth at all. And the effects of it also be the same. For as amongst masterless men, there is perpetual war of every man against his neighbour; no inheritance to transmit to the son, nor to expect from the father; no propriety of goods or lands; no security; but a full and absolute liberty in every particular man: so in states and Commonwealths not dependent on one another, every Commonwealth, not every man, has an absolute liberty to do what it shall judge, that is to say, what that man or assembly that representeth it shall judge, most conducing to their benefit. But withal, they live in the condition of a perpetual war, and upon the confines of battle, with their frontiers armed, and cannons planted against their neighbours round about. The Athenians and Romans were free; that is, free Commonwealths: not that any particular men had the liberty to resist their own representative, but that their representative had the liberty to resist, or invade, other people. There is written on the turrets of the city of Luca in great characters at this day, the word LIBERTAS; yet no man can thence infer that a particular man has more liberty or immunity from the service of the Commonwealth there than in Constantinople. Whether a Commonwealth be monarchical or popular, the freedom is still the same.

But it is an easy thing for men to be deceived by the specious name of liberty; and, for want of judgement to distinguish, mistake that for their private inheritance and birthright which is the right of the public only. And when the same error is confirmed by the authority of men in reputation for their writings on this subject, it is no wonder if it produce sedition and change of government. In these western parts of the world we are made to receive our opinions concerning the institution and rights of Commonwealths from Aristotle, Cicero, and other men, Greeks and Romans, that, living under popular states, derived those rights, not from the principles of nature, but transcribed them into their books out of the practice of their own Commonwealths, which were popular; as the grammarians describe the rules of language out of the practice of the time; or the rules of poetry out of the poems of Homer and Virgil. And because the Athenians were taught (to keep them from desire of changing their government) that they were freemen, and all that lived under monarchy were slaves; therefore Aristotle puts it down in his Politics "In democracy, liberty is to be supposed: for it is commonly held that no man is free in any other government." [Aristotle, *Politics*, Bk VI] And as Aristotle, so Cicero and other writers have grounded their civil doctrine on the opinions of the Romans, who were taught to hate monarchy: at first, by them that, having deposed their sovereign, shared amongst them the sovereignty of Rome; and afterwards by their successors. And by reading of these Greek and Latin authors, men from their childhood have gotten a habit, under a false show of liberty, of favouring tumults, and of licentious controlling the actions of their sovereigns; and again of controlling those controllers; with the effusion of so much blood, as I think I may truly say there was never anything so dearly bought as these western parts have bought the learning of

the Greek and Latin tongues.

To come now to the particulars of the true liberty of a subject; that is to say, what are the things which, though commanded by the sovereign, he may nevertheless without injustice refuse to do; we are to consider what rights we pass away when we make a Commonwealth; or, which is all one, what liberty we deny ourselves by owning all the actions, without exception, of the man or assembly we make our sovereign. For in the act of our submission consisteth both our obligation and our liberty; which must therefore be inferred by arguments taken from thence; there being no obligation on any man which ariseth not from some act of his own; for all men equally are by nature free. And because such arguments must either be drawn from the express words, "I authorise all his actions," or from the intention of him that submitteth himself to his power (which intention is to be understood by the end for which he so submitteth), the obligation and liberty of the subject is to be derived either from those words, or others equivalent, or else from the end of the institution of sovereignty; namely, the peace of the subjects within themselves, and their defence against a common enemy.

First therefore, seeing sovereignty by institution is by covenant of every one to every one; and sovereignty by acquisition, by covenants of the vanquished to the victor, or child to the parent; it is manifest that every subject has liberty in all those things the right whereof cannot by covenant be transferred. I have shown before, in the fourteenth Chapter, that covenants not to defend a man's own body are void. Therefore,

If the sovereign command a man, though justly condemned, to kill, wound, or maim himself; or not to resist those that assault him; or to abstain from the use of food, air, medicine, or any other thing without which he cannot live; yet hath that man the liberty to disobey.

If a man be interrogated by the sovereign, or his authority, concerning a crime done by himself, he is not bound (without assurance of pardon) to confess it; because no man, as I have shown in the same chapter, can be obliged by covenant to accuse himself.

Again, the consent of a subject to sovereign power is contained in these words, "I authorise, or take upon me, all his actions"; in which there is no restriction at all of his own former natural liberty: for by allowing him to kill me, I am not bound to kill myself when he commands me. It is one thing to say, "Kill me, or my fellow, if you please"; another thing to say, "I will kill myself, or my fellow." It followeth, therefore, that

No man is bound by the words themselves, either to kill himself or any other man; and consequently, that the obligation a man may sometimes have, upon the command of the sovereign, to execute any dangerous or dishonourable office, dependeth not on the words of our submission, but on the intention; which is to be understood by the end thereof. When therefore our refusal to obey frustrates the end for which the sovereignty was ordained, then there is no liberty to refuse; otherwise, there is.

Upon this ground a man that is commanded as a soldier to fight against the enemy, though his sovereign have right enough to punish his refusal with death, may nevertheless in many cases refuse, without injustice; as when he substituteth a sufficient soldier in his place: for in this case he deserteth not the service of the Commonwealth. And there is allowance to be made for natural timorousness, not only to women (of whom no such dangerous duty is expected), but also to men of feminine courage. When armies fight, there is on one side, or both, a running away; yet when they do it not out of treachery, but fear, they are not esteemed to do it unjustly, but dishonourably. For the same reason, to avoid battle is not injustice, but cowardice. But he that enrolleth himself a soldier, or taketh impressed money, taketh away the excuse of a timorous nature, and is obliged, not only to go to the battle, but also not to run from it without his captain's leave. And when the defence of the Commonwealth

requireth at once the help of all that are able to bear arms, every one is obliged; because otherwise the institution of the Commonwealth, which they have not the purpose or courage to preserve, was in vain.

To resist the sword of the Commonwealth in defence of another man, guilty or innocent, no man hath liberty; because such liberty takes away from the sovereign the means of protecting us, and is therefore destructive of the very essence of government. But in case a great many men together have already resisted the sovereign power unjustly, or committed some capital crime for which every one of them expecteth death, whether have they not the liberty then to join together, and assist, and defend one another? Certainly they have: for they but defend their lives, which the guilty man may as well do as the innocent. There was indeed injustice in the first breach of their duty: their bearing of arms subsequent to it, though it be to maintain what they have done, is no new unjust act. And if it be only to defend their persons, it is not unjust at all. But the offer of pardon taketh from them to whom it is offered the plea of self-defence, and maketh their perseverance in assisting or defending the rest unlawful.

As for other liberties, they depend on the silence of the law. In cases where the sovereign has prescribed no rule, there the subject hath the liberty to do, or forbear, according to his own discretion. And therefore such liberty is in some places more, and in some less; and in some times more, in other times less, according as they that have the sovereignty shall think most convenient. As for example, there was a time when in England a man might enter into his own land, and dispossess such as wrongfully possessed it, by force. But in after times that liberty of forcible entry was taken away by a statute made by the king in Parliament. And in some places of the world men have the liberty of many wives: in other places, such liberty is not allowed.

If a subject have a controversy with his sovereign of debt, or of right of possession of lands or goods, or concerning any service required at his hands, or concerning any penalty, corporal or pecuniary, grounded on a precedent law, he hath the same liberty to sue for his right as if it were against a subject, and before such judges as are appointed by the sovereign. For seeing the sovereign demandeth by force of a former law, and not by virtue of his power, he declareth thereby that he requireth no more than shall appear to be due by that law. The suit therefore is not contrary to the will of the sovereign, and consequently the subject hath the liberty to demand the hearing of his cause, and sentence according to that law. But if he demand or take anything by pretence of his power, there lieth, in that case, no action of law: for all that is done by him in virtue of his power is done by the authority of every subject, and consequently, he that brings an action against the sovereign brings it against himself.

If a monarch, or sovereign assembly, grant a liberty to all or any of his subjects, which grant standing, he is disabled to provide for their safety; the grant is void, unless he directly renounce or transfer the sovereignty to another. For in that he might openly (if it had been his will), and in plain terms, have renounced or transferred it and did not, it is to be understood it was not his will, but that the grant proceeded from ignorance of the repugnancy between such a liberty and the sovereign power: and therefore the sovereignty is still retained, and consequently all those powers which are necessary to the exercising thereof; such as are the power of war and peace, of judicature, of appointing officers and counsellors, of levying money, and the rest named in the eighteenth Chapter.

The obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth by which he is able to protect them. For the right men have by nature to protect themselves, when none else can protect them, can by no covenant be relinquished. The sovereignty is the soul of the Commonwealth; which, once departed from the body, the members do no more receive their motion from it.

The end of obedience is protection; which, wheresoever a man seeth it, either in his own or in another's sword, nature applieth his obedience to it, and his endeavour to maintain it. And though sovereignty, in the intention of them that make it, be immortal; yet is it in its own nature, not only subject to violent death by foreign war, but also through the ignorance and passions of men it hath in it, from the very institution, many seeds of a natural mortality, by intestine discord.

If a subject be taken prisoner in war, or his person or his means of life be within the guards of the enemy, and hath his life and corporal liberty given him on condition to be subject to the victor, he hath liberty to accept the condition; and, having accepted it, is the subject of him that took him; because he had no other way to preserve himself. The case is the same if he be detained on the same terms in a foreign country. But if a man be held in prison, or bonds, or is not trusted with the liberty of his body, he cannot be understood to be bound by covenant to subjection, and therefore may, if he can, make his escape by any means whatsoever.

If a monarch shall relinquish the sovereignty, both for himself and his heirs, his subjects return to the absolute liberty of nature; because, though nature may declare who are his sons, and who are the nearest of his kin, yet it dependeth on his own will, as hath been said in the precedent chapter, who shall be his heir. If therefore he will have no heir, there is no sovereignty, nor subjection. The case is the same if he die without known kindred, and without declaration of his heir. For then there can no heir be known, and consequently no subjection be due.

If the sovereign banish his subject, during the banishment he is not subject. But he that is sent on a message, or hath leave to travel, is still subject; but it is by contract between sovereigns, not by virtue of the covenant of subjection. For whosoever entereth into another's dominion is subject to all the laws thereof, unless he have a privilege by the amity of the sovereigns, or by special license.

If a monarch subdued by war render himself subject to the victor, his subjects are delivered from their former obligation, and become obliged to the victor. But if he be held prisoner, or have not the liberty of his own body, he is not understood to have given away the right of sovereignty; and therefore his subjects are obliged to yield obedience to the magistrates formerly placed, governing not in their own name, but in his. For, his right remaining, the question is only of the administration; that is to say, of the magistrates and officers; which if he have not means to name, he is supposed to approve those which he himself had formerly appointed.

CHAPTER XXII
OF SYSTEMS SUBJECT POLITICAL AND PRIVATE

HAVING spoken of the generation, form, and power of a Commonwealth, I am in order to speak next of the parts thereof. And first of systems, which resemble the similar parts or muscles of a body natural. By systems, I understand any numbers of men joined in one interest or one business. Of which some are regular, and some irregular. Regular are those where one man, or assembly of men, is constituted representative of the whole number. All other are irregular.

Of regular, some are absolute and independent, subject to none but their own representative: such are only Commonwealths, of which I have spoken already in the five last precedent chapters. Others are dependent; that is to say, subordinate to some sovereign power, to which every one, as also their representative, is subject.

Of systems subordinate, some are political, and some private. Political (otherwise called bodies politic and persons in law) are those which are made by authority from the sovereign power of the Commonwealth. Private are those which are constituted by subjects amongst themselves, or by authority from a stranger. For no authority derived from foreign power, within the dominion of another, is public there, but private.

And of private systems, some are lawful; some unlawful: lawful are those which are allowed by the Commonwealth; all other are unlawful. Irregular systems are those which, having no representative, consist only in concourse of people; which if not forbidden by the Commonwealth, nor made on evil design (such as are conflux of people to markets, or shows, or any other harmless end), are lawful. But when the intention is evil, or (if the number be considerable) unknown, they are unlawful.

In bodies politic the power of the representative is always limited: and that which prescribeth the limits thereof is the power sovereign. For power unlimited is absolute sovereignty. And the sovereign, in every Commonwealth, is the absolute representative of all the subjects; and therefore no other can be representative of any part of them, but so far forth as he shall give leave: and to give leave to a body politic of subjects to have an absolute representative, to all intents and purposes, were to abandon the government of so much of the Commonwealth, and to divide the dominion, contrary to their peace and defence, which the sovereign cannot be understood to do, by any grant that does not plainly and directly discharge them of their subjection. For consequences of words are not the signs of his will, when other consequences are signs of the contrary; but rather signs of error and misreckoning, to which all mankind is too prone.

The bounds of that power which is given to the representative of a body politic are to be taken notice of from two things. One is their writ, or letters from the sovereign: the other is the law of the Commonwealth.

For though in the institution or acquisition of a Commonwealth, which is independent, there needs no writing, because the power of the representative has there no other bounds but such as are set out by the unwritten law of nature; yet in subordinate bodies, there are such diversities of limitation necessary, concerning their businesses, times, and places, as can neither be remembered without letters, nor taken notice of, unless such letters be patent, that they may be read to them, and withal sealed, or testified, with the seals or other permanent signs of the authority sovereign.

And because such limitation is not always easy or perhaps possible to be described in writing, the ordinary laws, common to all subjects, must determine what the representative may lawfully do in all cases where the letters themselves are silent. And therefore

In a body politic, if the representative be one man, whatsoever he does in the person of the body which is not warranted in his letters, nor by the laws, is his own act, and not the act of the body, nor of any other member thereof besides himself: because further than his letters or the laws limit, he representeth no man's person, but his own. But what he does according to these is the act of every one: for of the act of the sovereign every one is author, because he is their representative unlimited; and the act of him that recedes not from the letters of the sovereign is the act of the sovereign, and therefore every member of the body is author of it.

But if the representative be an assembly, whatsoever that assembly shall decree, not warranted by their letters or the laws, is the act of the assembly, or body politic, and the act of every one by whose vote the decree was made; but not the act of any man that being present voted to the contrary; nor of any man absent, unless he voted it by procreation. It is the act of the assembly because voted by the major part; and if it be a crime, the assembly may be punished, as far forth as it is capable, as by dissolution, or forfeiture of their letters (which is to such artificial and fictitious bodies, capital) or, if the assembly have a common stock, wherein none of the innocent members have propriety, by pecuniary mulct. For from corporal penalties nature hath bodies politic. But they that gave not their vote are therefore innocent, because the assembly cannot represent any man in things unwarranted by their letters, and consequently are not involved in their votes.

If the person of the body politic, being in one man, borrow money of a stranger, that

is, of one that is not of the same body (for no letters need limit borrowing, seeing it is left to men's own inclinations to limit lending), the debt is the representative's. For if he should have authority from his letters to make the members pay what he borroweth, he should have by consequence the sovereignty of them; and therefore the grant were either void, as proceeding from error, commonly incident to human nature, and an insufficient sign of the will of the granter; or if it be avowed by him, then is the representer sovereign, and falleth not under the present question, which is only of bodies subordinate. No member therefore is obliged to pay the debt so borrowed, but the representative himself: because he that lendeth it, being a stranger to the letters, and to the qualification of the body, understandeth those only for his debtors that are engaged; and seeing the representer can engage himself, and none else, has him only debtor, who must therefore pay him, out of the common stock, if there be any, or, if there be none, out of his own estate.

If he come into debt by contract, or mulct, the case is the same.

But when the representative is an assembly, and the debt to a stranger; all they, and only they, are responsible for the debt that gave their votes to the borrowing of it, or to the contract that made it due, or to the fact for which the mulct was imposed; because every one of those in voting did engage himself for the payment: for he that is author of the borrowing is obliged to the payment, even of the whole debt, though when paid by any one, he be discharged.

But if the debt be to one of the assembly, the assembly only is obliged to the payment, out of their common stock, if they have any: for having liberty of vote, if he vote the money shall be borrowed, he votes it shall be paid; if he vote it shall not be borrowed, or be absent, yet because in lending he voteth the borrowing, he contradicteth his former vote, and is obliged by the latter, and becomes both borrower and lender, and consequently cannot demand payment from any particular man, but from the common treasury only; which failing, he hath no remedy, nor complaint but against himself, that being privy to the acts of the assembly, and to their means to pay, and not being enforced, did nevertheless through his own folly lend his money.

It is manifest by this that in bodies politic subordinate, and subject to a sovereign power, it is sometimes not only lawful, but expedient, for a particular man to make open protestation against the decrees of the representative assembly, and cause their dissent to be registered, or to take witness of it; because otherwise they may be obliged to pay debts contracted, and be responsible for crimes committed by other men. But in a sovereign assembly that liberty is taken away, both because he that protesteth there denies their sovereignty, and also because whatsoever is commanded by the sovereign power is as to the subject (though not so always in the sight of God) justified by the command: for of such command every subject is the author.

The variety of bodies is almost infinite: for they are not only distinguished by the several affairs for which they are constituted, wherein there is an unspeakable diversity; but also by the times, places, and numbers, subject to many limitations. And as to their affairs, some are ordained for government; as first, the government of a province may be committed to an assembly of men, wherein all resolutions shall depend on the votes of the major part; and then this assembly is a body politic, and their power limited by commission. This word province signifies a charge or care of business, which he whose it is committeth to another man to be administered for and under him; and therefore when in one Commonwealth there be diverse countries that have their laws distinct one from another, or are far distant in place, the administration of the government being committed to diverse persons, those countries where the sovereign is not resident, but governs by commission, are called provinces. But of the government of a province, by an assembly residing in the province itself, there be few examples. The Romans, who had the sovereignty of many provinces, yet governed them always by presidents and praetors; and not by assemblies, as they governed the city of Rome and territories adjacent. In like

manner, when there were colonies sent from England to plant Virginia, and Summer Islands, though the government of them here were committed to assemblies in London, yet did those assemblies never commit the government under them to any assembly there, but did to each plantation send one governor: for though every man, where he can be present by nature, desires to participate of government; yet where they cannot be present, they are by nature also inclined to commit the government of their common interest rather to a monarchical, than a popular, form of government: which is also evident in those men that have great private estates; who, when they are unwilling to take the pains of administering the business that belongs to them, choose rather to trust one servant than an assembly either of their friends or servants. But howsoever it be in fact, yet we may suppose the government of a province or colony committed to an assembly: and when it is, that which in this place I have to say is this: that whatsoever debt is by that assembly contracted, or whatsoever unlawful act is decreed, is the act only of those that assented, and not of any that dissented, or were absent, for the reasons before alleged. Also that an assembly residing out of the bounds of that colony whereof they have the government cannot execute any power over the persons or goods of any of the colony, to seize on them for debt, or other duty, in any place without the colony itself, as having no jurisdiction nor authority elsewhere, but are left to the remedy which the law of the place alloweth them. And though the assembly have right to impose mulct upon any of their members that shall break the laws they make; yet out of the colony itself, they have no right to execute the same. And that which is said here of the rights of an assembly for the government of a province, or a colony, is applicable also to an assembly for the government of a town, a university, or a college, or a church, or for any other government over the persons of men.

And generally, in all bodies politic, if any if any particular member conceive himself injured by the body itself, the cognizance of his cause belonged to the sovereign, and those the sovereign hath ordained for judges in such causes, or shall ordain for that particular cause; and not to the body itself. For the whole body is in this case his fellow subject, which, in a sovereign assembly, is otherwise: for there, if the sovereign be not judge, though in his own cause, there can be no judge at all.

In a body politic, for the well ordering of foreign traffic, the most commodious representative is an assembly of all the members; that is to say, such a one as every one that adventureth his money may be present at all the deliberations and resolutions of the body, if they will themselves. For proof whereof we are to consider the end for which men that are merchants, and may buy and sell, export and import their merchandise, according to their own discretions, do nevertheless bind themselves up in one corporation. It is true, there be few merchants that with the merchandise they buy at home can freight a ship to export it; or with that they buy abroad, to bring it home; and have therefore need to join together in one society, where every man may either participate of the gain, according to the proportion of his adventure, or take his own, and sell what he transports, or imports, at such prices as he thinks fit. But this is no body politic, there being no common representative to oblige them to any other law than that which is common to all other subjects. The end of their incorporating is to make their gain the greater; which is done two ways: by sole buying, and sole selling, both at home and abroad. So that to grant to a company of merchants to be a corporation, or body politic, is to grant them a double monopoly, whereof one is to be sole buyers; another to be sole sellers. For when there is a company incorporate for any particular foreign country, they only export the commodities vendible in that country; which is sole buying at home, and sole selling abroad. For at home there is but one buyer, and abroad but one that selleth; both which is gainful to the merchant, because thereby they buy at home at lower, and sell abroad at higher, rates: and abroad there is but one buyer of foreign merchandise, and but one that sells them at home, both which again are gainful to

the adventurers.
Of this double monopoly one part is disadvantageous to the people at home, the other to foreigners. For at home by their sole exportation they set what price they please on the husbandry and handiworks of the people, and by the sole importation, what price they please on all foreign commodities the people have need of, both which are ill for the people. On the contrary, by the sole selling of the native commodities abroad, and sole buying the foreign commodities upon the place, they raise the price of those, and abate the price of these, to the disadvantage of the foreigner: for where but one selleth, the merchandise is the dearer; and where but one buyeth, the cheaper: such corporations therefore are no other than monopolies, though they would be very profitable for a Commonwealth, if, being bound up into one body in foreign markets, they were at liberty at home, every man to buy and sell at what price he could.
The end then of these bodies of merchants, being not a common benefit to the whole body (which have in this case no common stock, but what is deducted out of the particular adventures, for building, buying, victualling and manning of ships), but the particular gain of every adventurer, it is reason that every one be acquainted with the employment of his own; that is, that every one be of the assembly that shall have the power to order the same; and be acquainted with their accounts. And therefore the representative of such a body must be an assembly, where every member of the body may be present at the consultations, if he will.
If a body politic of merchants contract a debt to a stranger by the act of their representative assembly, every member is liable by himself for the whole. For a stranger can take no notice of their private laws, but considereth them as so many particular men, obliged every one to the whole payment, till payment made by one dischargeth all the rest: but if the debt be to one of the company, the creditor is debtor for the whole to himself, and cannot therefore demand his debt, but only from the common stock, if there be any.
If the Commonwealth impose a tax upon the body, it is understood to be laid upon every member proportionably to his particular adventure in the company. For there is in this case no other common stock, but what is made of their particular adventures.
If a mulct be laid upon the body for some unlawful act, they only are liable by whose votes the act was decreed, or by whose assistance it was executed; for in none of the rest is there any other crime but being of the body; which, if a crime, because the body was ordained by the authority of the Commonwealth, is not his.
If one of the members be indebted to the body, he may be sued by the body, but his goods cannot be taken, nor his person imprisoned by the authority of the body; but only by authority of the Commonwealth: for they can do it by their own authority, they can by their own authority give judgement that the debt is due; which is as much as to be judge in their own cause.
These bodies made for the government of men, or of traffic, be either perpetual, or for a time prescribed by writing. But there be bodies also whose times are limited, and that only by the nature of their business. For example, if a sovereign monarch, or a sovereign assembly, shall think fit to give command to the towns and other several parts of their territory to send to him their deputies to inform him of the condition and necessities of the subjects, or to advise with him for the making of good laws, or for any other cause, as with one person representing the whole country, such deputies, having a place and time of meeting assigned them, are there, and at that time, a body politic, representing every subject of that dominion; but it is only for such matters as shall be propounded unto them by that man, or assembly, that by the sovereign authority sent for them; and when it shall be declared that nothing more shall be propounded, nor debated by them, the body is dissolved. For if they were the absolute representative of the people, then were it the sovereign assembly; and so

there would be two sovereign assemblies, or two sovereigns, over the same people; which cannot consist with their peace. And therefore where there is once a sovereignty, there can be no absolute representation of the people, but by it. And for the limits of how far such a body shall represent the whole people, they are set forth in the writing by which they were sent for. For the people cannot choose their deputies to other intent than is in the writing directed to them from their sovereign expressed.

Private bodies regular and lawful are those that are constituted without letters, or other written authority, saving the laws common to all other subjects. And because they be united in one person representative, they are held for regular; such as are all families, in which the father or master ordereth the whole family. For he obligeth his children, and servants, as far as the law permitteth, though not further, because none of them are bound to obedience in those actions which the law hath forbidden to be done. In all other actions, during the time they are under domestic government, they are subject to their fathers and masters, as to their immediate sovereigns. For the father and master being before the institution of Commonwealth absolute sovereigns in their own families, they lose afterward no more of their authority than the law of the Commonwealth taketh from them.

Private bodies regular, but unlawful, are those that unite themselves into one person representative, without any public authority at all; such as are the corporations of beggars, thieves and gipsies, the better to order their trade of begging and stealing; and the corporations of men that by authority from any foreign person themselves in another's dominion, for the easier propagation of doctrines, and for making a party against the power of the Commonwealth.

Irregular systems, in their nature but leagues, or sometimes mere concourse of people without union to any particular design, not by obligation of one to another, but proceeding only from a similitude of wills and inclinations, become lawful, or unlawful, according to the lawfulness, or unlawfulness, of every particular man's design therein: and his design is to be understood by the occasion.

The leagues of subjects, because leagues are commonly made for mutual defence, are in a Commonwealth (which is no more than a league of all the subjects together) for the most part unnecessary, and savour of unlawful design; and are for that cause unlawful, and go commonly by the name of factions, or conspiracies. For a league being a connexion of men by covenants, if there be no power given to any one man or assembly (as in the condition of mere nature) to compel them to performance, is so long only valid as there ariseth no just cause of distrust: and therefore leagues between Commonwealths, over whom there is no human power established to keep them all in awe, are not only lawful, but also profitable for the time they last. But leagues of the subjects of one and the same Commonwealth, where every one may obtain his right by means of the sovereign power, are unnecessary to the maintaining of peace and justice, and, in case the design of them be evil or unknown to the Commonwealth, unlawful. For all uniting of strength by private men is, if for evil intent, unjust; if for intent unknown, dangerous to the public, and unjustly concealed.

If the sovereign power be in a great assembly, and a number of men, part of the assembly, without authority consult a part to contrive the guidance of the rest, this is a faction, or conspiracy unlawful, as being a fraudulent seducing of the assembly for their particular interest. But if he whose private interest is to be debated and judged in the assembly make as many friends as he can, in him it is no injustice, because in this case he is no part of the assembly. And though he hire such friends with money, unless there be an express law against it, yet it is not injustice. For sometimes, as men's manners are, justice cannot be had without money, and every man may think his own cause just till it be heard and judged.

In all Commonwealths, if a private man entertain more servants than the

government of his estate and lawful employment he has for them requires, it is faction, and unlawful. For having the protection of the Commonwealth, he needeth not the defence of private force. And whereas in nations not thoroughly civilized, several numerous families have lived in continual hostility and invaded one another with private force, yet it is evident enough that they have done unjustly, or else that they had no Commonwealth.

And as factions for kindred, so also factions for government of religion, as of Papists, Protestants, etc., or of state, as patricians and plebeians of old time in Rome, and of aristocraticals and democraticals of old time in Greece, are unjust, as being contrary to the peace and safety of the people, and a taking of the sword out of the hand of the sovereign.

Concourse of people is an irregular system, the lawfulness or unlawfulness whereof dependeth on the occasion, and on the number of them that are assembled. If the occasion be lawful, and manifest, the concourse is lawful; as the usual meeting of men at church, or at a public show, in usual numbers: for if the numbers be extraordinarily great, the occasion is not evident; and consequently he that cannot render a particular and good account of his being amongst them is to be judged conscious of an unlawful and tumultuous design. It may be lawful for a thousand men to join in a petition to be delivered to a judge or magistrate; yet if a thousand men come to present it, it is a tumultuous assembly, because there needs but one or two for that purpose. But in such cases as these, it is not a set number that makes the assembly unlawful, but such a number as the present officers are not able to suppress and bring to justice.

When an unusual number of men assemble against a man whom they accuse, the assembly is an unlawful tumult; because they may deliver their accusation to the magistrate by a few, or by one man. Such was the case of St. Paul at Ephesus; where Demetrius, and a great number of other men, brought two of Paul's companions before the magistrate, saying with one voice, "Great is Diana of the Ephesians"; which was their way of demanding justice against them for teaching the people such doctrine as was against their religion and trade. The occasion here, considering the laws of that people, was just; yet was their assembly judged unlawful, and the magistrate reprehended them for it, in these words, "If Demetrius and the other workmen can accuse any man of any thing, there be pleas, and deputies; let them accuse one another. And if you have any other thing to demand, your case may be judged in an assembly lawfully called. For we are in danger to be accused for this day's sedition, because there is no cause by which any man can render any reason of this concourse of people." [Acts, 19. 40] Where he calleth an assembly whereof men can give no just account, a sedition, and such as they could not answer for. And this is all I shall say concerning systems, and assemblies of people, which may be compared, as I said, to the similar parts of man's body: such as be lawful, to the muscles; such as are unlawful, to wens, biles, and apostems, engendered by the unnatural conflux of evil humours.

CHAPTER XXIII
OF THE PUBLIC MINISTERS OF SOVEREIGN POWER

IN THE last chapter I have spoken of the similar parts of a Commonwealth: in this I shall speak of the parts organical, which are public ministers.

A public minister is he that by the sovereign, whether a monarch or an assembly, is employed in any affairs, with authority to represent in that employment the person of the Commonwealth. And whereas every man or assembly that hath sovereignty representeth two persons, or, as the more common phrase is, has two capacities, one natural and another politic; as a monarch hath the person not only of the Commonwealth, but also of a man, and a sovereign assembly hath the person not only

of the Commonwealth, but also of the assembly: they that be servants to them in their natural capacity are not public ministers; but those only that serve them in the administration of the public business. And therefore neither ushers, nor sergeants, nor other officers that wait on the assembly for no other purpose but for the commodity of the men assembled, in an aristocracy or democracy; nor stewards, chamberlains, cofferers, or any other officers of the household of a monarch, are public ministers in a monarchy.

Of public ministers, some have charge committed to them of a general administration, either of the whole dominion or of a part thereof. Of the whole, as to a protector, or regent, may be committed by the predecessor of an infant king, during his minority, the whole administration of his kingdom. In which case, every subject is so far obliged to obedience as the ordinances he shall make, and the commands he shall give, be in the king's name, and not inconsistent with his sovereign power. Of a part, or province; as when either a monarch or a sovereign assembly shall give the general charge thereof to a governor, lieutenant, prefect or viceroy: and in this case also, every one of that province is obliged to all he shall do in the name of the sovereign, and that not incompatible with the sovereign's right. For such protectors, viceroys, and governors have no other right but what depends on the sovereigns will; and no commission that can be given them can be interpreted for a declaration of the will to transfer the sovereignty, without express and perspicuous words to that purpose. And this kind of public ministers resembleth the nerves and tendons that move the several limbs of a body natural.

Others have special administration; that is to say, charges of some special business, either at home or abroad: as at home, first, for the economy of a Commonwealth, they that have authority concerning the treasury, as tributes, impositions, rents, fines, or whatsoever public revenue, to collect, receive, issue, or take the accounts thereof, are public ministers: ministers, because they serve the person representative, and can do nothing against his command, nor without his authority; public, because they serve him in his political capacity.

Secondly, they that have authority concerning the militia; to have the custody of arms, forts, ports; to levy, pay, or conduct soldiers; or to provide for any necessary thing for the use of war, either by land or sea, are public ministers. But a soldier without command, though he fight for the Commonwealth, does not therefore represent the person of it; because there is none to represent it to. For every one that hath command represents it to them only whom he commandeth.

They also that have authority to teach, or to enable others to teach the people their duty to the sovereign power, and instruct them in the knowledge of what is just and unjust, thereby to render them more apt to live in godliness and in peace amongst themselves, and resist the public enemy, are public ministers: ministers, in that they do it not by their own authority, but by another's; and public, because they do it, or should do it, by no authority but that of the sovereign. The monarch or the sovereign assembly only hath immediate authority from God to teach and instruct the people; and no man but the sovereign receiveth his power Dei gratia simply; that is to say, from the favour of none but God: all other receive theirs from the favour and providence of God and their sovereigns; as in a monarchy Dei gratia et regis; or Dei providentia et voluntate regis.

They also to whom jurisdiction is given are public ministers. For in their seats of justice they represent the person of the sovereign; and their sentence is his sentence; for, as hath been before declared, all judicature is essentially annexed to the sovereignty; and therefore all other judges are but ministers of him or them that have the sovereign power. And as controversies are of two sorts, namely of fact and of law; so are judgements, some of fact, some of law: and consequently in the same controversy, there may be two judges, one of fact, another of law.

And in both these controversies, there may arise a controversy between the party

judged and the judge; which, because they be both subjects to the sovereign, ought in equity to be judged by men agreed on by consent of both; for no man can be judge in his own cause. But the sovereign is already agreed on for judged by them both, and is therefore either to hear the cause, and determine it himself, or appoint for judge such as they shall both agree on. And this agreement is then understood to be made between them diverse ways; as first, if the defendant be allowed to except against such of his judges whose interest maketh him suspect them (for as to the complainant, he hath already chosen his own judge); those which he excepteth not against are judges he himself agrees on. Secondly, if he appeal to any other judge, he can appeal no further; for his appeal is his choice. Thirdly, if he appeal to the sovereign himself, and he by himself, or by delegates which the parties shall agree on, give sentence; that sentence is final: for the defendant is judged by his own judges, that is to say, by himself.

These properties of just and rational judicature considered, I cannot forbear to observe the excellent constitution of the courts of justice established both for common and also for public pleas in England. By common pleas, I mean those where both the complainant and defendant are subjects: and by public (which are also called pleas of the crown) those where the complainant is the sovereign. For whereas there were two orders of men, whereof one was lords, the other commons, the lords had this privilege, to have for judges in all capital crimes none but lords; and of them, as many as would be present; which being ever acknowledged as a privilege of favour, their judges were none but such as they had themselves desired. And in all controversies, every subject (as also in civil controversies the lords) had for judges men of the country where the matter in controversy lay; against which he might make his exceptions, till at last twelve men without exception being agreed on, they were judged by those twelve. So that having his own judges, there could be nothing alleged by the party why the sentence should not be final. These public persons, with authority from the sovereign power, either to instruct or judge the people, are such members of the Commonwealth as may fitly be compared to the organs of voice in a body natural.

Public ministers are also all those that have authority from the sovereign to procure the execution of judgements given; to publish the sovereigns commands; to suppress tumults; to apprehend and imprison malefactors; and other acts tending to the conservation of the peace. For every act they do by such authority is the act of the Commonwealth; and their service answerable to that of the hands in a body natural.

Public ministers abroad are those that represent the person of their own sovereign to foreign states. Such are ambassadors, messengers, agents, and heralds, sent by public authority, and on public business.

But such as are sent by authority only of some private party of a troubled state, though they be received, are neither public nor private ministers of the Commonwealth, because none of their actions have the Commonwealth for author. Likewise, an ambassador sent from a prince to congratulate, condole, or to assist at a solemnity; though the authority be public, yet because the business is private, and belonging to him in his natural capacity, is a private person. Also if a man be sent into another country, secretly to explore their counsels and strength; though both the authority and the business be public, yet because there is none to take notice of any person in him, but his own, he is but a private minister; but yet a minister of the Commonwealth; and may be compared to an eye in the body natural. And those that are appointed to receive the petitions or other informations of the people, and are, as it were, the public ear, are public ministers and represent their sovereign in that office.

Neither a counsellor, nor a council of state, if we consider with no authority judicature or command, but only of giving advice to the sovereign when it is required, or of offering it when it is not required, is a public person. For the advice is

addressed to the sovereign only, whose person cannot in his own presence be represented to him by another. But a body of counsellors are never without some other authority, either of judicature or of immediate administration: as in a monarchy, they represent the monarch in delivering his commands to the public ministers: in a democracy, the council or senate propounds the result of their deliberations to the people, as a council; but when they appoint judges, or hear causes, or give audience to ambassadors, it is in the quality of a minister of the people: and in an aristocracy the council of state is the sovereign assembly itself, and gives counsel to none but themselves.

CHAPTER XXIV
OF THE NUTRITION AND PROCREATION OF A COMMONWEALTH

THE NUTRITION of a Commonwealth consisteth in the plenty and distribution of materials conducing to life: in concoction or preparation, and, when concocted, in the conveyance of it by convenient conduits to the public use.

As for the plenty of matter, it is a thing limited by nature to those commodities which, from the two breasts of our common mother, land and sea, God usually either freely giveth or for labour selleth to mankind.

For the matter of this nutriment consisting in animals, vegetables, and minerals, God hath freely laid them before us, in or near to the face of the earth, so as there needeth no more but the labour and industry of receiving them. Insomuch as plenty dependeth, next to God's favour, merely on the labour and industry of men.

This matter, commonly called commodities, is partly native and partly foreign: native, that which is to be had within the territory of the Commonwealth; foreign, that which is imported from without. And because there is no territory under the dominion of one Commonwealth, except it be of very vast extent, that produceth all things needful for the maintenance and motion of the whole body; and few that produce not something more than necessary; the superfluous commodities to be had within become no more superfluous, but supply these wants at home, by importation of that which may be had abroad, either by exchange, or by just war, or by labour: for a man's labour also is a commodity exchangeable for benefit, as well as any other thing: and there have been Commonwealths that, having no more territory than hath served them for habitation, have nevertheless not only maintained, but also increased their power, partly by the labour of trading from one place to another, and partly by selling the manufactures, whereof the materials were brought in from other places.

The distribution of the materials of this nourishment is the constitution of mine, and thine, and his; that is to say, in one word, propriety; and belonged in all kinds of Commonwealth to the sovereign power. For where there is no Commonwealth, there is, as hath been already shown, a perpetual war of every man against his neighbour; and therefore everything is his that getteth it and keepeth it by force; which is neither propriety nor community, but uncertainty. Which is so evident that even Cicero, a passionate defender of liberty, in a public pleading attributeth all propriety to the law civil: "Let the civil law," saith he, "be once abandoned, or but negligently guarded, not to say oppressed, and there is nothing that any man can be sure to receive from his ancestor, or leave to his children." And again: "Take away the civil law, and no man knows what is his own, and what another man's." Seeing therefore the introduction of propriety is an effect of Commonwealth, which can do nothing but by the person that represents it, it is the act only of the sovereign; and consisteth in the laws, which none can make that have not the sovereign power. And this they well knew of old, who called that Nomos (that is to say, distribution), which we call law; and defined justice by distributing to every man his own.

In this distribution, the first law is for division of the land itself: wherein the

sovereign assigneth to every man a portion, according as he, and not according as any subject, or any number of them, shall judge agreeable to equity and the common good. The children of Israel were a Commonwealth in the wilderness; but wanted the commodities of the earth till they were masters of the Land of Promise; which afterward was divided amongst them, not by their own discretion, but by the discretion of Eleazar the priest, and Joshua their general: who when there were twelve tribes, making them thirteen by subdivision of the tribe of Joseph, made nevertheless but twelve portions of the land, and ordained for the tribe of Levi no land, but assigned them the tenth part of the whole fruits; which division was therefore arbitrary. And though a people coming into possession of a land by war do not always exterminate the ancient inhabitants, as did the Jews, but leave to many, or most, or all of them their estates; yet it is manifest they hold them afterwards, as of the victor's distribution; as the people of England held all theirs of William the Conqueror.

From whence we may collect that the propriety which a subject hath in his lands consisteth in a right to exclude all other subjects from the use of them; and not to exclude their sovereign, be it an assembly or a monarch. For seeing the sovereign, that is to say, the Commonwealth (whose person he representeth), is understood to do nothing but in order to the common peace and security, this distribution of lands is to be understood as done in order to the same: and consequently, whatsoever distribution he shall make in prejudice thereof is contrary to the will of every subject that committed his peace and safety to his discretion and conscience, and therefore by the will of every one of them is to be reputed void. It is true that a sovereign monarch, or the greater part of a sovereign assembly, may ordain the doing of many things in pursuit of their passions, contrary to their own consciences, which is a breach of trust and of the law of nature; but this is not enough to authorize any subject, either to make war upon, or so much as to accuse of injustice, or any way to speak evil of their sovereign; because they have authorized all his actions, and, in bestowing the sovereign power, made them their own. But in what cases the commands of sovereigns are contrary to equity and the law of nature is to be considered hereafter in another place.

In the distribution of land, the Commonwealth itself may be conceived to have a portion, and possess and improve the same by their representative; and that such portion may be made sufficient to sustain the whole expense to the common peace and defence necessarily required: which were very true, if there could be any representative conceived free from human passions and infirmities. But the nature of men being as it is, the setting forth of public land, or of any certain revenue for the Commonwealth, is in vain, and tendeth to the dissolution of government, to the condition of mere nature, and war, as soon as ever the sovereign power falleth into the hands of a monarch, or of an assembly, that are either too negligent of money or too hazardous in engaging the public stock into long or costly war. Commonwealths can endure no diet: for seeing their expense is not limited by their own appetite but by external accidents, and the appetites of their neighbours, the public riches cannot be limited by other limits than those which the emergent occasions shall require. And whereas in England, there were by the Conqueror diverse lands reserved to his own use (besides forests and chases, either for his recreation or for preservation of woods), and diverse services reserved on the land he gave his subjects; yet it seems they were not reserved for his maintenance in his public, but in his natural capacity: for he and his successors did, for all that, lay arbitrary taxes on all subjects' land when they judged it necessary. Or if those public lands and services were ordained as a sufficient maintenance of the Commonwealth, it was contrary to the scope of the institution, being (as it appeared by those ensuing taxes) insufficient and (as it appears by the late small revenue of the Crown) subject to alienation and diminution. It is therefore in vain to assign a portion to the

Commonwealth, which may sell or give it away, and does sell and give it away when it is done by their representative.
As the distribution of lands at home, so also to assign in what places, and for what commodities, the subject shall traffic abroad belonged to the sovereign. For if it did belong to private persons to use their own discretion therein, some of them would be drawn for gain, both to furnish the enemy with means to hurt the Commonwealth, and hurt it themselves by importing such things as, pleasing men's appetites, be nevertheless noxious, or at least unprofitable to them. And therefore it belonged to the Commonwealth (that is, to the sovereign only) to approve or disapprove both of the places and matter of foreign traffic.
Further, seeing it is not enough to the sustentation of a Commonwealth that every man have a propriety in a portion of land, or in some few commodities, or a natural property in some useful art, and there is no art in the world but is necessary either for the being or well-being almost of every particular man; it is necessary that men distribute that which they can spare, and transfer their propriety therein mutually one to another by exchange and mutual contract. And therefore it belonged to the Commonwealth (that is to say, to the sovereign) to appoint in what manner all kinds of contract between subjects (as buying, selling, exchanging, borrowing, lending, letting, and taking to hire) are to be made, and by what words and words and sign they shall be understood for valid. And for the matter and distribution of the nourishment to the several members of the Commonwealth, thus much, considering the model of the whole work, is sufficient.
By concoction, I understand the reducing of all commodities which are not presently consumed, but reserved for nourishment in time to come, to something of equal value, and withal so portable as not to hinder the motion of men from place to place; to the end a man may have in what place soever such nourishment as the place affordeth. And this is nothing else but gold, and silver, and money. For gold and silver, being, as it happens, almost in all countries of the world highly valued, is a commodious measure of the value of all things else between nations; and money, of what matter soever coined by the sovereign of a Commonwealth, is a sufficient measure of the value of all things else between the subjects of that Commonwealth. By the means of which measures all commodities, movable and immovable, are made to accompany a man to all places of his resort, within and without the place of his ordinary residence; and the same passeth from man to man within the Commonwealth, and goes round about, nourishing, as it passeth, every part thereof; in so much as this concoction is, as it were, the sanguification of the Commonwealth: for natural blood is in like manner made of the fruits of the earth; and, circulating, nourisheth by the way every member of the body of man.
And because silver and gold have their value from the matter itself, they have first this privilege; that the value of them cannot be altered by the power of one nor of a few Commonwealths; as being a common measure of the commodities of all places. But base money may easily be enhanced or abased. Secondly, they have the privilege to make Commonwealths move and stretch out their arms, when need is, into foreign countries; and supply, not only private subjects that travel, but also whole armies with provision. But that coin, which is not considerable for the matter, but for the stamp of the place, being unable to endure change of air, hath its effect at home only; where also it is subject to the change of laws, and thereby to have the value diminished, to the prejudice many times of those that have it.
The conduits and ways by which it is conveyed to the public use are of two sorts: one, that conveyeth it to the public coffers; the other, that issueth the same out again for public payments. Of the first sort are collectors, receivers, and treasurers; of the second are the treasurers again, and the officers appointed for payment of several public or private ministers. And in this also the artificial man maintains his resemblance with the natural; whose veins, receiving the blood from the several

parts of the body, carry it to the heart; where, being made vital, the heart by the arteries sends it out again, to enliven and enable for motion all the members of the same.

The procreation or children of a Commonwealth are those we call plantations, or colonies; which are numbers of men sent out from the Commonwealth, under a conductor or governor, to inhabit a foreign country, either formerly void of inhabitants, or made void then by war. And when a colony is settled, they are either a Commonwealth of themselves, discharged of their subjection to their sovereign that sent them (as hath been done by many Commonwealths of ancient time), in which case the Commonwealth from which they went was called their metropolis, or mother, and requires no more of them than fathers require of the children whom they emancipate and make free from their domestic government, which is honour and friendship; or else they remain united to their metropolis, as were the colonies of the people of Rome; and then they are no Commonwealths themselves, but provinces, and parts of the Commonwealth that sent them. So that the right of colonies, saving honour and league with their metropolis, dependeth wholly on their license, or letters, by which their sovereign authorized them to plant.

CHAPTER XXV
OF COUNSEL

HOW fallacious it is to judge of the nature of things by the ordinary and inconstant use of words appeareth in nothing more than in the confusion of counsels and commands, arising from the imperative manner of speaking in them both, and in many other occasions besides. For the words do this are the words not only of him that commandeth; but also of him that giveth counsel; and of him that exhorteth; and yet there are but few that see not that these are very different things; or that cannot distinguish between when they when they perceive who it is that speaketh, and to whom the speech is directed, and upon what occasion. But finding those phrases in men's writings, and being not able or not willing to enter into a consideration of the circumstances, they mistake sometimes the precepts of counsellors for the precepts of them that command; and sometimes the contrary; according as it best agreeth with the conclusions they would infer, or the actions they approve. To avoid which mistakes and render to those terms of commanding, counselling, and exhorting, their proper and distinct significations, I define them thus.

Command is where a man saith, "Do this," or "Do not this," without expecting other reason than the will of him that says it. From this it followeth manifestly that he that commandeth pretendeth thereby his own benefit: for the reason of his command is his own will only, and the proper object of every man's will is some good to himself.

Counsel is where a man saith, "Do," or "Do not this," and deduceth his reasons from the benefit that arriveth by it to him to whom he saith it. And from this it is evident that he that giveth counsel pretendeth only (whatsoever he intendeth) the good of him to whom he giveth it.

Therefore between counsel and command, one great difference is that command is directed to a man's own benefit, and counsel to the benefit of another man. And from this ariseth another difference, that a man may be obliged to do what he is commanded; as when he hath covenanted to obey: but he cannot be obliged to do as he is counselled, because the hurt of not following it is his own; or if he should covenant to follow it, then is the counsel turned into the nature of a command. A third difference between them is that no man can pretend a right to be of another man's counsel; because he is not to pretend benefit by it to himself: but to demand right to counsel another argues a will to know his designs, or to gain some other good to himself; which, as I said before, is of every man's will the proper object.

This also is incident to the nature of counsel; that whatsoever it be, he that asketh it

cannot in equity accuse or punish it: for to ask counsel of another is to permit him to give such counsel as he shall think best; and consequently, he that giveth counsel to his sovereign (whether a monarch or an assembly) when he asketh it, cannot in equity be punished for it, whether the same be conformable to the opinion of the most, or not, so it be to the proposition in debate. For if the sense of the assembly can be taken notice of, before the debate be ended, they should neither ask nor take any further counsel; for sense of the assembly is the resolution of the debate and end of all deliberation. And generally he that demandeth counsel is author of it, and therefore cannot punish it; and what the sovereign cannot, no man else can. But if one subject giveth counsel to another to do anything contrary to the laws, whether that counsel proceed from evil intention or from ignorance only, it is punishable by the Commonwealth; because ignorance of the law is no good excuse, where every man is bound to take notice of the laws to which he is subject.

Exhortation, and dehortation is counsel, accompanied with signs in him that giveth it of vehement desire to have it followed; or, to say it more briefly, counsel vehemently pressed. For he that exhorteth doth not deduce the consequences of what he adviseth to be done, and tie himself therein to the rigor of true reasoning, but encourages him he counselleth to action: as he that dehorteth deterreth him from it. And therefore they have in their speeches a regard to the common passions and opinions of men, in deducing their reasons; and make use of similitudes, metaphors, examples, and other tools of oratory, to persuade their hearers of the utility, honour, or justice of following their advice.

From whence may be inferred, first, that exhortation and dehortation is directed to the good of him that giveth the counsel, not of him that asketh it, which is contrary to the duty of a counsellor; who, by the definition of counsel, ought to regard, not his own benefit, but his whom he adviseth. And that he directeth his counsel to his own benefit is manifest enough by the long and vehement urging, or by the artificial giving thereof; which being not required of him, and consequently proceeding from his own occasions, is directed principally to his own benefit, and but accidentally to the good of him that is counselled, or not at all.

Secondly, that the use of exhortation and dehortation lieth only where a man is to speak to a multitude, because when the speech is addressed to one, he may interrupt him and examine his reasons more rigorously than can be done in a multitude; which are too many to enter into dispute and dialogue with him that speaketh indifferently to them all at once.

Thirdly, that they that exhort and dehort, where they are required to give counsel, are corrupt counsellors and, as it were, bribed by their own interest. For though the counsel they give be never so good, yet he that gives it is no more a good counsellor than he that giveth a just sentence for a reward is a just judge. But where a man may lawfully command, as a father in his family, or a leader in an army, his exhortations and dehortations are not only lawful, but also necessary and laudable: but when they are no more counsels, but commands; which when they are for execution of sour labour, sometimes necessity, and always humanity, requireth to be sweetened in the delivery by encouragement, and in the tune and phrase of counsel rather than in harsher language of command.

Examples of the difference between command and counsel we may take from the forms of speech that express them in Holy Scripture. "Have no other Gods but me"; "Make to thyself no graven image"; "Take not God's name in vain"; "Sanctify the Sabbath"; "Honour thy parents"; "Kill not"; "Steal not," etc. are commands, because the reason for which we are to obey them is drawn from the will of God our King, whom we are obliged to obey. But these words, "Sell all thou hast; give it to the poor; and follow me," are counsel, because the reason for which we are to do so is drawn from our own benefit, which is this; that we shall have "treasure in Heaven." These words, "Go into the village over against you, and you shall find an ass tied, and her

colt; loose her, and bring her to me," are a command; for the reason of their fact is drawn from the will of their master: but these words, "Repent, and be baptized in the name of Jesus," are counsel; because the reason why we should so do tendeth not to any benefit of God Almighty, who shall still be King in what manner soever we rebel, but of ourselves, who have no other means of avoiding the punishment hanging over us for our sins.

As the difference of counsel from command hath been now deduced from the nature of counsel, consisting in a deducing of the benefit or hurt that may arise to him that is to be to be counselled, by the necessary or probable consequences of the action he propoundeth; so may also the differences between apt and inept counsellors be derived from the same. For experience, being but memory of the consequences of like actions formerly observed, and counsel but the speech whereby that experience is made known to another, the virtues and defects of counsel are the same with the virtues and defects intellectual: and to the person of a Commonwealth, his counsellors serve him in the place of memory and mental discourse. But with this resemblance of the Commonwealth to a natural man, there is one dissimilitude joined, of great importance; which is that a natural man receiveth his experience from the natural objects of sense, which work upon him without passion or interest of their own; whereas they that give counsel to the representative person of a Commonwealth may have, and have often, their particular ends and passions that render their counsels always suspected, and many times unfaithful. And therefore we may set down for the first condition of a good counsellor: that his ends and interest be not inconsistent with the ends and interest of him he counselleth.

Secondly, because the office of a counsellor, when an action comes into deliberation, is to make manifest the consequences of it in such manner as he that is counselled may be truly and evidently informed, he ought to propound his advice in such form of speech as may make the truth most evidently appear; that is to say, with as firm ratiocination, as significant and proper language, and as briefly, as the evidence will permit. And therefore rash and unevident inferences, such as are fetched only from examples, or authority of books, and are not arguments of what is good or evil, but witnesses of fact or of opinion; obscure, confused, and ambiguous expressions; also all metaphorical speeches tending to the stirring up of passion (because such reasoning and such expressions are useful only to deceive or to lead him we counsel towards other ends than his own), are repugnant to the office of a counsellor.

Thirdly, because the ability of counselling proceedeth from experience and long study, and no man is presumed to have experience in all those things that to the administration of a great Commonwealth are necessary to be known, no man is presumed to be a good counsellor but in such business as he hath not only been much versed in, but hath also much meditated on and considered. For seeing the business of a Commonwealth is this; to preserve the people in peace at home, and defend them against foreign invasion; we shall find it requires great knowledge of the disposition of mankind, of the rights of government, and of the nature of equity, law, justice, and honour, not to be attained without study; and of the strength, commodities, places, both of their own country and their neighbours'; as also of the inclinations and designs of all nations that may any way annoy them. And this is not attained to without much experience. Of which things, not only the whole sum, but every one of the particulars requires the age and observation of a man in years, and of more than ordinary study. The wit required for counsel, as I have said before (Chapter VIII), is judgement. And the differences of men in that point come from different education; of some, to one kind of study or business, and of others, to another. When for the doing of anything there be infallible rules (as in engines and edifices, the rules of geometry), all the experience of the world cannot equal his counsel that has learned or found out the rule. And when there is no such rule, he that hath most experience in that particular kind of business has therein the best judgement, and is the best

counsellor.
Fourthly, to be able to give counsel to a Commonwealth, in a business that hath reference to another Commonwealth, it is necessary to be acquainted with the intelligences and letters that come from thence, and with all the records of treaties and other transactions of state between them; which none can do but such as the representative shall think fit. By which we may see that they who are not called to counsel can have no good counsel in such cases to obtrude.
Fifthly, supposing the number of counsellors equal, a man is better counselled by hearing them apart than in an assembly; and that for many causes. First, in hearing them apart, you have the advice of every man; but in an assembly many of them deliver their advice with aye or no, or with their hands or feet, not moved by their own sense, but by the eloquence of another, or for fear of displeasing some that have spoken, or the whole by contradiction, or for fear of appearing duller in apprehension than those that have applauded the contrary opinion. Secondly, in an assembly of many there cannot choose but be some interests are contrary to that of the public; and these their interests make passionate, and passion eloquent, and eloquence draws others into the same advice. For the passions of men, which asunder are moderate, as the heat of one brand; in assembly are like many brands that inflame one another (especially when they blow one another with orations) to the setting of the Commonwealth on fire, under pretence of counselling it. Thirdly, in hearing every man apart, one may examine, when there is need, the truth or probability of his reasons, and of the grounds of the advice he gives, by frequent interruptions and objections; which cannot be done in an assembly, where in every difficult question a man is rather astonied and dazzled with the variety of discourse upon it, than informed of the course he ought to take. Besides, there cannot be an assembly of many, called together for advice, wherein there be not some that have the ambition the ambition to be thought eloquent, and also learned in the politics; and give not their advice with care of the business propounded, but of the applause of their motley orations, made of the diverse colored threads or shreds of thread or shreds of authors; which is an impertinence, at least, that takes away the time of serious consultation, and in the secret way of counselling apart is easily avoided. Fourthly, in deliberations that ought to be kept secret, whereof there be many occasions in public business, the counsels of many, and especially in assemblies, are dangerous; and therefore great assemblies are necessitated to commit such affairs to lesser numbers, and of such persons as are most versed, and in whose fidelity they have most confidence.
To conclude, who is there that so far approves far approves the taking of counsel from a great assembly of counsellors, that wisheth for, or would accept of their pains, when there is a question of marrying his children, disposing of his lands, governing his household, or managing his private estate, especially if there be amongst them such as wish not his prosperity? A man that doth his business by the help of many prudent counsellors, with every one consulting apart in his proper element, does it best; as he that useth able seconds at tennis play, placed in their proper stations. He does next best that useth his own judgement only; as he that has no second at all. But he that is carried up and down to his business in a framed counsel, which cannot move but by the plurality of consenting opinions, the execution whereof is commonly, out of envy or interest, retarded by the part dissenting, does it worst of all, and like one that is carried to the ball, though by good players, yet in a wheelbarrow, or other frame, heavy of itself, and retarded by the also by the inconcurrent judgements and endeavours of them that drive it; and so much the more, as they be more that set their hands to it; and most of all, when there is one or more amongst them that desire to have him lose. And though it be true that many eyes see more than one, yet it is not to be understood of many counsellors, but then only when the final resolution is in one in one man. Otherwise, because many eyes

see the same thing in diverse lines, and are apt to look asquint towards their private benefit; they that desire not to miss their mark, though they look about with two eyes, yet they never aim but with one: and therefore no great popular Commonwealth was ever kept up, but either by a foreign enemy that united them; or by the reputation of some one eminent man amongst them; or by the secret counsel of a few; or by the mutual fear of equal factions; and not by the open consultations of the assembly. And as for very little Commonwealths, be they popular or monarchical, there is no human wisdom can uphold them longer than the jealousy lasteth of their potent neighbours.

CHAPTER XXVI
OF CIVIL LAWS

BY civil laws, I understand the laws that men are therefore bound to observe, because they are members, not of this or that Commonwealth in particular, but of a Commonwealth. For the knowledge of particular laws belongeth to them that profess the study of the laws of their several countries; but the knowledge of civil law in general, to any man. The ancient law of Rome was called their civil law, from the word civitas, which signifies a Commonwealth: and those countries which, having been under the Roman Empire and governed by that law, retain still such part thereof as they think fit, call that part the civil law to distinguish it from the rest of their own civil laws. But that is not it I intend to speak of here; my design being not to show what is law here and there, but what is law; as Plato, Aristotle, Cicero, and diverse others have done, without taking upon them the profession of the study of the law.

And first it is manifest that law in general is not counsel, but command; nor a command of any man to any man, but only of him whose command is addressed to one formerly obliged to obey him. And as for civil law, it addeth only the name of the person commanding, which is persona civitatis, the person of the Commonwealth.

Which considered, I define civil law in this manner. Civil law is to every subject those rules which the Commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of for the distinction of right and wrong; that is to say, of that is contrary and what is not contrary to the rule.

In which definition there is nothing that is that is not at first sight evident. For every man seeth that some laws are addressed to all the subjects in general; some to particular provinces; some to particular vocations; and some to particular men; and are therefore laws to every of those to whom the command is directed, and to none else. As also, that laws are the rules of just and unjust, nothing being reputed unjust that is not contrary to some law. Likewise, that none can make laws but the Commonwealth, because our subjection is to the Commonwealth only; and that commands are to be signified by sufficient signs, because a man knows not otherwise how to obey them. And therefore, whatsoever can from this definition by necessary consequence be deduced, ought to be acknowledged for truth. Now I deduce from it this that followeth.

1. The legislator in all Commonwealths is only the sovereign, be he one man, as in a monarchy, or one assembly of men, as in a democracy or aristocracy. For the legislator is he that maketh the law. And the Commonwealth only prescribes and commandeth the observation of those rules which we call law: therefore the Commonwealth is the legislator. But the Commonwealth is no person, nor has capacity to do anything but by the representative, that is, the sovereign; and therefore the sovereign is the sole legislator. For the same reason, none can abrogate a law made, but the sovereign, because a law is not abrogated but by another law that forbiddeth it to be put in execution.

2. The sovereign of a Commonwealth, be it an assembly or one man, is not

subject to the civil laws. For having power to make and repeal laws, he may, when he pleaseth, free himself from that subjection by repealing those laws that trouble him, and making of new; and consequently he was free before. For he is free that can be free when he will: nor is it possible for any person to be bound to himself, because he that can bind can release; and therefore he that is bound to himself only is not bound.

3. When long use obtaineth the authority of a law, it is not the length of time that maketh the authority, but the will of the sovereign signified by his silence (for silence is sometimes an signified by his silence (for silence is sometimes an argument of consent); and it is no longer law, than the sovereign shall be silent therein. And therefore if the sovereign shall have a question of right grounded, not upon his present will, but upon the laws formerly made, the length of time shall bring no prejudice to his right: but the question shall be judged by equity. For many unjust actions and unjust sentences go uncontrolled a longer time than any man can remember. And our lawyers account no customs law but such as reasonable, and that evil customs are to be abolished: but the judgement of what is reasonable, and of what is to be abolished, belonged to him that maketh the law, which is the sovereign assembly or monarch.

4. The law of nature and the civil law contain each other and are of equal extent. For the laws of nature, which consist in equity, justice, gratitude, and other moral virtues on these depending, in the condition of mere nature (as I have said before in the end of the fifteenth Chapter), are not properly laws, but qualities that dispose men to peace and to obedience. When a Commonwealth is once settled, then are they actually laws, and not before; as being then the commands of the Commonwealth; and therefore also civil laws: for it is the sovereign power that obliges men to obey them. For the differences of private men, to declare what is equity, what is justice, and is moral virtue, and to make them binding, there is need of the ordinances of sovereign power, and punishments to be ordained for such as shall break them; which ordinances are therefore part of the civil law. The law of nature therefore is a part of the civil law in all Commonwealths of the world. Reciprocally also, the civil law is a part of the dictates of nature. For justice, that is to say, performance of covenant, and giving to every man his own, is a dictate of the law of nature. But every subject in a Commonwealth hath covenanted to obey the civil law; either one with another, as when they assemble to make a common representative, or with the representative itself one by one when, subdued by the sword, they promise obedience that they may receive life; and therefore obedience to the civil law is part also of the law of nature. Civil and natural law are not different kinds, but different parts of law; whereof one part, being written, is called civil the other unwritten, natural. But the right of nature, that is, the natural liberty of man, may by the civil law be abridged and restrained: nay, the end of making laws is no other but such restraint, without which there cannot possibly be any peace. And law was brought into the world for nothing else but to limit the natural liberty of particular men in such manner as they might not hurt, but assist one another, and join together against a common enemy.

5. If the sovereign of one Commonwealth subdue a people that have lived under other written laws, and afterwards govern them by the same laws by which they were governed before, yet those laws are the civil laws of the victor, and not of the vanquished Commonwealth. For the legislator is he, not by whose authority the laws were first made, but by whose authority they now continue to be laws. And therefore where there be diverse provinces within the dominion of a Commonwealth, and in those provinces diversity of laws, which commonly are called the customs of each several province, we are not to understand that such customs have their force only from length of time; but that they were anciently laws written, or otherwise made known, for the constitutions and statutes of their sovereigns; and

are now laws, not by virtue of the prescription of time, but by the constitutions of their present sovereigns. But if an unwritten law, in all the provinces of a dominion, shall be generally observed, and no iniquity appear in the use thereof, that law can be no other but a law of nature, equally obliging all mankind.

6. Seeing then all laws, written and unwritten, have their authority and force from the will of the Commonwealth; that is to say, from the will of the representative, which in a monarchy is the monarch, and in other Commonwealths the sovereign assembly; a man may wonder from whence proceed such opinions as are found in the books of lawyers of eminence in several Commonwealths, directly or by consequence making the legislative power depend on private men or subordinate judges. As for example, that the common law hath no controller but the Parliament; which is true only where a parliament has the sovereign power, and cannot be assembled nor dissolved, but by their own discretion. For if there be a right in any else to dissolve them, there is a right also to control them, and consequently to control their controllings. And if there be no such right, then the controller of laws is not parlamentum, but rex in parlamento. And where a parliament is sovereign, if it should assemble never so many or so wise men from the countries subject to them, for whatsoever cause, yet there is no man will believe that such an assembly hath thereby acquired to themselves a legislative power. Item, that the two arms of a Commonwealth are force and justice; the first whereof is in the king, the other deposited in the hands of the Parliament. As if a Commonwealth could consist where the force were in any hand which justice had not the authority to command and govern.

7. That law can never be against reason, our lawyers are agreed: and that not the letter (that is, every construction of it), but that which is according to the intention of the legislator, is the law. And it is true: but the doubt is of whose reason it is that shall be received for law. It is not meant of any private reason; for then there would be as much contradiction in the laws as there is in the Schools; nor yet, as Sir Edward Coke makes it, an "Artificial perfection of reason, gotten by long study, observation, and experience," as his was. For it is possible long study may increase and confirm erroneous sentences: and where men build on false grounds, the more they build, the greater is the ruin: and of those that study and observe with equal time and diligence, the reasons and resolutions are, and must remain, discordant: and therefore it is not that juris prudentia, or wisdom of subordinate judges, but the reason of this our artificial man the Commonwealth, and his command, that maketh law: and the Commonwealth being in their representative but one person, there cannot easily arise any contradiction in the laws; and when there doth, the same reason is able, by interpretation or alteration, to take it away. In all courts of justice, the sovereign (which is the person of the Commonwealth) is he that judgeth: the subordinate judge ought to have regard to the reason which moved his sovereign to make such law, that his sentence may be according thereunto, which then is his sovereigns sentence; otherwise it is his own, and an unjust one.

8. From this, that the law is a command, and a command consisteth in declaration or manifestation of the will of him that commandeth, by voice, writing, or some other sufficient argument of the same, we may understand that the command of the Commonwealth is law only to those that have means to take notice of it. Over natural fools, children, or madmen there is no law, no more than over brute beasts; nor are they capable of the title of just or unjust, because they had never power to make any covenant or to understand the consequences thereof, and consequently never took upon them to authorize the actions of any sovereign, as they must do that make to themselves a Commonwealth. And as those from whom nature or accident hath taken away the notice of all laws in general; so also every man, from whom any accident not proceeding from his own default, hath taken away the means to take notice of any particular law, is excused if he observe it not; and to speak properly,

that law is no law to him. It is therefore necessary to consider in this place what arguments and signs be sufficient for the knowledge of what is the law; that is to say, what is the will of the sovereign, as well in monarchies as in other forms of government.

And first, if it be a law that obliges all the subjects without exception, and is not written, nor otherwise published in such places as they may take notice thereof, it is a law of nature. For whatever men are to take knowledge of for law, not upon other men's words, but every one from his own reason, must be such as is agreeable to the reason of all men; which no law can be, but the law of nature. The laws of nature therefore need not any publishing nor proclamation; as being contained in this one sentence, approved by all the world, Do not that to another which thou thinkest unreasonable to be done by another to thyself.

Secondly, if it be a law that obliges only some condition of men, or one particular man, and be not written, nor published by word, then also it is a law of nature, and known by the same arguments and signs that distinguish those in such a condition from other subjects. For whatsoever law is not written, or some way published by him that makes it law, can be known no way but by the reason of him that is to obey it; and is therefore also a law not only civil, but natural. For example, if the sovereign employ a public minister, without written instructions what to do, he is obliged to take for instructions the dictates of reason: as if he make a judge, the judge is to take notice that his sentence ought to be according to the reason of his sovereign, which being always understood to be equity, he is bound to it by the law of nature: or if an ambassador, he is, in all things not contained in his written instructions, to take for instruction that which reason dictates to be most conducing to his sovereign's interest; and so of all other ministers of the sovereignty, public and private. All which instructions of natural reason may be comprehended under one name of fidelity, which is a branch of natural justice.

The law of nature excepted, it belonged to the essence of all other laws to be made known to every man that shall be obliged to obey them, either by word, or writing, or some other act known to proceed from the sovereign authority. For the will of another cannot be understood but by his own word, or act, or by conjecture taken from his scope and purpose; which in the person of the Commonwealth is to be supposed always consonant to equity and reason. And in ancient time, before letters were in common use, the laws were many times put into verse; that the rude people, taking pleasure in singing or reciting them, might the more easily retain them in memory. And for the same reason Solomon adviseth a man to bind the Ten Commandments upon his ten fingers. [Proverbs, 7. 3] And for the Law which Moses gave to the people of Israel at the renewing of the Covenant, he biddeth them to teach it their children, by discoursing of it both at home and upon the way, at going to bed and at rising from bed; and to write it upon the posts and doors of their houses; [Deuteronomy, 11. 19] and to assemble the people, man, woman, and child, to hear it read. [*Ibid.*, 31. 12]

Nor is it enough the law be written and published, but also that there be manifest signs that it proceedeth from the will of the sovereign. For private men, when they have, or think they have, force enough to secure their unjust designs, and convoy them safely to their ambitious ends, may publish for laws what they please, without or against the legislative authority. There is therefore requisite, not only a declaration of the law, but also sufficient signs of the author and authority. The author or legislator is supposed in every Commonwealth to be evident, because he is the sovereign, who, having been constituted by the consent of every one, is supposed by every one to be sufficiently known. And though the ignorance and security of men be such, for the most part, as that when the memory of the first constitution of their Commonwealth is worn out, they do not consider by whose power they use to be defended against their enemies, and to have their industry protected, and to be

righted when injury is done them; yet because no man that considers can make question of it, no excuse can be derived from the ignorance of where the sovereignty is placed. And it is a dictate of natural reason, and consequently an evident law of nature, that no man ought to weaken that power the protection whereof he hath himself demanded or wittingly received against others. Therefore of who is sovereign, no man, but by his own fault (whatsoever evil men suggest), can make any doubt. The difficulty cocsisteth in the evidence of the authority derived from him; the removing whereof dependeth on the knowledge of the public registers, public counsels, public ministers, and public seals; by which all laws are sufficiently verified; verified, I say, not authorized: for the verification is but the testimony and record; not the authority of the law, which consisteth in the command of the sovereign only.

If therefore a man have a question of injury, depending on the law of nature; that is to say, on common equity; the sentence of the judge, that by commission hath authority to take cognizance of such causes, is a sufficient verification of the law of nature in that individual case. For though the advice of one that professeth the study of the law be useful for the avoiding of contention, yet it is but advice: it is the judge must tell men what is law, upon the hearing of the controversy.

But when the question is of injury, or crime, upon a written law, every man by recourse to the registers by himself or others may, if he will, be sufficiently informed, before he do such injury, or commit the crime, whether it be an injury or not; nay, he ought to do so: for when a man doubts whether the act he goeth about be just or unjust, and may inform himself if he will, the doing is unlawful. In like manner, he that supposeth himself injured, in a case determined by the written law, which he may by himself or others see and consider; if he complain before he consults with the law, he does unjustly, and bewrayeth a disposition rather to vex other men than to demand his own right.

If the question be of obedience to a public officer, to have seen his commission with the public seal, and heard it read, or to have had the means to be informed of it, if a man would, is a sufficient verification of his authority. For every man is obliged to do his best endeavour to inform himself of all written laws that may concern his own future actions.

The legislator known, and the laws either by writing or by the light of nature sufficiently published, there wanteth yet another very material circumstance to make them obligatory. For it is not the letter, but the intendment, or meaning; that is to say, the authentic interpretation of the law (which is the sense of the legislator), in which the nature of the law consisteth; and therefore the interpretation of all laws dependeth on the authority sovereign; and the interpreters can be none but those which the sovereign, to whom only the subject oweth obedience, shall appoint. For else, by the craft of an interpreter, the law may be made to bear a sense contrary to that of the sovereign, by which means the interpreter becomes the legislator.

All laws, written and unwritten, have need of interpretation. The unwritten law of nature, though it be easy to such as without partiality and passion make use of their natural reason, and therefore leaves the violators thereof without excuse; yet considering there be very few, perhaps none, that in some cases are not blinded by self-love, or some other passion, it is now become of all laws the most obscure, and has consequently the greatest need of able interpreters. The written laws, if laws, if they be short, are easily misinterpreted, for the diverse significations of a word or two; if long, they be more obscure by the diverse significations of many words: in so much as no written law, delivered in few or many words, can be well understood without a perfect understanding of the final causes for which the law was made; the knowledge of which final causes is in the legislator. To him therefore there cannot be any knot in the law insoluble, either by finding out the ends to undo it by, or else by making what ends he will (as Alexander did with his sword in the Gordian knot)

by the legislative power; which no other interpreter can do.

The interpretation of the laws of nature in a Commonwealth dependeth not on the books of moral philosophy. The authority of writers, without the authority of the Commonwealth, maketh not their opinions law, be they never so true. That which I have written in this treatise concerning the moral virtues, and of their necessity for the procuring and maintaining peace, though it be evident truth, is not therefore presently law, but because in all Commonwealths in the world it is part of the civil law. For though it be naturally reasonable, yet it is by the sovereign power that it is law: otherwise, it were a great error to call the laws of nature unwritten law; whereof we see so many volumes published, and in them so many contradictions of one another and of themselves.

The interpretation of the law of nature is the sentence of the judge constituted by the sovereign authority to hear and determine such controversies as depend thereon, and consisteth in the application of the law to the present case. For in the act of judicature the judge doth no more but consider whether the demand of the party be consonant to natural reason and equity; and the sentence he giveth is therefore the interpretation of the law of nature; which interpretation is authentic, not because it is his private sentence, but because he giveth it by authority of the sovereign, whereby it becomes the sovereign's sentence; which is law for that time to the parties pleading.

But because there is no judge subordinate, nor sovereign, but may err in a judgement equity; if afterward in another like case he find it more consonant to equity to give a contrary sentence, he is obliged to do it. No man's error becomes his own law, nor obliges him to persist in it. Neither, for the same reason, becomes it a law to other judges, though sworn to follow it. For though a wrong sentence given by authority of the sovereign, if he know and allow it, in such laws as are mutable, be a constitution of a new law in cases in which every little circumstance is the same; yet in laws immutable, such as are the laws of nature, they are no laws to the same or other judges in the like cases for ever after. Princes succeed one another; and one judge passeth, another cometh; nay, heaven and earth shall pass; but not one tittle of the law of nature shall pass; for it is the eternal law of God. Therefore all the sentences of precedent judges that have ever been cannot all together make a law contrary to natural equity. Nor any examples of former judges can warrant an unreasonable sentence, or discharge the present judge of the trouble of studying what is equity (in the case he is to judge) from the principles of his own natural reason. For example sake, it is against the law of nature to punish the innocent; and innocent is he that acquitteth himself judicially and is acknowledged for innocent by the judge. Put the case now that a man is accused of a capital crime, and seeing the power and malice of some enemy, and the frequent corruption and partiality of judges, runneth away for fear of the event, and afterwards is taken and brought to a legal trial, and maketh it sufficiently appear he was not guilty of the crime, and being thereof acquitted is nevertheless condemned to lose his goods; this is a manifest condemnation of the innocent. I say therefore that there is no place in the world where this can be an interpretation of a law of nature, or be made a law by the sentences of precedent judges that had done the same. For he that judged it first judged unjustly; and no injustice can be a pattern of judgement to succeeding judges. A written law may forbid innocent men to fly, and they may be punished for flying: but that flying for fear of injury should be taken for presumption of guilt, after a man is already absolved of the crime judicially, is contrary to the nature of a presumption, which hath no place after judgement given. Yet this is set down by a great lawyer for the common law of England: "If a man," saith he, "that is innocent be accused of felony, and for fear flyeth for the same; albeit he judicially acquitteth himself of the felony; yet if it be found that he fled for the felony, he shall, notwithstanding his innocency, forfeit all his goods, chattels, debts, and duties. For as to the forfeiture of

them, the law will admit no proof against the presumption in law, grounded upon his flight." Here you see an innocent man, judicially acquitted, notwithstanding his innocency (when no written law forbade him to fly) after his acquittal, upon a presumption in law, condemned to lose all the goods he hath. If the law ground upon his flight a presumption of the fact, which was capital, the sentence ought to have been capital: the presumption were not of the fact, for what then ought he to lose his goods? This therefore is no law of England; nor is the condemnation grounded upon a presumption of law, but upon the presumption of the judges. It is also against law to say that no proof shall be admitted against a presumption of law. For all judges, sovereign and subordinate, if they refuse to hear proof, refuse to do justice: for though the sentence be just, yet the judges that condemn, without hearing the proofs offered, are unjust judges; and their presumption is but prejudice; which no man ought to bring with him to the seat of justice whatsoever precedent judgements or examples he shall pretend to follow. There be other things of this nature, wherein men's judgements have been perverted by trusting to precedents: but this is enough to show that though the sentence of the judge be a law to the party pleading, yet it is no law any judge that shall succeed him in that office.

In like manner, when question is of the meaning of written laws, he is not the interpreter of them that writeth a commentary upon them. For commentaries are commonly more subject to cavil than the text, and therefore need other commentaries; and so there will be no end of such interpretation. And therefore unless there be an interpreter authorized by the sovereign, from which the subordinate judges are not to recede, the interpreter can be no other than the ordinary judges, in the same manner as they are in cases of the unwritten law; and their sentences are to be taken by them that plead for laws in that particular case, but not to bind other judges in like cases to give like judgements. For a judge may err in the interpretation even of written laws; but no error of a subordinate judge can change the law, which is the general sentence of the sovereign.

In written laws men use to make a difference between the letter and the sentence of the law: and when by the letter is meant whatsoever can be gathered from the bare words, it is well distinguished. For the significations of almost all are either in themselves, or in the metaphorical use of them, ambiguous; and may be drawn in argument to make many senses; but there is only one sense of the law. But if by the letter be meant the literal sense, then the letter and the sentence or intention of the law is all one. For the literal sense is that which the legislator intended should by the letter of the law be signified. Now the intention of the legislator is always supposed to be equity: for it were a great contumely for a judge to think otherwise of the sovereign. He ought therefore, if the word of the law do not fully authorize a reasonable sentence, to supply it with the law of nature; or if the case be difficult, to respite judgement till he have received more ample authority. For example, a written law ordaineth that he which is thrust out of his house by force shall be restored by force. It happens that a man by negligence leaves his house empty, and returning is kept out by force, in which case there is no special law ordained. It is evident that this case is contained in the same law; for else there is no remedy for him at all, which is to be supposed against the intention of the legislator. Again, the word of the law commandeth to judge according to the evidence. A man is accused falsely of a fact which the judge himself saw done by another, and not by him that is accused. In this case neither shall the letter of the law be followed to the condemnation of the innocent, nor shall the judge give sentence against the evidence of the witnesses, because the letter of the law is to the contrary; but procure of the sovereign that another be made judge, and himself witness. So that the incommodity that follows the bare words of a written law may lead him to the intention of the law, whereby to interpret the same the better; though no incommodity can warrant a sentence against the law. For every judge of right and wrong is not judge of what is

commodious or incommodious to the Commonwealth.

The abilities required in a good interpreter of the law, that is to say, in a good judge, are not the same with those of an advocate; namely, the study of the laws. For a judge, as he ought to take notice of the fact from none but the witnesses, so also he ought to take notice of the law from nothing but the statutes and constitutions of the sovereign, alleged in the pleading, or declared to him by some that have authority from the sovereign power to declare them; and need not take care beforehand what he shall judge; for it shall be given him what he shall say concerning the fact, by witnesses; and what he shall say in point of law, from those that shall in their pleadings show it, and by authority interpret it upon the place. The Lords of Parliament in England were judges, and most difficult causes have been heard and determined by them; yet few of them were much versed in the study of the laws, and fewer had made profession of them; and though they consulted with lawyers that were appointed to be present there for that purpose, yet they alone had the authority of giving sentence. In like manner, in the ordinary trials of right, twelve men of the common people are the judges and give sentence, not only of the fact, but of the right; and pronounce simply for the complainant or for the defendant; that is to say, are judges not only of the fact, but also of the right; and in a question of crime, not only determine whether done or not done, but also whether it be murder, homicide, felony, assault, and the like, which are determinations of law: but because they are not supposed to know the law of themselves, there is one that hath authority to inform them of it in the particular case they are to judge of. But yet if they judge not according to that he tells them, they are not subject thereby to any penalty; unless it be made appear they did it against their consciences, or had been corrupted by reward.

The things that make a good judge or good interpreter of the laws are, first, a right understanding of that principal law of nature called equity; which, depending not on the reading of other men's writings, but on the goodness of a man's own natural reason and meditation, is presumed to be in those most that had most leisure, and had the most inclination to meditate thereon. Secondly, contempt of unnecessary riches and preferments. Thirdly, to be able in judgement to divest himself of all fear, anger, hatred, love, and compassion. Fourthly, and lastly, patience to hear, diligent attention in hearing, and memory to retain, digest, and apply what he hath heard.

The difference and division of the laws has been made in diverse manners, according to the different methods of those men that have written of them. For it is a thing that dependeth on nature, but on the scope of the writer, and is subservient to every man's proper method. In the Institutions of Justinian, we find seven sorts of civil laws:

1. The edicts, constitutions, and epistles of prince; that is, of the emperor, because the whole power of the people was in him. Like these are the proclamations of the kings of England.
2. > The decrees of the whole people of Rome, comprehending the Senate, when they were put to the question by the Senate. These were laws, at first, by the virtue of the sovereign power residing in the people; and such of them as by the emperors were not abrogated remained laws by the authority imperial. For all laws that bind are understood to be laws by his authority that has power to repeal them. Somewhat like to these laws are the Acts of Parliament in England.
3. The decrees of the common people, excluding the Senate, when they were put to the question by the tribune of the people. For such of them as were not abrogated by the emperors, remained laws by the authority imperial. Like to these were the orders of the House of Commons in England.
4. Senatus consulta, the orders of the Senate: because when the people of Rome grew so numerous as it was inconvenient to assemble them, it was thought fit by the emperor that men should consult the Senate instead of the people: and these

have some resemblance with the Acts of Council.

5. The edicts of praetors, and in some cases of the aediles: such as are the chief justices in the courts of England.

6. Responsa prudentum, which were the sentences and opinions of those lawyers to whom the emperor gave authority to interpret the law, the law, and to give answer to such as in matter of law demanded their advice; which answers the judges in giving judgement were obliged by the constitutions of the emperor to observe: and should be like the reports of cases judged, if other judges be by the law of England bound to observe them. For the judges of the common law of England are not properly judges, but juris consulti; of whom the judges, who are either the lords, or twelve men of the country, are in point of law to ask advice.

7. Also, unwritten customs, which in their own nature are an imitation of law, by the tacit consent of the emperor, in case they be not contrary to the law of nature, are very laws.

Another division of laws is into natural and positive. Natural are those which have been laws from all eternity, and are called not only natural, but also moral laws, consisting in the moral virtues; as justice, equity, and all habits of the mind that conduce to peace and charity, of which I have already spoken in the fourteenth and fifteenth Chapters.

Positive are those which have not been from eternity, but have been made laws by the will of those that have had the sovereign power over others, and are either written or made known to men by some other argument of the will of their legislator.

Again, of positive laws some are human, some divine: and of human positive laws, some are distributive, some penal. Distributive are those that determine the rights of the subjects, declaring to every man what it is by which he acquireth and holdeth a propriety in lands or goods, and a right or liberty of action: and these speak to all the subjects. Penal are those which declare what penalty shall be inflicted on those that violate the law; and speak to the ministers and officers ordained for execution. For though every one ought to be informed of the punishments ordained beforehand for their transgression; nevertheless the command is not addressed to the delinquent (who cannot be supposed will faithfully punish himself), but to public ministers appointed to see the penalty executed. And these penal laws are for the most part written together with the laws distributive, and are sometimes called judgements. For all laws are general judgements, or sentences of the legislator; as also every particular judgement is a law to him whose case is judged.

Divine positive laws (for natural laws, being eternal and universal, are all divine) are those which, being the commandments of God, not from all eternity, nor universally addressed to all men, but only to a certain people or to certain persons, are declared for such by those whom God hath authorized to declare them. But this authority of man to declare what be these positive of God, how can it be known? God may command a man, by a supernatural way, to deliver laws to other men. But because it is of the essence of law that he who is to be obliged be assured of the authority of him that declareth it, which we cannot naturally take notice to be from God, how can a man without supernatural revelations be assured of the revelation received by the declarer? And how can he be bound to obey bound to obey them? For the first question, how a man can be assured of the revelation of another without a revelation particularly to himself, it is evidently impossible: for though a man may be induced to believe such revelation, from the miracles they see him do, or from seeing the extraordinary sanctity of his life, or from seeing the extraordinary wisdom, or extraordinary felicity of his actions, all which are marks of God's extraordinary favour; yet they are not assured evidences of special revelation. Miracles are marvellous works; but that which is marvellous to one may not be so to another. Sanctity may be feigned; and the visible felicities of this world are most often the work of God by natural and ordinary causes. And therefore no man can

infallibly know by natural reason that another has had a supernatural revelation of God's will but only a belief; every one, as the signs thereof shall appear greater or lesser, a firmer or a weaker belief.

But for the second, how he can be bound to obey them, it is not so hard. For if the law declared be not against the law of nature, which is undoubtedly God's law, and he undertake to obey it, he is bound by his own act; bound I say to obey it, but not bound to believe it: for men's belief, and interior cogitations, are not subject to the commands, but only to the operation of God, ordinary or extraordinary. Faith of supernatural law is not a fulfilling, but only an assenting to the same; and not a duty that we exhibit to God, but a gift which God freely giveth to whom He pleaseth; as also unbelief is not a breach of any of His laws, but a rejection of them all, except the laws natural. But this that I say will be made yet clearer by, the examples and testimonies concerning this point in Holy Scripture. The covenant God made with Abraham in a supernatural manner was thus, "This is the covenant which thou shalt observe between me and thee and thy seed after thee." [Genesis, 17. 10] Abraham's seed had not this revelation, nor were yet in being; yet they are a party to the covenant, and bound to obey what Abraham should declare to them for God's law; which they could not be but in virtue of the obedience they owed to their parents, who (if they be subject to no other earthly power, as here in the case of Abraham) have sovereign power over their children and servants. Again, where God saith to Abraham, "In thee shall all nations of the earth be blessed: for I know thou wilt command thy children and thy house after thee to keep the way of the Lord, and to observe righteousness and judgement," it is manifest the obedience of his family, who had no revelation, depended on their former obligation to obey their sovereign. At Mount Sinai Moses only went up to God; the people were forbidden to approach on pain of death; yet were they bound to obey all that Moses declared to them for God's law. Upon what ground, but on this submission of their own, "Speak thou to us, and we will hear thee; but let not God speak to us, lest we die"? By which two places it sufficiently appeareth that in a Commonwealth a subject that has no certain and assured revelation particularly to himself concerning the will of God is to obey for such the command of the Commonwealth: for if men were at liberty to take for God's commandments their own dreams and fancies, or the dreams and fancies of private men, scarce two men would agree upon what is God's commandment; and yet in respect of them every man would despise the commandments of the Commonwealth. I conclude, therefore, that in all things not contrary to the moral law (that is to say, to the law of nature), all subjects are bound to obey that for divine law which is declared to be so by the laws of the Commonwealth. Which also is evident to any man's reason; for whatsoever is not against the law of nature may be made law in the name of them that have the sovereign power; there is no reason men should be the less obliged by it when it is propounded in the name of God. Besides, there is no place in the world where men are permitted to pretend other commandments of God than are declared for such by the Commonwealth. Christian states punish those that revolt from Christian religion; and all other states, those that set up any religion by them forbidden. For in whatsoever is not regulated by the Commonwealth, it is equity (which is the law of nature, and therefore an eternal law of God) that every man equally enjoy his liberty.

There is also another distinction of laws into fundamental and not fundamental: but I could never see in any author what a fundamental law signifieth. Nevertheless one may very reasonably distinguish laws in that manner.

For a fundamental law in every Commonwealth is that which, being taken away, the Commonwealth faileth and is utterly dissolved, as a building whose foundation is destroyed. And therefore a fundamental law is that by which subjects are bound to uphold whatsoever power is given to the sovereign, whether a monarch or a sovereign assembly, without which the Commonwealth cannot stand; such as is the power of war and peace, of judicature, of election of officers, and of doing

whatsoever he shall think necessary for the public good. Not fundamental is that, the abrogating whereof draweth not with it the dissolution of the Commonwealth; such as are the laws concerning controversies between subject and subject. Thus much of the division of laws.

I find the words lex civilis and jus civile, that is to say, and law and right civil, promiscuously used for the same thing, even in the most learned authors; which nevertheless ought not to be so. For right is liberty, namely that liberty which the civil law leaves us: but civil law is an obligation, and takes from us the liberty which the law of nature gave us. Nature gave a right to every man to secure himself by his own strength, and to invade a suspected neighbour by way of prevention: but the civil law takes away that liberty, in all cases where the protection of the law may be safely stayed for. Insomuch as lex and jus are as different as obligation and liberty.

Likewise laws and charters are taken promiscuously for the same thing. Yet charters are donations of the sovereign; and not laws, but exemptions from law. The phrase of a law is jubeo, injungo; I command and enjoin: the phrase of a charter is dedi, concessi; I have given, I have granted: but what is given or granted to a man is not forced upon him by a law. A law may be made to bind all the subjects of a Commonwealth: a liberty or charter is only to one man or some one part of the people. For to say all the people of a Commonwealth have liberty in any case whatsoever is to say that, in such case, there hath been no law made; or else, having been made, is now abrogated.

CHAPTER XXVII
OF CRIMES, EXCUSES, AND EXTENUATIONS

A sin is not only a transgression of a law, but also any contempt of the legislator. For such contempt is a breach of all his laws at once, and therefore may consist, not only in the commission of a fact, or in the speaking of words by the laws forbidden, or in the omission of what the law commandeth, but also in the intention or purpose to transgress. For the purpose to break the law is some degree of contempt of him to whom it belonged to see it executed. To be delighted in the imagination only of being possessed of another man's goods, servants, or wife, without any intention to take them from him by force or fraud, is no breach of the law, that saith, "Thou shalt not covet": nor is the pleasure a man may have in imagining or dreaming of the death of him from whose life he expecteth nothing but damage and displeasure, a sin; but the resolving to put some act in execution that tendeth thereto. For to be pleased in the fiction of that which would please a man if it were real is a passion so adherent to the nature both of man and every other living creature, as to make it a sin were to make sin of being a man. Th consideration of this has made me think them too severe, both to themselves and others, that maintain that the first motions of the mind, though checked with the fear of God, be sins. But I confess it is safer to err on that hand than on the other.

A crime is a sin consisting in the committing by deed or word of that which the law forbiddeth, or the omission of what it hath commanded. So that every crime is a sin; but not every sin a crime. To intend to steal or kill is a sin, though it never appear in word or fact: for God that seeth the thought of man can lay it to his charge: but till it appear by something done, or said, by which the intention may be argued by a human judge, it hath not the name of crime: which distinction the Greeks observed in the word amartema and egklema or aitia; whereof the former (which is translated sin) signifieth any swerving from the law whatsoever; but the two latter (which are translated crime) signify that sin only whereof one man may accuse another. But of intentions, which never appear by any outward act, there is no place for human accusation. In like manner the Latins by peccatum, which is sin, signify all manner of deviation from the law; but by crimen (which word they derive from cerno, which

signifies to perceive) they mean only such sins as may be made appear before a judge, and therefore are not mere intentions.

From this relation of sin to the law, and of crime to the civil law, may be inferred, first, that where law ceaseth, sin ceaseth. But because the law of nature is eternal, violation of covenants, ingratitude, arrogance, and all facts contrary to any moral virtue can never cease to be sin. Secondly, that the civil law ceasing, crimes cease: for there being no other law remaining but that of nature, there is no place for accusation; every man being his own judge, and accused only by his own conscience, and cleared by the uprightness of his own intention. When therefore his intention is right, his fact is no sin; if otherwise, his fact is sin, but not crime. Thirdly, that when the sovereign power ceaseth, crime also ceaseth: for where there is no such power, there is no protection to be had from the law; and therefore every one may protect himself by his own power: for no man in the institution of sovereign power can be supposed to give away the right of preserving his own body, for the safety whereof all sovereignty was ordained. But this is to be understood only of those that have not themselves contributed to the taking away of the power that protected them: for that was a crime from the beginning.

The source of every crime is some defect of the understanding, or some error in reasoning, or some sudden force of the passions. Defect in the understanding is ignorance; in reasoning, erroneous opinion. Again, ignorance is of three sorts; of the law, and of the sovereign, and of the penalty. Ignorance of the law of nature excuseth no man, because every man that hath attained to the use of reason is supposed to know he ought not to do to another what he would not have done to himself. Therefore into what place soever a man shall come, if he do anything contrary to that law, it is a crime. If a man come from the Indies hither, and persuade men here to receive a new religion, or teach them anything that tendeth to disobedience of the laws of this country, though he be never so well persuaded of the truth of what he teacheth, he commits a crime, and may be justly punished for the same, not only because his doctrine is false, but also because he does that which he would not approve in another; namely, that coming from hence, he should endeavour to alter the religion there. But ignorance of the civil law shall excuse a man in a strange country till it be declared to him, because till then no civil law is binding.

In the like manner, if the civil law of a man's own country be not so sufficiently declared as he may know it if he will; nor the action against the law of nature; the ignorance is a good excuse: in other cases ignorance of the civil law excuseth not.

Ignorance of the sovereign power the place of a man's ordinary residence excuseth him not, because he ought to take notice of the power by which he hath been protected there.

Ignorance of the penalty, where the law is declared, excuseth no man: for in breaking the law, which without a fear of penalty to follow were not a law, but vain words, he undergoeth the penalty, though he know not what it is; because whosoever voluntarily doth any action, accepteth all the known consequences of it; but punishment is a known consequence of the violation of the laws in every Commonwealth; which punishment, if it be determined already by the law, he is subject to that; if not, then is he subject to arbitrary punishment. For it is reason that he which does injury, without other limitation than that of his own will, should suffer punishment without other limitation than that of his will whose law is thereby violated.

But when a penalty is either annexed to the crime in the law itself, or hath been usually inflicted in the like cases, there the delinquent is excused from a greater penalty. For the punishment foreknown, if not great enough to deter men from the action, is an invitement to it: because when men compare the benefit of their injustice with the harm of their punishment, by necessity of nature they choose that

which appeareth best for themselves: and therefore when they are punished more than the law had formerly determined, or more than others were punished for the same crime, it is the law that tempted and deceiveth them.

No law made after a fact done can make it a crime: because if the fact be against the law of nature, the law was before the fact; and a positive law cannot be taken notice of before it be made, and therefore cannot be obligatory. But when the law that forbiddeth a fact is made before the fact be done, yet he that doth the fact is liable to the penalty ordained after, in case no lesser penalty were made known before, neither by writing nor by example, for the reason immediately before alleged.

From defect in reasoning (that is to say, from error), men are prone to violate the laws three ways. First, by presumption of false principles: as when men, from having observed how in all places and in all ages unjust actions have been authorised by the force and victories of those who have committed them; and that, potent men breaking through the cobweb laws of their country, the weaker sort and those that have failed in their enterprises have been esteemed the only criminals; have thereupon taken for principles and grounds of their reasoning that justice is but a vain word: that whatsoever a man can get by his own industry and hazard is his own: that the practice of all nations cannot be unjust: that examples of former times are good arguments of doing the like again; and many more of that kind: which being granted, no act in itself can be a crime, but must be made so, not by the law, but by the success of them that commit it; and the same fact be virtuous or vicious fortune pleaseth; so that what Marius makes a crime, Sylla shall make meritorious, and Caesar (the same laws standing) turn again into a crime, to the perpetual disturbance of the peace of the Commonwealth.

Secondly, by false teachers that either misinterpret the law of nature, making it thereby repugnant to the law civil, or by teaching for laws such doctrines of their own, or traditions of former times, as are inconsistent with the duty of a subject.

Thirdly, by erroneous inferences from true principles; which happens commonly to men that are hasty and precipitate in concluding and resolving what to do; such as are they that have both a great opinion of their own understanding and believe that things of this nature require not time and study, but only common experience and a good natural wit, whereof no man thinks himself unprovided: whereas the knowledge of right and wrong, which is no less difficult, there is no man will pretend to without great and long study. And of those defects in reasoning, there is none that can excuse, though some of them may extenuate, a crime in any man that pretendeth to the administration of his own private business; much less in them that undertake a public charge, because they pretend to the reason upon the want whereof they would ground their excuse.

Of the passions that most frequently are the causes of crime, one is vainglory, or a foolish overrating of their own worth; as if difference of worth were an effect of their wit, or riches, or blood, or some other natural quality, not depending on the will of those that have the sovereign authority. From whence proceedeth a presumption that the punishments ordained by the laws, and extended generally to all subjects, ought not to be inflicted on them with the same rigor they are inflicted on poor, obscure, and simple men, comprehended under the name of the vulgar.

Therefore it happeneth commonly that such as value themselves by the greatness of their wealth adventure on crimes, upon hope of escaping punishment by corrupting public justice, or obtaining pardon by money or other rewards.

And that such as have multitude of potent kindred, and popular men that have gained reputation amongst the multitude, take courage to violate the laws from a hope of oppressing the power to whom it belonged to put them in execution.

And that such as have a great and false opinion of their own wisdom take upon them to reprehend the actions and call in question the authority of them that govern, and so to unsettle the laws with their public discourse, as that nothing shall be a crime

but what their own designs require should be so. It happeneth also to the same men to be prone to all such crimes as consist in craft, and in deceiving of their neighbours; because they think their designs are too subtle to be perceived. These I say are effects of a false presumption of their own wisdom. For of them that are the first movers in the disturbance of Commonwealth (which can never happen without a civil war), very few are left alive long enough to see their new designs established: so that the benefit of their crimes redoundeth to posterity and such as would least have wished it: which argues they were not so wise as they thought they were. And those that deceive upon hope of not being observed do commonly deceive themselves, the darkness in which they believe they lie hidden being nothing else but their own blindness, and are no wiser than children that think all hid by hiding their own eyes.

And generally all vainglorious men, unless they be withal timorous, are subject to anger; as being more prone than others to interpret for contempt the ordinary liberty of conversation: and there are few crimes that may not be produced by anger.

As for the passions, of hate, lust, ambition, and covetousness, what crimes they are apt to produce is so obvious to every man's experience and understanding as there needeth nothing to be said of them, saving that they are infirmities, so annexed to the nature, both of man and all other living creatures, as that their effects cannot be hindered but by extraordinary use of reason, or a constant severity in punishing them. For in those things men hate, they find a continual and unavoidable molestation; whereby either a man's patience must be everlasting, or he must be eased by removing the power of that which molesteth him: the former is difficult; the latter is many times impossible without some violation of the law. Ambition and covetousness are passions also that are perpetually incumbent and pressing; whereas reason is not perpetually present to resist them: and therefore whensoever the hope of impunity appears, their effects proceed. And for lust, what it wants in the lasting, it hath in the vehemence, which sufficeth to weigh down the apprehension of all easy or uncertain punishments.

Of all passions, that which inclineth men least to break the laws is fear. Nay, excepting some generous natures, it is the only thing (when there is appearance of profit or pleasure by breaking the laws) that makes men keep them. And yet in many cases a crime may be committed through fear.

For not every fear justifies the action it produceth, but the fear only of corporeal hurt, which we call bodily fear, and from which a man cannot see how to be delivered but by the action. A man is assaulted, fears present death, from which he sees not how to escape but by wounding him that assaulteth him; if he wound him to death, this is no crime, because no man is supposed, at the making of a Commonwealth to have abandoned the defence of his life or limbs, where the law cannot arrive time enough to his assistance. But to kill a man because from his actions or his threatenings I may argue he will kill me when he can (seeing I have time and means to demand protection from the sovereign power) is a crime. Again, a man receives words of disgrace, or some little injuries, for which they that made the laws had assigned no punishment, nor thought it worthy of a man that hath the use of reason to take notice of, and is afraid unless he revenge it he shall fall into contempt, and consequently be obnoxious to the like injuries from others; and to avoid this, breaks the law, and protects himself for the future by the terror of his private revenge. This is a crime: for the hurt is not corporeal, but fantastical, and (though, in this corner of the world, made sensible by a custom not many years since begun, amongst young and vain men) so light as a gallant man, and one that is assured of his own courage, cannot take notice of. Also a man may stand in fear of spirits, either through his own superstition or through too much credit given to other men that tell him of strange dreams and visions; and thereby be made believe they will hurt him for doing or omitting diverse things which, nevertheless, to do or

omit is contrary to the laws; and that which is so done, or omitted, is not to be excused by this fear, but is a crime. For, as I have shown before in the second Chapter, dreams be naturally but the fancies remaining in sleep, after the impressions our senses had formerly received waking; and, when men are by any accident unassured they have slept, seem to be real visions; and therefore he that presumes to break the law upon his own or another's dream or pretended vision, or upon other fancy of the power of invisible spirits than is permitted by the Commonwealth, leaveth the law of nature, which is a certain offence, and followeth the imagery of his own or another private man's brain, which he can never know whether it signifieth anything or nothing, nor whether he that tells his dream say true or lie; which if every private man should have leave to do (as they must, by the law of nature, if any one have it), there could no law be made to hold, and so all Commonwealth would be dissolved.

From these different sources of crimes, it appears already that all crimes are not, as the Stoics of old time maintained, of the same alloy. There is place, not only for excuse, by which that which seemed a crime is proved to be none at all; but also for extenuation, by which the crime, that seemed great, is made less. For though all crimes do equally deserve the name of injustice, as all deviation from a straight line is equally crookedness, which the Stoics rightly observed; yet it does not follow that all crimes are equally unjust, no more than that all crooked lines are equally crooked; which the Stoics, not observing, held it as great a crime to kill a hen, against the law, as to kill one's father.

That which totally excuseth a fact, and takes away from it the nature of a crime, can be none but that which, at the same time, taketh away the obligation of the law. For the fact committed once against the law, if he that committed it be obliged to the law, can be no other than a crime.

The want of means to know the law totally excuseth: for the law whereof a man has no means to inform himself is not obligatory. But the want of diligence to enquire shall not be considered as a want of means; nor shall any man that pretendeth to reason enough for the government of his own affairs be supposed to want means to know the laws of nature; because they are known by the reason he pretends to: only children and madmen are excused from offences against the law natural.

Where a man is captive, or in the power of the enemy (and he is then in the power of the enemy when his person, or his means of living, is so), if it be without his own fault, the obligation of the law ceaseth; because he must obey the enemy, or die, and consequently such obedience is no crime: for no man is obliged (when the protection of the law faileth) not to protect himself by the best means he can.

If a man by the terror of present death be compelled to do a fact against the law, he is totally excused; because no law can oblige a man to abandon his own preservation. And supposing such a law were obligatory, yet a man would reason thus: "If I do it not, I die presently; if I do it, I die afterwards; therefore by doing it, there is time of life gained." Nature therefore compels him to the fact.

When a man is destitute of food or other thing necessary for his life, and cannot preserve himself any other way but by some fact against the law; as if in a great famine he take the food by force, or stealth, which he cannot obtain for money, nor charity; or in defence of his life, snatch away another man's sword; he is totally excused for the reason next before alleged.

Again, facts done against the law, by the authority of another, are by that authority excused against the author, because no man ought to accuse his own fact in another that is but his instrument: but it is not excused against a third person thereby injured, because in the violation of the law both the author and actor are criminals. From hence it followeth that when that man or assembly that hath the sovereign power commandeth a man to do that which is contrary to a former law, the doing of it is totally excused: for he ought not to condemn it himself, because he is the author; and what cannot justly be condemned by the sovereign cannot justly be punished by

any other. Besides, when the sovereign commandeth anything to be done against his own former law, the command, as to that particular fact, is an abrogation of the law.

If that man or assembly that hath the sovereign power disclaim any right essential to the sovereignty, whereby there accrueth to the subject any liberty inconsistent with the sovereign power; that is to say, with the very being of a Commonwealth; if the subject shall refuse to obey the command in anything, contrary to the liberty granted, this is nevertheless a sin, and contrary to the duty of the subject: for he to take notice of what is inconsistent with the sovereignty, because it was erected by his own consent and for his own defence, and that such liberty as is inconsistent with it was granted through ignorance of the evil consequence thereof. But if he not only disobey, but also resist a public minister in the execution of it, then it is a crime, because he might have been righted, without any breach of the peace, upon complaint.

The degrees of crime are taken on diverse scales, and measured, first, by the malignity of the source, or cause: secondly, by the contagion of the example: thirdly, by the mischief of the effect: and fourthly, by the concurrence of times, places, and persons.

The same fact done against the law, if it proceed from presumption of strength, riches, or friends to resist those that are to execute the law, is a greater crime than if it proceed from hope of not being discovered, or of escape by flight: for presumption of impunity by force is a root from whence springeth, at all times, and upon all temptations, a contempt of all laws; whereas in the latter case the apprehension of danger that makes a man fly renders him more obedient for the future. A crime which know to be so is greater than the same crime proceeding from a false persuasion that it is lawful: for he that committeth it against his own conscience presumeth on his force, or other power, which encourages him to commit the same again, but he that doth it by error, after the error shown him, is conformable to the law.

He whose error proceeds from the authority of a teacher, or an interpreter of the law publicly authorised, is not so faulty as he whose error proceedeth from a peremptory pursuit of his own principles and reasoning: for what is taught by one that teacheth by public authority, the Commonwealth teacheth, and hath a resemblance of law, till the same authority controlleth it; and in all crimes that contain not in them a denial of the sovereign power, nor are against an evident law, excuseth totally; whereas he that groundeth his actions on his private judgement ought, according to the rectitude or error thereof, to stand or fall.

The same fact, if it have been constantly punished in other men, is a greater crime than if there have been many precedent examples of impunity. For those examples are so many hopes of impunity, given by the sovereign himself: and because he which furnishes a man with such a hope and presumption of mercy, as encourageth him to offend, hath his part in the offence, he cannot reasonably charge the offender with the whole.

A crime arising from a sudden passion is not so great as when the same ariseth from long meditation: for in the former case there is a place for extenuation in the common infirmity of human nature; but he that doth it with premeditation has used circumspection, and cast his eye on the law, on the punishment, and on the consequence thereof to human society; all which in committing the crime he hath contemned and postponed to his own appetite. But there is no suddenness of passion sufficient for a total excuse: for all the time between the first knowing of the law, and the commission of the fact, shall be taken for a time of deliberation, because he ought, by meditation of the law, to rectify the irregularity of his passions.

Where the law is publicly, and with assiduity, before all the people read and interpreted, a fact done against it is a greater crime than where men are left without such instruction to enquire of it with difficulty, uncertainty, and interruption of

their callings, and be informed by private men: for in this case, part of the fault is discharged upon common infirmity; but in the former there is apparent negligence, which is not without some contempt of the sovereign power.

Those facts which the law expressly condemneth, but the lawmaker by other manifest signs of his will tacitly approveth, are less crimes than the same facts condemned both by the law and lawmaker. For seeing the will of the lawmaker is a law, there appear in this case two contradictory laws; which would totally excuse, if men were bound to take notice of the sovereigns approbation, by other arguments than are expressed by his command. But because there are punishments consequent, not only to the transgression of his law, but also to the observing of it he is in part a cause of the transgression, and therefore cannot reasonably impute the whole crime to the delinquent. For example, the law condemneth duels; the punishment is made capital: on the contrary part, he that refuseth duel is subject to contempt and scorn, without remedy; and sometimes by the sovereign himself thought unworthy to have any charge or preferment in war: if thereupon he accept duel, considering all men lawfully endeavour to obtain the good opinion of them that have the sovereign power, he ought not in reason to be rigorously punished, seeing part of the fault may be discharged on the punisher: which I say, not as wishing liberty of private revenges, or any other kind of disobedience, but a care in governors not to countenance anything obliquely which directly they forbid. The examples of princes, to those that see them, are, and ever have been, more potent to govern their actions than the laws themselves. And though it be our duty to do, not what they do, but what they say; yet will that duty never be performed till it please God to give men an extraordinary and supernatural grace to follow that precept.

Again, if we compare crimes by the mischief of their effects; first, the same fact when it redounds to the damage of many is greater than when it redounds to the hurt of few. And therefore when a fact hurteth, not only in the present, but also by example in the future, it is a greater crime than if it hurt only in the present: for the former is a fertile crime, and multiplies to the hurt of many; the latter is barren. To maintain doctrines contrary to the religion established in the Commonwealth is a greater fault in an authorised preacher than in a private person: so also is it to live profanely, incontinently, or do any irreligious act whatsoever. Likewise in a professor of the law, to maintain any point, or do any act, that tendeth to the weakening of the sovereign power is a greater crime than in another man: also in a man that hath such reputation for wisdom as that his counsels are followed, or his actions imitated by many, his fact against the law is a greater crime than the same fact in another: for such men not only commit crime, but teach it for law to all other men. And generally all crimes are the greater by the scandal they give; that is to say, by becoming stumbling-blocks to the weak, that look not so much upon the way they go in, as upon the light that other men carry before them.

Also facts of hostility against the present state of the Commonwealth are greater crimes than the same acts done to private men: for the damage extends itself to all: such are the betraying of the strengths or revealing of the secrets of the Commonwealth to an enemy; also all attempts upon the representative of the Commonwealth, be it a monarch or an assembly; and all endeavours by word or deed to diminish the authority of the same, either in the present time or in succession: which crimes the Latins understand by crimina laesae majestatis, and consist in design, or act, contrary to a fundamental law.

Likewise those crimes which render judgements of no effect are greater crimes than injuries done to one or a few persons; as to receive money to give false judgement or testimony is a greater crime than otherwise to deceive a man of the like or a greater sum; because not only he has wrong, that falls by such judgements, but all judgements are rendered useless, and occasion ministered to force and private revenges.

Also robbery and depeculation of the public treasury or revenues is a greater crime than the robbing or defrauding of a private man, because to rob the public is to rob many at once; also the counterfeit usurpation of public ministry, the counterfeiting of public seals, or public coin, than counterfeiting of a private man's person or his seal, because the fraud thereof extendeth to the damage of many.

Of facts against the law done to private men, the greater crime is that where the damage, in the common opinion of men, is most sensible. And therefore:

To kill against the law is a greater crime than any other injury, life preserved.

And to kill with torment, greater than simply to kill.

And mutilation of a limb, greater than the spoiling a man of his goods.

And the spoiling a man of his goods by terror of death or wounds, than by clandestine surreption.

And by clandestine surreption, than by consent fraudulently obtained.

And the violation of chastity by force, greater than by flattery.

And of a woman married, than of a woman not married.

For all these things are commonly so valued; though some men are more, and some less, sensible of the same offence. But the law regardeth not the particular, but the general inclination of mankind.

And therefore the offence men take from contumely, in words or gesture, when they produce no other harm than the present grief of him that is reproached, hath been neglected in the laws of the Greeks, Romans, and other both ancient and modern Commonwealths; supposing the true cause of such grief to consist, not in the contumely (which takes no hold upon men conscious of their own virtue), but in the pusillanimity of him that is offended by it.

Also a crime against a private man is much aggravated by the person, time, and place. For to kill one's parent is a greater crime than to kill another: for the parent ought to have the honour of a sovereign (though he have surrendered his power to the civil law), because he had it originally by nature. And to rob a poor man is a greater crime than to rob a rich man, because it is to the poor a more sensible damage.

And a crime committed in the time or place appointed for devotion is greater than if committed at another time or place: for it proceeds from a greater contempt of the law.

Many other cases of aggravation and extenuation might be added; but by these I have set down, it is obvious to every man to take the altitude of any other crime proposed.

Lastly, because in almost all crimes there is an injury done, not only to some private men, but also to the Commonwealth, the same crime, when the accusation is in the name of the Commonwealth, is called public crime; and when in the name of a private man, a private crime; and the pleas according thereupon called public, judicia publica, pleas of the crown; or private pleas. As in an accusation of murder, if the accuser be a private man, the plea is a private plea; if the accuser be the sovereign, the plea is a public plea.

CHAPTER XXVIII
OF PUNISHMENTS AND REWARDS

A punishment is an evil inflicted by public authority on him that hath done or omitted that which is judged by the same authority to be a transgression of the law, to the end that the will of men may thereby the better be disposed to obedience.

Before I infer anything from this definition, there is a question to be answered of much importance; which is, by what door the right or authority of punishing, in any case, came in. For by that which has been said before, no man is supposed bound by covenant not to resist violence; and consequently it cannot be intended that he gave any right to another to lay violent hands upon his person. In the making of a

Commonwealth every man giveth away the right of defending another, but not of defending himself. Also he obligeth himself to assist him that hath the sovereignty in the punishing of another, but of himself not. But to covenant to assist the sovereign in doing hurt to another, unless he that so covenanteth have a right to do it himself, is not to give him a right to punish. It is manifest therefore that the right which the Commonwealth (that is, he or they that represent it) hath to punish is not grounded on any concession or gift of the subjects. But I have also shown formerly that before the institution of Commonwealth, every man had a right to everything, and to do whatsoever he thought necessary to his own preservation; subduing, hurting, or killing any man in order thereunto. And this is the foundation of that right of punishing which is exercised in every Commonwealth. For the subjects did not give the sovereign that right; but only, in laying down theirs, strengthened him to use his own as he should think fit for the preservation of them all: so that it was not given, but left to him, and to him only; and, excepting the limits set him by natural law, as entire as in the condition of mere nature, and of war of every one against his neighbour.

From the definition of punishment, I infer, first, that neither private revenges nor injuries of private men can properly be styled punishment, because they proceed not from public authority.

Secondly, that to be neglected and unpreferred by the public favour is not a punishment, because no new evil is thereby on any man inflicted; he is only left in the estate he was in before.

Thirdly, that the evil inflicted by public authority, without precedent public condemnation, is not to be styled by the name of punishment, but of a hostile act, because the fact for which a man is punished ought first to be judged by public authority to be a transgression of the law.

Fourthly, that the evil inflicted by usurped power, and judges without authority from the sovereign, is not punishment, but an act of hostility, because the acts of power usurped have not for author the person condemned, and therefore are not acts of public authority.

Fifthly, that all evil which is inflicted without intention or possibility of disposing the delinquent or, by his example, other men to obey the laws is not punishment, but an act of hostility, because without such an end no hurt done is contained under that name.

Sixthly, whereas to certain actions there be annexed by nature diverse hurtful consequences; as when a man in assaulting another is himself slain or wounded; or when he falleth into sickness by the doing of some unlawful act; such hurt, though in respect of God, who is the author of nature, it may be said to be inflicted, and therefore a punishment divine; yet it is not contained in the name of punishment in respect of men, because it is not inflicted by the authority of man.

Seventhly, if the harm inflicted be less than the benefit of contentment that naturally followeth the crime committed, that harm is not within the definition and is rather the price or redemption than the punishment of a crime: because it is of the nature of punishment to have for end the disposing of men to obey the law; which end (if it be less than the benefit of the transgression) it attaineth not, but worketh a contrary effect.

Eighthly, if a punishment be determined and prescribed in the law itself, and after the crime committed there be a greater punishment inflicted, the excess is not punishment, but an act of hostility. For seeing the aim of punishment is not a revenge, but terror; and the terror of a great punishment unknown is taken away by the declaration of a less, the unexpected addition is no part of the punishment. But where there is no punishment at all determined by the law, there whatsoever is inflicted hath the nature of punishment. For he that goes about the violation of a law, wherein no penalty is determined, expecteth an indeterminate, that is to say, an

arbitrary punishment.
Ninthly, harm inflicted for a fact done before there was a law that forbade it is not punishment, but an act of hostility: for before the law, there is no transgression of the law: but punishment supposeth a fact judged to have been a transgression of the law; therefore harm inflicted before the law made is not punishment, but an act of hostility.
Tenthly, hurt inflicted on the representative of the Commonwealth is not punishment, but an act of hostility: because it is of the nature of punishment to be inflicted by public authority, which is the authority only of the representative itself.
Lastly, harm inflicted upon one that is a declared enemy falls not under the name of punishment: because seeing they were either never subject to the law, and therefore cannot transgress it; or having been subject to it, and professing to be no longer so, by consequence deny they can transgress it, all the harms that can be done them must be taken as acts of hostility. But in declared hostility all infliction of evil is lawful. From whence it followeth that if a subject shall by fact or word wittingly and deliberately deny the authority of the representative of the Commonwealth (whatsoever penalty hath been formerly ordained for treason), he may lawfully be made to suffer whatsoever the representative will: for in denying subjection, he denies such punishment as by the law hath been ordained, and therefore suffers as an enemy of the Commonwealth; that is, according to the will of the representative. For the punishments set down in the law are to subjects, not to enemies; such as are they that, having been by their own act subjects, deliberately revolting, deny the sovereign power.
The first and most general distribution of punishments is into divine and human. Of the former I shall have occasion to speak in a more convenient place hereafter.
Human are those punishments that be inflicted by the commandment of man; and are either corporal, or pecuniary, or ignominy, or imprisonment, or exile, or mixed of these.
Corporal punishment is that which is inflicted on the body directly, and according to the intention of him that inflicteth it: such as are stripes, or wounds, or deprivation of such pleasures of the body as were before lawfully enjoyed.
And of these, some be capital, some less than capital. Capital is the infliction of death; and that either simply or with torment. Less than capital are stripes, wounds, chains, and any other corporal pain not in its own nature mortal. For if upon the infliction of a punishment death follow, not in the intention of the inflicter, the punishment is not to be esteemed capital, though the harm prove mortal by an accident not to be foreseen; in which case death is not inflicted, but hastened.
Pecuniary punishment is that which consisteth not only in the deprivation of a sum of money, but also of lands, or any other goods which are usually bought and sold for money. And in case the law that ordaineth such a punishment be made with design to gather money from such as shall transgress the same, it is not properly a punishment, but the price of privilege and exemption from the law, which doth not absolutely forbid the fact but only to those that are not able to pay the money: except where the law is natural, or part of religion; for in that case it is not an exemption from the law, but a transgression of it. As where a law exacteth a pecuniary mulct of them that take the name of God in vain, the payment of the mulct is not the price of a dispensation to swear, but the punishment of the transgression of a law indispensable. In like manner if the law impose a sum of money to be paid to him that has been injured, this is but a satisfaction for the hurt done him, and extinguisheth the accusation of the party injured, not the crime of the offender.
Ignominy is the infliction of such evil as is made dishonourable; or the deprivation of such good as is made honourable by the Commonwealth. For there be some things honourable by nature; as the effects of courage, magnanimity, strength, wisdom, and other abilities of body and mind: others made honourable by the Commonwealth; as

badges, titles, offices, or any other singular mark of the sovereigns favour. The former, though they may fail by nature or accident, cannot be taken away by a law; and therefore the loss of them is not punishment. But the latter may be taken away by the public authority that made them honourable, and are properly punishments: such are, degrading men condemned, of their badges, titles, and offices; or declaring them incapable of the like in time to come.

Imprisonment is when a man is by public authority deprived of liberty, and may happen from two diverse ends; whereof one is the safe custody of a man accused; the other is the inflicting of pain on a man condemned. The former is not punishment, because no man is supposed to be punished before he be judicially heard and declared guilty. And therefore whatsoever hurt a man is made to suffer by bonds or restraint before his cause be heard, over and above that which is necessary to assure his custody, is against the law of nature. But the latter is punishment because evil, and inflicted by public authority for somewhat that has by the same authority been judged a transgression of the law. Under this word imprisonment, I comprehend all restraint of motion caused by an external obstacle, be it a house, which is called by the general name of a prison; or an island, as when men are said to be confined to it; or a place where men are set to work, as in old time men have been condemned to quarries, and in these times to galleys; or be it a chain or any other such impediment.

Exile (banishment) is when a man is for a crime condemned to depart out of the dominion of the Commonwealth, or out of a certain part thereof, and during a prefixed time, or for ever, not to return into it; and seemeth not in its own nature, without other circumstances, to be a punishment, but rather an escape, or a public commandment to avoid punishment by flight. And Cicero says there was never any such punishment ordained in the city of Rome; but calls it a refuge of men in danger. For if a man banished be nevertheless permitted to enjoy his goods, and the revenue of his lands, the mere change of air is no punishment; nor does it tend to that benefit of the Commonwealth for which all punishments are ordained, that is to say, to the forming of men's wills to the observation of the law; but many times to the damage of the Commonwealth. For a banished man is a lawful enemy of the Commonwealth that banished him, as being no more a member of the same. But if he be withal deprived of his lands, or goods, then the punishment lieth not in the exile, but is to be reckoned amongst punishments pecuniary.

All punishments of innocent subjects, be they great or little, are against the law of nature: for punishment is only for transgression of the law, and therefore there can be no punishment of the innocent. It is therefore a violation, first, of that law of nature which forbiddeth all men, in their revenges, to look at anything but some future good: for there can arrive no good to the Commonwealth by punishing the innocent. Secondly, of that which forbiddeth ingratitude: for seeing all sovereign power is originally given by the consent of every one of the subjects, to the end they should as long as they are obedient be protected thereby, the punishment of the innocent is a rendering of evil for good. And thirdly, of the law that commandeth equity; that is to say, an equal distribution of justice, which in punishing the innocent is not observed.

But the infliction of what evil soever on an innocent man that is not a subject, if it be for the benefit of the Commonwealth, and without violation of any former covenant, is no breach of the law of nature. For all men that are not subjects are either enemies, or else they have ceased from being so by some precedent covenants. But against enemies, whom the Commonwealth judgeth capable to do them hurt, it is lawful by the original right of nature to make war; wherein the sword judgeth not, nor doth the victor make distinction of nocent and innocent as to the time past, nor has other respect of mercy than as it conduceth to the good of his own people. And upon this ground it is that also in subjects who deliberately deny the authority of the Commonwealth established, the vengeance is lawfully extended, not only to the

fathers, but also to the third and fourth generation not yet in being, and consequently innocent of the fact for which they are afflicted: because the nature of this offence consisteth in the renouncing of subjection, which is a relapse into the condition of war commonly called rebellion; and they that so offend, suffer not as subjects, but as enemies. For rebellion is but war renewed.

Reward is either of gift or by contract. When by contract, it is called salary and wages; which is benefit due for service performed or promised. When of gift, it is benefit proceeding from the grace of them that bestow it, to encourage or enable men to do them service. And therefore when the sovereign of a Commonwealth appointeth a salary to any public office, he that receiveth it is bound in justice to perform his office; otherwise, he is bound only in honour to acknowledgement and an endeavour of requital. For though men have no lawful remedy when they be commanded to quit their private business to serve the public, without reward or salary, yet they are not bound thereto by the law of nature, nor by the institution of the Commonwealth, unless the service cannot otherwise be done; because it is supposed the sovereign may make use of all their means, insomuch as the most common soldier may demand the wages of his warfare as a debt.

The benefits which a sovereign bestoweth on a subject, for fear of some power and ability he hath to do hurt to the Commonwealth, are not properly rewards: for they are not salaries, because there is in this case no contract supposed, every man being obliged already not to do the Commonwealth disservice: nor are they graces, because they be extorted by fear, which ought not to be incident to the sovereign power: but are rather sacrifices, which the sovereign, considered in his natural person, and not in the person of the Commonwealth, makes for the appeasing the discontent of him he thinks more potent than himself; and encourage not to obedience, but, on the contrary, to the continuance and increasing of further extortion.

And whereas some salaries are certain, and proceed from the public treasury; and others uncertain and casual, proceeding from the execution of the office for which the salary is ordained; the latter is in some cases hurtful to the Commonwealth, as in the case of judicature. For where the benefit of the judges, and ministers of a court of justice, ariseth for the multitude of causes that are brought to their cognizance, there must needs follow two inconveniences: one is the nourishing of suits; for the more suits, the greater benefit: and another that depends on that, which is contention which is about jurisdiction; each court drawing to itself as many causes as it can. But in offices of execution there are not those inconveniences, because their employment cannot be increased by any endeavour of their own. And thus much shall suffice for the nature of punishment and reward; which are, as it were, the nerves and tendons that move the limbs and joints of a Commonwealth.

Hitherto I have set forth the nature of man, whose pride and other passions have compelled him to submit himself to government; together with the great power of his governor, whom I compared to LEVIATHAN, taking that comparison out of the two last verses of the one-and-fortieth of Job; where God, having set forth the great power of Leviathan, calleth him king of the proud. "There is nothing," saith he, "on earth to be compared with him. He is made so as not to be afraid. He seeth every high thing below him; and is king of all the children of pride." But because he is mortal, and subject to decay, as all other earthly creatures are; and because there is that in heaven, though not on earth, that he should stand in fear of, and whose laws he ought to obey; I shall in the next following chapters speak of his diseases and the causes of his mortality, and of what laws of nature he is bound to obey.

CHAPTER XXIX
OF THOSE THINGS THAT WEAKEN OR TEND TO THE DISSOLUTION OF A COMMONWEALTH

THOUGH nothing can be immortal which mortals make; yet, if men had the use of reason they pretend to, their Commonwealths might be secured, at least, from perishing by internal diseases. For by the nature of their institution, they are designed to live as long as mankind, or as the laws of nature, or as justice itself, which gives them life. Therefore when they come to be dissolved, not by external violence, but intestine disorder, the fault is not in men as they are the matter, but as they are the makers and orderers of them. For men, as they become at last weary of irregular jostling and hewing one another, and desire with all their hearts to conform themselves into one firm and lasting edifice; so for want both of the art of making fit laws to square their actions by, and also of humility and patience to suffer the rude and cumbersome points of their present greatness to be taken off, they cannot without the help of a very able architect be compiled into any other than a crazy building, such as, hardly lasting out their own time, must assuredly fall upon the heads of their posterity.

Amongst the infirmities therefore of a Commonwealth, I will reckon in the first place those that arise from an imperfect institution, and resemble the diseases of a natural body, which proceed from a defectuous procreation.

Of which this is one: that a man to obtain a kingdom is sometimes content with less power than to the peace and defence of the Commonwealth is necessarily required. From whence it cometh to pass that when the exercise of the power laid by is for the public safety to be resumed, it hath the resemblance of an unjust act, which disposeth great numbers of men, when occasion is presented, to rebel; in the same manner as the bodies of children gotten by diseased parents are subject either to untimely death, or to purge the ill quality derived from their vicious conception, by breaking out into biles and scabs. And when kings deny themselves some such necessary power, it is not always (though sometimes) out of ignorance of what is necessary to the office they undertake, but many times out of a hope to recover the same again at their pleasure: wherein they reason not well; because such as will hold them to their promises shall be maintained against them by foreign Commonwealths; who in order to the good of their own subjects let slip few occasions to weaken the estate of their neighbours. So was Thomas Becket, Archbishop of Canterbury, supported against Henry the Second by the Pope; the subjection of ecclesiastics to the Commonwealth having been dispensed with by William the Conqueror at his reception, when he took an oath not to infringe the liberty of the Church. And so were the barons, whose power was by William Rufus, to have their help in transferring the succession from his elder brother to himself, increased to a degree inconsistent with the sovereign power, maintained in their rebellion against King John by the French.

Nor does this happen in monarchy only. For whereas the style of the ancient Roman Commonwealth was, "The Senate and People of Rome"; neither senate nor people pretended to the whole power; which first caused the seditions of Tiberius Gracchus, Caius Gracchus, Lucius Saturninus, and others; and afterwards the wars between the senate and the people under Marius and Sylla; and again under Pompey and Caesar to the extinction of their democracy and the setting up of monarchy.

The people of Athens bound themselves but from one only action, which was that no man on pain of death should propound the renewing of the war for the island of Salamis; and yet thereby, if Solon had not caused to be given out he was mad, and afterwards in gesture and habit of a madman, and in verse, propounded it to the people that flocked about him, they had had an enemy perpetually in readiness, even at the gates of their city: such damage, or shifts, are all Commonwealths forced to that have their power never so little limited.

In the second place, I observe the diseases of a Commonwealth that proceed from the poison of seditious doctrines, whereof one is that every private man is judge of good and evil actions. This is true in the condition of mere nature, where there are no

civil laws; and also under civil government in such cases as are not determined by the law. But otherwise, it is manifest that the measure of good and evil actions is the civil law; and the judge the legislator, who is always representative of the Commonwealth. From this false doctrine, men are disposed to debate with themselves and dispute the commands of the Commonwealth, and afterwards to obey or disobey them as in their private judgments they shall think fit; whereby the Commonwealth is distracted and weakened.

Another doctrine repugnant to civil society is that whatsoever a man does against his conscience is sin; and it dependeth on the presumption of making himself judge of good and evil. For a man's conscience and his judgement is the same thing; and as the judgement, so also the conscience may be erroneous. Therefore, though he that is subject to no civil law sinneth in all he does against his conscience, because he has no other rule to follow but his own reason, yet it is not so with him that lives in a Commonwealth, because the law is the public conscience by which he hath already undertaken to be guided. Otherwise in such diversity as there is of private consciences, which are but private opinions, the Commonwealth must needs be distracted, and no man dare to obey the sovereign power farther than it shall seem good in his own eyes.

It hath been also commonly taught that faith and sanctity are not to be attained by study and reason, but by supernatural inspiration or infusion. Which granted, I see not why any man should render a reason of his faith; or why every Christian should not be also a prophet; or why any man should take the law of his country rather than his own inspiration for the rule of his action. And thus we fall again into the fault of taking upon us to judge of good and evil; or to make judges of it such private men as pretend to be supernaturally inspired, to the dissolution of all civil government. Faith comes by hearing, and hearing by those accidents which guide us into the presence of them that speak to us; which accidents are all contrived by God Almighty, and yet are not supernatural, but only, for the great number of them that concur to every effect, unobservable. Faith and sanctity are indeed not very frequent; but yet they are not miracles, but brought to pass by education, discipline, correction, and other natural ways by which God worketh them in His elect, at such time as He thinketh fit. And these three opinions, pernicious to peace and government, have in this part of the world proceeded chiefly from tongues and pens of unlearned divines; who, joining the words of Holy Scripture together otherwise is agreeable to reason, do what they can to make men think that sanctity and natural reason cannot stand together.

A fourth opinion repugnant to the nature of a Commonwealth is this: that he that hath the sovereign power is subject to the civil laws. It is true that sovereigns are all subject to the laws of nature, because such laws be divine and divine and cannot by any man or Commonwealth be abrogated. But to those laws which the sovereign himself, that is, which the Commonwealth, maketh, he is not subject. For to be subject to laws is to be to be subject to the Commonwealth, that is, to the sovereign representative, that is, to himself which is not subjection, but freedom from the laws. Which error, because it setteth the laws above the sovereign, setteth also a judge above him, and a power to punish him; which is to make a new sovereign; and again for the same reason a third to punish the second; and so continually without end, to the confusion and dissolution of the Commonwealth.

A fifth doctrine that tendeth to the dissolution of a Commonwealth is that every private man has an absolute propriety in his goods, such as excludeth the right of the sovereign. Every man has indeed a propriety that excludes the right of every other subject: and he has it only from the sovereign power, without the protection whereof every other man should have right to the same. But the right of the sovereign also be excluded, he cannot perform the office they have put him into, which is to defend them both from foreign enemies and from the injuries of one another; and

consequently there is no longer a Commonwealth.
And if the propriety of subjects exclude not the right of the sovereign representative to their goods; much less, to their offices of judicature or execution in which they represent the sovereign himself.
There is a sixth doctrine, plainly and directly against the essence of a Commonwealth, and it is this: that the sovereign power may be divided. For what is it to divide the power of a Commonwealth, but to dissolve it; for powers divided mutually destroy each other. And for these doctrines men are chiefly beholding to some of those that, making profession of the laws, endeavour to make them depend upon their own learning, and not upon the legislative power.
And as false doctrine, so also oftentimes the example of different government in a neighbouring nation disposeth men to alteration of the form already settled. So the people of the Jews were stirred up to reject God, and to call upon the prophet Samuel for a king after the manner of the nations: so also the lesser cities of Greece were continually disturbed with seditions of the aristocratical and democratical factions; one part of almost every Commonwealth desiring to imitate the Lacedaemonians; the other, the Athenians. And I doubt not but many men have been contented to see the late troubles in England out of an imitation of the Low Countries, supposing there needed no more to grow rich than to change, as they had done, the form of their government. For the constitution of man's nature is of itself subject to desire novelty: when therefore they are provoked to the same by the neighbourhood also of those that have been enriched by it, it is almost impossible to be content with those that solicit them to change; and love the first beginnings, though they be grieved with the continuance of disorder; like hot bloods that, having gotten the itch, tear themselves with their own nails till they can endure the smart no longer.
And as to rebellion in particular against monarchy, one of the most frequent causes of it is the reading of the books of policy and histories of the ancient Greeks and Romans; from which young men, and all others that are unprovided of the antidote of solid reason, receiving a strong and delightful impression of the great exploits of war achieved by the conductors of their armies, receive withal a pleasing idea of all they have done besides; and imagine their great prosperity not to have proceeded from the emulation of particular men, but from the virtue of their popular form of government not considering the frequent seditions and civil wars produced by the imperfection of their policy. From the reading, I say, of such books, men have undertaken to kill their kings, because the Greek and Latin writers in their books and discourses of policy make it lawful and laudable for any man so to do, provided before he do it he call him tyrant. For they say not regicide, that is, killing of a king, but tyrannicide, that is, killing of a tyrant, is lawful. From the same books they that live under a monarch conceive an the opinion that the subjects in a popular Commonwealth enjoy liberty, but that in a monarchy they are all slaves. I say, they that live under a monarchy conceive such an opinion; not that they live under a popular government: for they find no such matter. In sum, I cannot imagine how anything can be more prejudicial to a monarchy than the allowing of such books to be publicly read, without present applying such correctives of discreet masters as are fit to take away their venom: which venom I will not doubt to compare to the biting of a mad dog, which is a disease that physicians call hydrophobia, or fear of water. For as he that is so bitten has a continual torment of thirst, and yet abhorreth water; and is in such an estate as if the poison endeavoured to convert him into a dog; so when a monarchy is once bitten to the quick by those democratical writers that continually snarl at that estate, it wanteth nothing more than a strong monarch, which nevertheless out of a certain tyrannophobia, or fear of being strongly governed, when they have him, they abhor.
As there have been doctors that hold there be three souls in a man; so there be also that think there may be more souls, that is, more sovereigns, than one in a

Commonwealth; and set up a supremacy against the sovereignty; canons against laws; and a ghostly authority against the civil; working on men's minds with words and distinctions that of themselves signify nothing, but bewray, by their obscurity, that there walketh (as some think invisibly) another kingdom, as it were a kingdom of fairies, in the dark. Now seeing it is manifest that the civil power and the power of the Commonwealth is the same thing; and that supremacy, and the power of making canons, and granting faculties, implieth a Commonwealth; it followeth that where one is sovereign, another supreme; where one can make laws, and another make canons; there must needs be two Commonwealths, of one and the same subjects; which is a kingdom divided in itself, and cannot stand. For notwithstanding the insignificant distinction of temporal and ghostly, they are still two kingdoms, and every subject is subject to two masters. For seeing the ghostly power challengeth the right to declare what is sin, it challengeth by consequence to declare what is law, sin being nothing but the transgression of the law; and again, the civil power challenging to declare what is law, every subject must obey two masters, who both will have their commands be observed as law, which is impossible. Or, if it be but one kingdom, either the civil, which is the power of the Commonwealth, must be subordinate to the ghostly, and then there is no sovereignty but the ghostly; or the ghostly must be subordinate to the temporal, and then there is no supremacy but the temporal. When therefore these two powers oppose one another, the Commonwealth cannot but be in great danger of civil war and dissolution. For the civil authority being more visible, and standing in the clearer light of natural reason, cannot choose but draw to it in all times a very considerable part of the people: and the spiritual, though it stand in the darkness of School distinctions and hard words; yet, because the fear of darkness and ghosts is greater than other fears, cannot want a party sufficient to trouble, and sometimes to destroy, a Commonwealth. And this is a disease which not unfitly may be compared to the epilepsy, or falling sickness (which the Jews took to be one kind of possession by spirits), in the body natural. For as in this disease there is an unnatural spirit or wind in the head that obstructeth the roots of the nerves and, moving them violently, taketh the motion which naturally they should have from the power of the soul in the brain; thereby causeth violent and irregular motions, which men call convulsions, in the parts; insomuch as he that is seized therewith falleth down sometimes into the water, and sometimes into the fire, as a man deprived of his senses: so also in the body politic, when the spiritual power moveth the members of a Commonwealth by the terror of punishments and hope of rewards, which are the nerves of it, otherwise than by the civil power, which is the soul of the Commonwealth, they ought to be moved; and by strange and hard words suffocates their understanding; it must needs thereby distract the people, and either overwhelm the Commonwealth with oppression, or cast it into the fire of a civil war.

Sometimes also in the merely civil government there be more than one soul: as when the power of levying money, which is the nutritive faculty, has depended on a general assembly; the power of conduct and command, which is the motive faculty, on one man; and the power of making laws, which is the rational faculty, on the accidental consent, not only of those two, but also of a third: this endangereth the Commonwealth, sometimes for want of consent to good laws, but most often for want of such nourishment as is necessary to life and motion. For although few perceive that such government is not government, but division of the Commonwealth into three factions, and call it mixed monarchy; yet the truth is that it is not one independent Commonwealth, but three independent factions; nor one representative person, but three. In the kingdom of God there may be three persons independent, without breach of unity in God that reigneth; but where men reign, that be subject to diversity of opinions, it cannot be so. And therefore if the king bear the person of the people, and the general assembly bear also the person of the people, and another

assembly bear the person of a part of the people, they are not one person, nor one sovereign; but three persons, and three sovereigns.

To what disease in the natural body of man I may exactly compare this irregularity of a Commonwealth, I know not. But I have seen a man that had another man growing out of his side, with a head, arms, breast, and stomach of his own: if he had had another man growing out of his other side, the comparison might then have been exact.

Hitherto I have named such diseases of a Commonwealth as are of the greatest and most present danger. There be other, not so great, which nevertheless are not unfit to be observed. As first, the difficulty of raising money for the necessary uses of the Commonwealth, especially in the approach of war. This difficulty ariseth from the opinion that every subject hath of a propriety in his lands and goods exclusive of the sovereign's right to the use of the same. From whence it cometh to pass that the sovereign power, which foreseeth the necessities and dangers of the Commonwealth, finding the passage of money to the public treasury obstructed by the tenacity of the people, whereas it ought to extend itself, to encounter and prevent such dangers in their beginnings, contracteth itself as long as it can, and when it cannot longer, struggles with the people by stratagems of law to obtain little sums, which, not sufficing, he is fain at last violently to open the way for present supply or perish; and, being put often to these extremities, at last reduceth the people to their due temper, or else the Commonwealth must perish. Insomuch as we may compare this distemper very aptly to an ague; wherein, the fleshy parts being congealed, or by venomous matter obstructed, the veins which by their natural course empty themselves into the heart, are not (as they ought to be) supplied from the arteries, whereby there succeedeth at first a cold contraction and trembling of the limbs; and afterwards a hot and strong endeavour of the heart to force a passage for the blood; and before it can do that, contenteth itself with the small refreshments of such things as cool for a time, till, if nature be strong enough, it break at last the contumacy of the parts obstructed, and dissipateth the venom into sweat; or, if nature be too weak, the patient dieth.

Again, there is sometimes in a Commonwealth a disease which resembleth the pleurisy; and that is when the treasury of the Commonwealth, flowing out of its due course, is gathered together in too much abundance in one or a few private men, by monopolies or by farms of the public revenues; in the same manner as the blood in a pleurisy, getting into the membrane of the breast, breedeth there an inflammation, accompanied with a fever and painful stitches.

Also, the popularity of a potent subject, unless the Commonwealth have very good caution of his fidelity, is a dangerous disease; because the people, which should receive their motion from the authority of the sovereign, by the flattery and by the reputation of an ambitious man, are drawn away from their obedience to the laws to follow a man of whose virtues and designs they have no knowledge. And this is commonly of more danger in a popular government than in a monarchy, because an army is of so great force and multitude as it may easily be made believe they are the people. By this means it was that Julius Caesar, who was set up by the people against the senate, having won to himself the affections of his army, made himself master both of senate and people. And this proceeding of popular and ambitious men is plain rebellion, and may be resembled to the effects of witchcraft.

Another infirmity of a Commonwealth is the immoderate greatness of a town, when it is able to furnish out of its own circuit the number and expense of a great army; as also the great number of corporations, which are as it were many lesser Commonwealths in the bowels of a greater, like worms in the entrails of a natural man. To may be added, liberty of disputing against absolute power by pretenders to political prudence; which though bred for the most part in the lees of the people, yet animated by false doctrines are perpetually meddling with the fundamental laws, to

the molestation of the Commonwealth, like the little worms which physicians call ascarides.
We may further add the insatiable appetite, or bulimia, of enlarging dominion, with the incurable wounds thereby many times received from the enemy; and the wens, of ununited conquests, which are many times a burden, and with less danger lost than kept; as also the lethargy of ease, and consumption of riot and vain expense.
Lastly, when in a war, foreign or intestine, the enemies get a final victory, so as, the forces of the Commonwealth keeping the field no longer, there is no further protection of subjects in their loyalty, then is the Commonwealth dissolved, and every man at liberty to protect himself by such courses as his own discretion shall suggest unto him. For the sovereign is the public soul, giving life and motion to the Commonwealth, which expiring, the members are governed by it no more than the carcass of a man by his departed, though immortal, soul. For though the right of a sovereign monarch cannot be extinguished by the act of another, yet the obligation of the members may. For he that wants protection may seek it anywhere; and, when he hath it, is obliged (without fraudulent pretence of having submitted himself out of fear) to protect his protection as long as he is able. But when the power of an assembly is once suppressed, the right of the same perisheth utterly, because the assembly itself is extinct; and consequently, there is no possibility for sovereignty to re-enter.

CHAPTER XXX
OF THE OFFICE OF THE SOVEREIGN REPRESENTATIVE

THE office of the sovereign, be it a monarch or an assembly, consisteth in the end for which he was trusted with the sovereign power, namely the procuration of the safety of the people, to which he is obliged by the law of nature, and to render an account thereof to God, the Author of that law, and to none but Him. But by safety here is not meant a bare preservation, but also all other contentments of life, which every man by lawful industry, without danger or hurt to the Commonwealth, shall acquire to himself.
And this is intended should be done, not by care applied to individuals, further than their protection from injuries when they shall complain; but by a general providence, contained in public instruction, both of doctrine and example; and in the making and executing of good laws to which individual persons may apply their own cases.
And because, if the essential rights of sovereignty (specified before in the eighteenth Chapter) be taken away, the Commonwealth is thereby dissolved, and every man returneth into the condition and calamity of a war with every other man, which is the greatest evil that can happen in this life; it is the office of the sovereign to maintain those rights entire, and consequently against his duty, first, to transfer to another or to lay from himself any of them. For he that deserteth the means deserteth the ends; and he deserteth the means that, being the sovereign, acknowledgeth himself subject to the civil laws, and renounceth the power of supreme judicature; or of making war or peace by his own authority; or of judging of the necessities of the Commonwealth; or of levying money and soldiers when and as much as in his own conscience he shall judge necessary; or of making officers and ministers both of war and peace; or of appointing teachers, and examining what doctrines are conformable or contrary to the defence, peace, and good of the people.
Secondly, it is against his duty to let the people be ignorant or misinformed of the grounds and reasons of those his essential rights, because thereby men are easy to be seduced and drawn to resist him when the Commonwealth shall require their use and exercise.
And the grounds of these rights have the rather need drafter need to be diligently

and truly taught, because they cannot be maintained by any civil law or terror of legal punishment. For a civil law that shall forbid rebellion (and such is all resistance to the essential rights of sovereignty) is not, as a civil law, any obligation but by virtue only of the law of nature that forbiddeth the violation of faith; which natural obligation, if men know not, they cannot know the right of any law the sovereign maketh. And for the punishment, they take it but for an act of hostility; which when they think they have strength enough, they will endeavour, by acts of hostility, to avoid.

As I have heard some say that justice is but a word, without substance; and that whatsoever a man can by force or art acquire to himself, not only in the condition of war, but also in a Commonwealth, is his own, which I have already shown to be false: so there be also that maintain that there are no grounds, nor principles of reason, to sustain those essential rights which make sovereignty absolute. For if there were, they would have been found out in some place or other; whereas we see there has not hitherto been any Commonwealth where those rights have been acknowledged, or challenged. Wherein they argue as ill, as if the savage people of America should deny there were any grounds or principles of reason so to build a house as to last as long as the materials, because they never yet saw any so well built. Time and industry produce every day new knowledge. And as the art of well building is derived from principles of reason, observed by industrious men that had long studied the nature of materials, and the diverse effects of figure and proportion, long after mankind began, though poorly, to build: so, long time after men have begun to constitute Commonwealths, imperfect and apt to relapse into disorder, there may principles of reason be found out, by industrious meditation, to make their constitution, excepting by external violence, everlasting. And such are those which I have in this discourse set forth: which, whether they come not into the sight of those that have power to make use of them, or be neglected by them or not, concerneth my particular interest, at this day, very little. But supposing that these of mine are not such principles of reason; yet I am sure they are principles from authority of Scripture, as I shall make it appear when I shall come to speak of the kingdom of God, administered by Moses, over the Jews, His peculiar people by covenant.

But they say again that though the principles be right, yet common people are not of capacity enough to be made to understand them. I should be glad that the rich and potent subjects of a kingdom, or those that are accounted the most learned, were no less incapable than they. But all men know that the obstructions to this kind of doctrine proceed not so much from the difficulty of the matter, as from the interest of them that are to learn. Potent men digest hardly anything that setteth up a power to bridle their affections; and learned men, anything that discovereth their errors, and thereby their authority: whereas the common people's minds, unless they be tainted with dependence on the potent, or scribbled over with the opinions of their doctors, are like clean paper, fit to receive whatsoever by public authority shall be imprinted in them. Shall whole nations be brought to acquiesce in the great mysteries of Christian religion, which are above reason; and millions of men be made believe that the same body may be in innumerable places at one and the same time, which is against reason; and shall not men be able, by their teaching and preaching, protected by the law, to make that received which is so consonant to reason that any unprejudicated man needs no more to learn it than to hear it? I conclude therefore that in the instruction of the people in the essential rights which are the natural and fundamental laws of sovereignty, there is no difficulty, whilst a sovereign has his power entire, but what proceeds from his own fault, or the fault of those whom he trusteth in the administration of the Commonwealth; and consequently, it is his duty to cause them so to be instructed; and not only his duty, but his benefit also, and security against the danger that may arrive to himself in his natural person from rebellion.

And, to descend to particulars, the people are to be taught, first, that they ought not to be in love with any form of government they see in their neighbour nations, more than with their own, nor, whatsoever present prosperity they behold in nations that are otherwise governed than they, to desire change. For the prosperity of a people ruled by an aristocratical or democratical assembly cometh not from aristocracy, nor from democracy, but from the obedience and concord of the subjects: nor do the people flourish in a monarchy because one man has the right to rule them, but because they obey him. Take away in any kind of state the obedience, and consequently the concord of the people, and they shall not only not flourish, but in short time be dissolved. And they that go about by disobedience to do no more than reform the Commonwealth shall find they do thereby destroy it; like the foolish daughters of Peleus, in the fable, which desiring to renew the youth of their decrepit father, did by the counsel of Medea cut him in pieces and boil him, together with strange herbs, but made not of him a new man. This desire of change is like the breach of the first of God's Commandments: for there God says, Non habebis Deos alienos: "Thou shalt not have the Gods of other nations"; and in another place concerning kings, that they are gods.

Secondly, they are to be taught that they ought not to be led with admiration of the virtue of any of their fellow subjects, how high soever he stand, nor how conspicuously soever he shine in the Commonwealth; nor of any assembly, except the sovereign assembly, so as to defer to them any obedience or honour appropriate to the sovereign only, whom, in their particular stations, they represent; nor to receive any influence from them, but such as is conveyed by them from the sovereign authority. For that sovereign cannot be imagined to love his people as he ought that is not jealous of them, but suffers them by the flattery of popular men to be seduced from their loyalty, as they have often been, not only secretly, but openly, so as to proclaim marriage with them in facie ecclesiae by preachers, and by publishing the same in the open streets: which may fitly be compared to the violation of the second of the Ten Commandments.

Thirdly, in consequence to this, they ought to be informed how great a fault it is to speak evil of the sovereign representative, whether one man or an assembly of men; or to argue and dispute his power, or any way to use his name irreverently, whereby he may be brought into contempt with his people, and their obedience, in which the safety of the Commonwealth consisteth, slackened. Which doctrine the third Commandment by resemblance pointeth to.

Fourthly, seeing people cannot be taught this, nor, when it is taught, remember it, nor after one generation past so much as know in whom the sovereign power is placed, without setting apart from their ordinary labour some certain times in which they may attend those that are appointed to instruct them; it is necessary that some such times be determined wherein they may assemble together, and, after prayers and praises given to God, the Sovereign of sovereigns, hear those their duties told them, and the positive laws, such as generally concern them all, read and expounded, and be put in mind of the authority that maketh them laws. To this end had the Jews every seventh day a Sabbath, in which the law was read and expounded; and in the solemnity whereof they were put in mind that their king was God; that having created the world in six days, He rested on the seventh day; and by their resting on it from their labour, that that God was their king, which redeemed them from their servile and painful labour in Egypt, and gave them a time, after they had rejoiced in God, to take joy also in themselves, by lawful recreation. So that the first table of the Commandments is spent all in setting down the sum of God's absolute power; not only as God, but as King by pact, in peculiar, of the Jews; and may therefore give light to those that have sovereign power conferred on them by the consent of men, to see what doctrine they ought to teach their subjects.

And because the first instruction of children dependeth on the care of their parents,

it is necessary that they should be obedient to them whilst they are under their tuition; and not only so, but that also afterwards, as gratitude requireth, they acknowledge the benefit of their education by external signs of honour. To which end they are to be taught that originally the father of every man was also his sovereign lord, with power over him of life and death; and that the fathers of families, when by instituting a Commonwealth they resigned that absolute power, yet it was never intended they should lose the honour due unto them for their education. For to relinquish such right was not necessary to the institution of sovereign power; nor would there be any reason why any man should desire to have children, or take the care to nourish and instruct them, if they were afterwards to have no other benefit from them than from other men. And this accordeth with the fifth Commandment.

Again, every sovereign ought to cause justice to be taught, which, consisting in taking from no man what is his, is as much as to say, to cause men to be taught not to deprive their neighbours, by violence or fraud, of anything which by the sovereign authority is theirs. Of things held in propriety, those that are dearest to a man are his own life and limbs; and in the next degree, in most men, those that concern conjugal affection; and after them riches and means of living. Therefore the people are to be taught to abstain from violence to one another's person by private revenges, from violation of conjugal honour, and from forcible rapine and fraudulent surreption of one another's goods. For which purpose also it is necessary they be shown the evil consequences of false judgment, by corruption either of judges or witnesses, whereby the distinction of propriety is taken away, and justice becomes of no effect: all which things are intimated in the sixth, seventh, eighth, and ninth Commandments.

Lastly, they are to be taught that not only the unjust facts, but the designs and intentions to do them, though by accident hindered, are injustice; which consisteth in the pravity of the will, as well as in the irregularity of the act. And this is the intention of the tenth Commandment, and the sum of the second table; which is reduced all to this one commandment of mutual charity, "Thou shalt love thy neighbour as thy self"; as the sum of the first table is reduced to "the love of God"; whom they had then newly received as their king.

As for the means and conduits by which the people may receive this instruction, we are to search by what means so many opinions contrary to the peace of mankind, upon weak and false principles, have nevertheless been so deeply rooted in them. I mean those which I have in the precedent the precedent chapter specified: as that men shall judge of what is lawful and unlawful, not by the law itself, but by their own consciences; that is to say, by their own private judgements: that subjects sin in obeying the commands of the Commonwealth, unless they themselves have first judged them to be lawful: that their propriety in their riches is such as to exclude the dominion which the Commonwealth hath the same: that it is lawful for subjects to kill such as they call tyrants: that the sovereign power may be divided, and the like; which come to be instilled into the people by this means. They whom necessity or covetousness keepeth attent on their trades and labour; and they, on the other side, whom superfluity or sloth carrieth after their sensual pleasures (which two sorts of men take up the greatest part of mankind), being diverted from the deep meditation which the of truth, not only in the matter of natural justice, but also of all other sciences necessarily requireth, receive the notions of their duty chiefly from divines in the pulpit, and partly from such of their neighbours or familiar acquaintance as having the faculty of discoursing readily and plausibly seem wiser and better learned in cases of law and conscience than themselves. And the divines, and such others as make show of learning, derive their knowledge from the universities, and from the schools of law, or from the books which by men eminent in those schools and universities have been published. It is therefore manifest that

the instruction of the people dependeth wholly on the right teaching of youth in the universities. But are not, may some man say, the universities of England learned enough already to do that? Or is it, you will undertake to teach the universities? Hard questions. Yet to the first, I doubt not to answer: that till towards the latter end of Henry the Eighth, the power of the Pope was always upheld against the power of the Commonwealth, principally by the universities; and that the doctrines by so many preachers against the sovereign power of the king, and by so many lawyers and others that had their education there, is a sufficient argument that, though the universities were not authors of those false doctrines, yet they knew not how to plant the true. For in such a contradiction of opinions, it is most certain that they have not been sufficiently instructed; and it is no wonder, if they yet retain a relish of that subtle liquor wherewith they were first seasoned against the civil authority. But to the latter question, it is not fit nor needful for me to say either aye or no: for any man that sees what I am doing may easily perceive what I think.

The safety of the people requireth further, from him or them that have the sovereign power, that justice be equally administered to all degrees of people; that is, that as well the rich and mighty, as poor and obscure persons, may be righted of the injuries done them; so as the great may have no greater hope of impunity, when they do violence, dishonour, or any injury to the meaner sort, than when one of these does the like to one of them: for in this consisteth equity; to which, as being a precept of the law of nature, a sovereign is as much subject as any of the meanest of his people. All breaches of the law are offences against the Commonwealth: but there be some that are also against private persons. Those that concern the Commonwealth only may without breach of equity be pardoned; for every man may pardon what is done against himself, according to his own discretion. But an offence against a private man cannot in equity be pardoned without the consent of him that is injured; or reasonable satisfaction.

The inequality of subjects proceedeth from the acts of sovereign power, and therefore has no more place in the presence of the sovereign; that is to say, in a court of justice, than the inequality between kings and their subjects in the presence of the King of kings. The honour of great persons is to be valued for their beneficence, and the aids they give to men of inferior rank, or not at all. And the violences, oppressions, and injuries they do are not extenuated, but aggravated, by the greatness of their persons, because they have least need to commit them. The consequences of this partiality towards the great proceed in this manner. Impunity maketh insolence; insolence, hatred; and hatred, an endeavour to pull down all oppressing and contumelious greatness, though with the ruin of the Commonwealth.

To equal justice appertaineth also the equal imposition of taxes; the equality whereof dependeth not on the equality of riches, but on the equality of the debt that every man oweth to the Commonwealth for his defence. It is not enough for a man to labour for the maintenance of his life; but also to fight, if need be, for the securing of his labour. They must either do as the Jews did after their return from captivity, in re-edifying the Temple, build with one hand and hold the sword in the other, or else they must hire others to fight for them. For the impositions that are laid on the people by the sovereign power are nothing else but the wages due to them that hold the public sword to defend private men in the exercise of several trades and callings. Seeing then the benefit that every one receiveth thereby is the enjoyment of life, which is equally dear to poor and rich, the debt which a poor man oweth them that defend his life is the same which a rich man oweth for the defence of his; saving that the rich, who have the service of the poor, may be debtors not only for their own persons, but for many more. Which considered, the equality of imposition consisteth rather in the equality of that which is consumed, than of the riches of the persons that consume the same. For what reason is there that he which laboureth much and, sparing the fruits of his labour, consumeth little should be more charged than he

that, living idly, getteth little and spendeth all he gets; seeing the one hath no more protection from the Commonwealth than the other? But when the impositions are laid upon those things which men consume, every man payeth equally for what he useth; nor is the Commonwealth defrauded by the luxurious waste of private men.

And whereas many men, by accident inevitable, become unable to maintain themselves by their labour, they ought not to be left to the charity of private persons, but to be provided for, as far forth as the necessities of nature require, by the laws of the Commonwealth. For as it is uncharitableness in any man to neglect the impotent; so it is in the sovereign of a Commonwealth, to expose them to the hazard of such uncertain charity.

But for such as have strong bodies the case is otherwise; they are to be forced to work; and to avoid the excuse of not finding employment, there ought to be such laws as may encourage all manner of arts; as navigation, agriculture, fishing, and all manner of manufacture that requires labour. The multitude of poor and yet strong people still increasing, they are to be transplanted into countries not sufficiently inhabited; where nevertheless they are not to exterminate those they find there; but constrain them to inhabit closer together, and not range a great deal of ground to snatch what they find, but to court each little plot with art and labour, to give them their sustenance in due season. And when all the world is overcharged with inhabitants, then the last remedy of all is war, which provideth for every man, by victory or death.

To the care of the sovereign belongeth the making of good laws. But what is a good law? By a good law, I mean not a just law: for no law can be unjust. The law is made by the sovereign power, and all that is done by such power is warranted and owned by every one of the people; and that which every man will have so, no man can say is unjust. It is in the laws of a Commonwealth, as in the laws of gaming: whatsoever the gamesters all agree on is injustice to none of them. A good law is that which is needful, for the good of the people, and withal perspicuous.

For the use of laws (which are but rules authorized) is not to bind the people from all voluntary actions, but to direct and keep them in such a motion as not to hurt themselves by their own impetuous desires, rashness, or indiscretion; as hedges are set, not to stop travellers, but to keep them in the way. And therefore a law that is not needful, having not the true end of a law, is not good. A law may be conceived to be good when it is for the benefit of the sovereign, though it be not necessary for the people, but it is not so. For the good of the sovereign and people cannot be separated. It is a weak sovereign that has weak subjects; and a weak people whose sovereign wanteth power to rule them at his will. Unnecessary laws are not good laws, but traps for money which, where the right of sovereign power is acknowledged, are superfluous; and where it is not acknowledged, insufficient to defend the people.

The perspicuity consisteth not so much in the words of the law itself, as in a declaration of the causes and motives for which it was made. That is it that shows us the meaning of the legislator; and the meaning of the legislator known, the law is more easily understood by few than many words. For all words are subject to ambiguity; and therefore multiplication of words in the body of the law is multiplication of ambiguity: besides it seems to imply, by too much diligence, that whosoever can evade the words is without the compass of the law. And this is a cause of many unnecessary processes. For when I consider how short were the laws of ancient times, and how they grew by degrees still longer, methinks I see a contention between the penners and pleaders of the law; the former seeking to circumscribe the latter, and the latter to evade their circumscriptions; and that the pleaders have got the victory. It belongeth therefore to the office of a legislator (such as is in all Commonwealths the supreme representative, be it one man or an assembly) to make the reason perspicuous why the law was made, and the body of the law itself as short, but in as proper and significant terms, as may be.

It belongeth also to the office of the sovereign to make a right application of punishments and rewards. And seeing the end of punishing is not revenge and discharge of choler, but correction either of the offender or of others by his example, the severest punishments are to be inflicted for those crimes that are of most danger to the public; such as are those which proceed from malice to the government established; those that spring from contempt of justice; those that provoke indignation in the multitude; and those which, unpunished, seem authorized, as when they are committed by sons, servants, or favourites of men in authority: for indignation carrieth men, not only against the actors and authors of injustice, but against all power that is likely to protect them; as in the case of Tarquin, when for the insolent act of one of his sons he was driven out of Rome, and the monarchy itself dissolved. But crimes of infirmity; such as are those which proceed from great provocation, from great fear, great need, or from ignorance whether the fact be a great crime or not, there is place many times for lenity, without prejudice to the Commonwealth; and lenity, when there is such place for it, is required by the law of nature. The punishment of the leaders and teachers in a commotion; not the poor seduced people, when they are punished, can profit the Commonwealth by their example. To be severe to people is to punish ignorance which may in great part be imputed to the sovereign, whose fault it was they were no better instructed.

In like manner it belongeth to the office and duty of the sovereign to apply his rewards always so as there may arise from them benefit to the Commonwealth: wherein consisteth their use and end; and is then done when they that have well served the Commonwealth are, with as little expense of the common treasury as is possible, so well recompensed as others thereby may be encouraged, both to serve the same as faithfully as they can, and to study the arts by which they may be enabled to do it better. To buy with money or preferment, from a popular ambitious subject to be quiet and desist from making ill impressions in the minds of the people, has nothing of the nature of reward (which is ordained not for disservice, but for service past); nor a sign of gratitude, but of fear; nor does it tend to the benefit, but to the damage of the public. It is a contention with ambition, that of Hercules with the monster Hydra, which, having many heads, for every one that was vanquished there grew up three. For in like manner, when the stubbornness of one popular man is overcome with reward, there arise many more by the example, that do the same mischief in hope of like benefit: and as all sorts of manufacture, so also malice increaseth by being vendible. And though sometimes a civil war may be deferred by such ways as that, yet the danger grows still the greater, and the public ruin more assured. It is therefore against the duty of the sovereign, to whom the public safety is committed, to reward those that aspire to greatness by disturbing the peace of their country, and not rather to oppose the beginnings of such men with a little danger, than after a longer time with greater.

Another business of the sovereign is to choose good counsellors; I mean such whose advice he is to take in the government of the Commonwealth. For this word counsel (consilium, corrupted from considium) is of a large signification, and comprehendeth all assemblies of men that sit together, not only to deliberate what is to be done hereafter, but also to judge of facts past, and of law for the present. I take it here in the first sense only: and in this sense, there is no choice of counsel, neither in a democracy nor aristocracy; because the persons counselling are members of the person counselled. The choice of counsellors therefore is proper to monarchy, in which the sovereign that endeavoureth not to make choice of those that in every kind are the most able, dischargeth not his office as he ought to do. The most able counsellors are they that have least hope of benefit by giving evil counsel, and most knowledge of those things that conduce to the peace and defence of the Commonwealth. It is a hard matter to know who expecteth benefit from public

troubles; but the signs that guide to a just suspicion is the soothing of the people in their unreasonable or irremediable grievances by men whose estates are not sufficient to discharge their accustomed expenses, and may easily be observed by any one whom it concerns to know it. But to know who has most knowledge of the public affairs is yet harder; and they that know them need them a great deal the less. For to know who knows the rules almost of any art is a great degree of the knowledge of the same art, because no man can be assured of the truth of another's rules but he that is first taught to understand them. But the best signs of knowledge of any art are much conversing in it and constant good effects of it. Good counsel comes not by lot, nor by inheritance; and therefore there is no more reason to expect good advice from the rich or noble in matter of state, than in delineating the dimensions of a fortress; unless we shall think there needs no method in the study of the politics, as there does in the study of geometry, but only to be lookers on; which is not so. For the politics is the harder study of the two. Whereas in these parts of Europe it hath been taken for a right of certain persons to have place in the highest council of state by inheritance, it derived from the conquests of the ancient Germans; wherein many absolute lords, joining together to conquer other nations, would not enter into the confederacy without such privileges as might be marks of difference, in time following, between their posterity and the posterity of their subjects; which privileges being inconsistent with the sovereign power, by the favour of the sovereign they may seem to keep; but contending for them as their right, they must needs by degrees let them go, and have at last no further honour than adhereth naturally to their abilities.

And how able soever be the counsellors in any affair, the benefit of their counsel is greater when they give every one his advice, and the reasons of it apart, than when they do it in an assembly by way of orations; and when they have premeditated, than when they speak on the sudden; both because they have more time to survey the consequences of action, and are less subject to be carried away to contradiction through envy, emulation, or other passions arising from the difference of opinion.

The best counsel, in those things that concern not other nations, but only the ease and benefit the subjects may enjoy, by laws that look only inward, is to be taken from the general informations and complaints of the people of each province, who are best acquainted with their own wants, and ought therefore, when they demand nothing in derogation of the essential rights of sovereignty, to be diligently taken notice of. For without those essential rights, as I have often before said, the Commonwealth cannot at all subsist.

A commander of an army in chief, if he be not popular, shall not be beloved, nor feared as he ought to be by his army, and consequently cannot perform that office with good success. He must therefore be industrious, valiant, affable, liberal and fortunate, that he may gain an opinion both of sufficiency and of loving his soldiers. This is popularity, and breeds in the soldiers both desire and courage to recommend themselves to his favour; and protects the severity of the general, in punishing, when need is, the mutinous or negligent soldiers. But this love of soldiers, if caution be not given of the commander's fidelity, is a dangerous thing to sovereign power; especially when it is in the hands of an assembly not popular. It belongeth therefore to the safety of the people, both that they be good conductors and faithful subjects, to whom the sovereign commits his armies.

But when the sovereign himself is popular; that is, reverenced and beloved of his people, there is no danger at all from the popularity of a subject. For soldiers are never so generally unjust as to side with their captain, though they love him, against their sovereign, when they love not only his person, but also his cause. And therefore those who by violence have at any time suppressed the power of their lawful sovereign, before they could settle themselves in his place, have been always put to the trouble of contriving their titles to save the people from the shame of

receiving them. To have a known right to sovereign power is so popular a quality as he that has it needs no more, for his own part, to turn the hearts of his subjects to him, but that they see him able absolutely to govern his own family: nor, on the part of his enemies, but a disbanding of their armies. For the greatest and most active part of mankind has never hitherto been well contented with the present.

Concerning the offices of one sovereign to another, which are comprehended in that law which is commonly called the law of nations, I need not say anything in this place, because the law of nations and the law of nature is the same thing. And every sovereign hath the same right in procuring the safety of his people, that any particular man can have in procuring the safety of his own body. And the same law that dictateth to men that have no civil government what they ought to do, and what to avoid in regard of one another, dictateth the same to Commonwealths; that is, to the consciences of sovereign princes and sovereign assemblies; there being no court of natural justice, but in the conscience only, where not man, but God reigneth; whose laws, such of them as oblige all mankind, in respect of God, as he is the Author of nature, are natural; and in respect of the same God, as he is King of kings, are laws. But of the kingdom of God, as King of kings, and as King also of a peculiar people, I shall speak in the rest of this discourse.

book 3: Post-Modern and current texts
section 1: America
Part 1. American Declaration of Independence
1A. historical background
1B. extent source text

1A. historical background

The **Declaration of Independence** is the usual name of a statement adopted by the Continental Congress on July 4, 1776, which announced that the thirteen American colonies, then at war with Great Britain, regarded themselves as 13 newly independent sovereign states, and no longer a part of the British Empire. Instead they formed a new nation—the United States of America. John Adams was a leader in pushing for independence, which was unanimously approved on July 2. A committee had already drafted the formal declaration, to be ready when Congress voted on independence. The term "Declaration of Independence" is not used in the document itself.

Adams persuaded the committee to select Thomas Jefferson to compose the original draft of the document, which congress would edit to produce the final version. The Declaration was ultimately a formal explanation of why Congress had voted on July 2 to declare independence from Great Britain, more than a year after the outbreak of the American Revolutionary War. The national birthday, the Independence Day is celebrated on July 4, although Adams wanted July 2.

After ratifying the text on July 4, Congress issued the Declaration of Independence in several forms. It was initially published as the printed Dunlap broadside that was widely distributed and read to the public. The source copy used for this printing has been lost, and may have been a copy in Thomas Jefferson's hand. Jefferson's original draft, complete with changes made by John Adams and Benjamin Franklin, and Jefferson's notes of changes made by Congress, is preserved at the Library of Congress. The most famous version of the Declaration, a signed copy that is popularly regarded as the official document, is displayed at the National Archives in Washington, D.C. This engrossed copy was ordered by Congress on July 19, and signed primarily on August 2.

The sources and interpretation of the Declaration have been the subject of much scholarly inquiry. The Declaration justified the independence of the United States by listing colonial grievances against King George III, and by asserting certain natural and legal rights, including a right of revolution. Having served its original purpose in announcing independence, references to the text of the Declaration were few for the next four score years. Abraham Lincoln made it the centerpiece of his rhetoric (as in the Gettysburg Address of 1863), and his policies. Since then, it has become a well-known statement on human rights, particularly its second sentence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

This has been called "one of the best-known sentences in the English language", containing "the most potent and consequential words in American history". The passage came to represent a moral standard to which the United States should strive. This view was notably promoted by Abraham Lincoln, who considered the Declaration to be the foundation of his political philosophy, and argued that the Declaration is a statement of principles through which the United States Constitution should be interpreted. It provided inspiration to numerous national declarations of independence throughout the world.

Background

Believe me, dear Sir: there is not in the British empire a man who more cordially loves a union with Great Britain than I do. But, by the God that made me, I will cease to exist before I yield to a connection on such terms as the British Parliament propose; and in this, I think I speak the sentiments of America.

—Thomas Jefferson, November 29, 1775

By the time the Declaration of Independence was adopted in July 1776, the Thirteen

Colonies and Great Britain had been at war for more than a year. Relations between the colonies and the mother country had been deteriorating since the end of the Seven Years' War in 1763. The war had plunged the British government deep into debt, and so Parliament enacted a series of measures to increase tax revenue from the colonies. Parliament believed that these acts, such as the Stamp Act of 1765 and the Townshend Acts of 1767, were a legitimate means of having the colonies pay their fair share of the costs to keep the colonies in the British Empire.

Many colonists, however, had developed a different conception of the empire. Because the colonies were not directly represented in Parliament, colonists argued that Parliament had no right to levy taxes upon them. This tax dispute was part of a larger divergence between British and American interpretations of the British Constitution and the extent of Parliament's authority in the colonies. The orthodox British view, dating from the Glorious Revolution of 1688, was that Parliament was the supreme authority throughout the empire, and so by definition anything Parliament did was constitutional. In the colonies, however, the idea had developed that the British Constitution recognized certain fundamental rights that no government—not even Parliament—could violate. After the Townshend Acts, some essayists even began to question whether Parliament had any legitimate jurisdiction in the colonies at all. Anticipating the arrangement of the British Commonwealth, by 1774 American writers such as Samuel Adams, James Wilson, and Thomas Jefferson were arguing that Parliament was the legislature of Great Britain only, and that the colonies, which had their own legislatures, were connected to the rest of the empire only through their allegiance to the Crown.

Congress convenes

The issue of Parliament's authority in the colonies became a crisis after Parliament passed the Coercive Acts in 1774 to punish the Province of Massachusetts for the Boston Tea Party of 1773. Many colonists saw the Coercive Acts as a violation of the British Constitution and thus a threat to the liberties of all of British America. In September 1774, the First Continental Congress convened in Philadelphia to coordinate a response. Congress organized a boycott of British goods and petitioned the king for repeal of the acts. These measures were unsuccessful because King George III and the ministry of Prime Minister Lord North were determined not to retreat on the question of parliamentary supremacy. As the king wrote to North in November 1774, "blows must decide whether they are to be subject to this country or independent".

Even after fighting in the American Revolutionary War began at Lexington and Concord in April 1775, most colonists still hoped for reconciliation with Great Britain. When the Second Continental Congress convened at the Pennsylvania State House in Philadelphia in May 1775, some delegates hoped for eventual independence, but no one yet advocated declaring it. Although many colonists no longer believed that Parliament had any sovereignty over them, they still professed loyalty to King George, whom they hoped would intercede on their behalf. They were to be disappointed: in late 1775, the king rejected Congress's second petition, issued a Proclamation of Rebellion, and announced before Parliament on October 26 that he was considering "friendly offers of foreign assistance" to suppress the rebellion. A pro-American minority in Parliament warned that the government was driving the colonists toward independence.

Toward independence

In January 1776, just as it became clear in the colonies that the king was not inclined to act as a conciliator, Thomas Paine's pamphlet *Common Sense* was published. Paine, who had only recently arrived in the colonies from England, argued in favor of colonial independence, advocating republicanism as an alternative to monarchy and

hereditary rule. *Common Sense* introduced no new ideas, and probably had little direct effect on Congress's thinking about independence; its importance was in stimulating public debate on a topic that few had previously dared to openly discuss. Public support for separation from Great Britain steadily increased after the publication of Paine's enormously popular pamphlet.

Although some colonists still held out hope for reconciliation, developments in early 1776 further strengthened public support for independence. In February 1776, colonists learned of Parliament's passage of the Prohibitory Act, which established a blockade of American ports and declared American ships to be enemy vessels. John Adams, a strong supporter of independence, believed that Parliament had effectively declared American independence before Congress had been able to. Adams labeled the Prohibitory Act the "Act of Independency", calling it "a compleat Dismemberment of the British Empire". Support for declaring independence grew even more when it was confirmed that King George had hired German mercenaries to use against his American subjects.

Despite this growing popular support for independence, Congress lacked the clear authority to declare it. Delegates had been elected to Congress by thirteen different governments—which included extralegal conventions, ad hoc committees, and elected assemblies—and were bound by the instructions given to them. Regardless of their personal opinions, delegates could not vote to declare independence unless their instructions permitted such an action. Several colonies, in fact, expressly prohibited their delegates from taking any steps towards separation from Great Britain, while other delegations had instructions that were ambiguous on the issue. As public sentiment for separation from Great Britain grew, advocates of independence sought to have the Congressional instructions revised. For Congress to declare independence, a majority of delegations would need authorization to vote for independence, and at least one colonial government would need to specifically instruct (or grant permission for) its delegation to propose a declaration of independence in Congress. Between April and July 1776, a "complex political war" was waged to bring this about.

Revising instructions

In the campaign to revise Congressional instructions, many Americans formally expressed their support for separation from Great Britain in what were effectively state and local declarations of independence. Historian Pauline Maier identified more than ninety such declarations that were issued throughout the Thirteen Colonies from April to July 1776. These "declarations" took a variety of forms. Some were formal, written instructions for Congressional delegations, such as the Halifax Resolves of April 12, with which North Carolina became the first colony to explicitly authorize its delegates to vote for independence. Others were legislative acts that officially ended British rule in individual colonies, such as on May 4, when the Rhode Island legislature became the first to declare its independence from Great Britain. Many "declarations" were resolutions adopted at town or county meetings that offered support for independence. A few came in the form of jury instructions, such as the statement issued on April 23, 1776, by Chief Justice William Henry Drayton of South Carolina: "the law of the land authorizes me to declare...that *George* the Third, King of *Great Britain*...has no authority over us, and we owe no obedience to him." Most of these declarations are now obscure, having been overshadowed by the declaration approved by Congress on July 4.

Some colonies held back from endorsing independence. Resistance was centered in the middle colonies of New York, New Jersey, Maryland, Pennsylvania, and Delaware. Advocates of independence saw Pennsylvania as the key: if that colony could be converted to the pro-independence cause, it was believed that the others would follow. On May 1, however, opponents of independence retained control of the

Pennsylvania Assembly in a special election that had focused on the question of independence. In response, on May 10 Congress passed a resolution, which had been promoted by John Adams and Richard Henry Lee, calling on colonies without a "government sufficient to the exigencies of their affairs" to adopt new governments. The resolution passed unanimously, and was even supported by Pennsylvania's John Dickinson, the leader of the anti-independence faction in Congress, who believed that it did not apply to his colony.

May 15 preamble

This Day the Congress has passed the most important Resolution, that ever was taken in America.

—John Adams, May 15, 1776

As was the custom, Congress appointed a committee to draft a preamble to explain the purpose of the resolution. John Adams wrote the preamble, which stated that because King George had rejected reconciliation and was hiring foreign mercenaries to use against the colonies, "it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed". Adams's preamble was meant to encourage the overthrow of the governments of Pennsylvania and Maryland, which were still under proprietary governance. Congress passed the preamble on May 15 after several days of debate, but four of the middle colonies voted against it, and the Maryland delegation walked out in protest. Adams regarded his May 15 preamble effectively as an American declaration of independence, although a formal declaration would still have to be made.

Lee's resolution and the final push

On the same day that Congress passed Adams's radical preamble, the Virginia Convention set the stage for a formal Congressional declaration of independence. On May 15, the Convention instructed Virginia's congressional delegation "to propose to that respectable body to declare the United Colonies free and independent States, absolved from all allegiance to, or dependence upon, the Crown or Parliament of Great Britain". In accordance with those instructions, Richard Henry Lee of Virginia presented a three-part resolution to Congress on June 7. The motion, which was seconded by John Adams, called on Congress to declare independence, form foreign alliances, and prepare a plan of colonial confederation. The part of the resolution relating to declaring independence read:

Resolved, that these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved.

Lee's resolution met with resistance in the ensuing debate. Opponents of the resolution, while conceding that reconciliation with Great Britain was unlikely, argued that declaring independence was premature, and that securing foreign aid should take priority. Advocates of the resolution countered that foreign governments would not intervene in an internal British struggle, and so a formal declaration of independence was needed before foreign aid was possible. All Congress needed to do, they insisted, was to "declare a fact which already exists". Delegates from Pennsylvania, Delaware, New Jersey, Maryland, and New York were still not yet authorized to vote for independence, however, and some of them threatened to leave Congress if the resolution were adopted. Congress therefore voted on June 10 to postpone further discussion of Lee's resolution for three weeks. Until then, Congress decided that a committee should prepare a document announcing and explaining independence in the event that Lee's resolution was approved when it was brought up again in July.

Support for a Congressional declaration of independence was consolidated in the

final weeks of June 1776. On June 14, the Connecticut Assembly instructed its delegates to propose independence, and the following day the legislatures of New Hampshire and Delaware authorized their delegates to declare independence. In Pennsylvania, political struggles ended with the dissolution of the colonial assembly, and on June 18 a new Conference of Committees under Thomas McKean authorized Pennsylvania's delegates to declare independence. On June 15, the Provincial Congress of New Jersey, which had been governing the province since January 1776, resolved that Royal Governor William Franklin was "an enemy to the liberties of this country" and had him arrested. On June 21, they chose new delegates to Congress and empowered them to join in a declaration of independence.

Only Maryland and New York had yet to authorize independence. When the Continental Congress had adopted Adams's radical May 15 preamble, Maryland's delegates walked out and sent to the Maryland Convention for instructions. On May 20, the Maryland Convention rejected Adams's preamble, instructing its delegates to remain against independence, but Samuel Chase went to Maryland and, thanks to local resolutions in favor of independence, was able to get the Maryland Convention to change its mind on June 28. Only the New York delegates were unable to get revised instructions. When Congress had been considering the resolution of independence on June 8, the New York Provincial Congress told the delegates to wait. But on June 30, the Provincial Congress evacuated New York as British forces approached, and would not convene again until July 10. This meant that New York's delegates would not be authorized to declare independence until after Congress had made its decision.

While political maneuvering was setting the stage for an official declaration of independence, a document explaining the decision was being written. On June 11, 1776, Congress appointed a "Committee of Five", consisting of John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Thomas Jefferson of Virginia, Robert R. Livingston of New York, and Roger Sherman of Connecticut, to draft a declaration. Because the committee left no minutes, there is some uncertainty about how the drafting process proceeded—accounts written many years later by Jefferson and Adams, although frequently cited, are contradictory and not entirely reliable. What is certain is that the committee, after discussing the general outline that the document should follow, decided that Jefferson would write the first draft. The committee in general, and Jefferson in particular, thought Adams should write the document, but Adams persuaded the committee to choose Jefferson and promised to consult with Jefferson personally. Considering Congress's busy schedule, Jefferson probably had limited time for writing over the next seventeen days, and likely wrote the draft quickly. He then consulted the others, made some changes, and then produced another copy incorporating these alterations. The committee presented this copy to the Congress on June 28, 1776. The title of the document was "A Declaration by the Representatives of the United States of America, in General Congress assembled."

Congress ordered that the draft "lie on the table". For two days Congress methodically edited Jefferson's primary document, shortening it by a fourth, removing unnecessary wording, and improving sentence structure. Congress removed Jefferson's assertion that Britain had forced slavery on the colonies, in order to moderate the document and appease persons in Britain who supported the Revolution. Although Jefferson wrote that Congress had "mangled" his draft version, the Declaration that was finally produced, according to his biographer John Ferling, was "the majestic document that inspired both contemporaries and posterity."

On Monday, July 1, having tabled the draft of the declaration, Congress resolved itself into a committee of the whole, with Benjamin Harrison of Virginia presiding, and resumed debate on Lee's resolution of independence. John Dickinson made one last effort to delay the decision, arguing that Congress should not declare independence without first securing a foreign alliance and finalizing the Articles of Confederation.

John Adams gave a speech in reply to Dickinson, restating the case for an immediate declaration.
After a long day of speeches, a vote was taken. As always, each colony cast a single vote; the delegation for each colony—numbering two to seven members—voted amongst themselves to determine the colony's vote. Pennsylvania and South Carolina voted against declaring independence. The New York delegation, lacking permission to vote for independence, abstained. Delaware cast no vote because the delegation was split between Thomas McKean (who voted yes) and George Read (who voted no). The remaining nine delegations voted in favor of independence, which meant that the resolution had been approved by the committee of the whole. The next step was for the resolution to be voted upon by the Congress itself. Edward Rutledge of South Carolina, who was opposed to Lee's resolution but desirous of unanimity, moved that the vote be postponed until the following day.
On July 2, South Carolina reversed its position and voted for independence. In the Pennsylvania delegation, Dickinson and Robert Morris abstained, allowing the delegation to vote three-to-two in favor of independence. The tie in the Delaware delegation was broken by the timely arrival of Caesar Rodney, who voted for independence. The New York delegation abstained once again, since they were still not authorized to vote for independence, although they would be allowed to do so by the New York Provincial Congress a week later. The resolution of independence had been adopted with twelve affirmative votes and one abstention. With this, the colonies had officially severed political ties with Great Britain. In a now-famous letter written to his wife on the following day, John Adams predicted that July 2 would become a great American holiday. Adams thought that the vote for independence would be commemorated; he did not foresee that Americans—including himself—would instead celebrate Independence Day on the date that the announcement of that act was finalized.
After voting in favor of the resolution of independence, Congress turned its attention to the committee's draft of the declaration. Over several days of debate, Congress made a few changes in wording and deleted nearly a fourth of the text, most notably a passage critical of the slave trade, changes that Jefferson resented. On July 4, 1776, the wording of the Declaration of Independence was approved and sent to the printer for publication.

Influences

Historians have often sought to identify the sources that most influenced the words and political philosophy of the Declaration of Independence. By Jefferson's own admission, the Declaration contained no original ideas, but was instead a statement of sentiments widely shared by supporters of the American Revolution. As he explained in 1825:
Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind, and to give to that expression the proper tone and spirit called for by the occasion.
Jefferson's most immediate sources were two documents written in June 1776: his own draft of the preamble of the Constitution of Virginia, and George Mason's draft of the Virginia Declaration of Rights. Ideas and phrases from both of these documents appear in the Declaration of Independence. They were, in turn, directly influenced by the 1689 English Declaration of Rights, which formally ended the reign of King James II. During the American Revolution, Jefferson and other Americans looked to the English Declaration of Rights as a model of how to end the reign of an unjust king. The Scottish Declaration of Arbroath (1320) and the Dutch Act of Abjuration (1581) have also been offered as models for Jefferson's Declaration, but these models are now accepted by few scholars.

Jefferson wrote that a number of authors exerted a general influence on the words of the Declaration.[83] The English political theorist John Locke, whom Jefferson called one of "the three greatest men that have ever lived", is usually cited as one of the primary influences. In 1922, historian Carl L. Becker wrote that "Most Americans had absorbed Locke's works as a kind of political gospel; and the Declaration, in its form, in its phraseology, follows closely certain sentences in Locke's second treatise on government." The extent of Locke's influence on the American Revolution has been questioned by some subsequent scholars, however. Historian Ray Forrest Harvey declared in 1937, as he argued for the dominant influence of the Swiss jurist Jean Jacques Burlamaqui, that Jefferson and Locke were at "two opposite poles" in their political philosophy, as evidenced by Jefferson's use in the Declaration of Independence of the phrase "pursuit of happiness" instead of "property". Other scholars emphasized the influence of republicanism rather than Locke's classical liberalism. Historian Garry Wills argued that Jefferson was influenced by the Scottish Enlightenment, particularly Francis Hutcheson, rather than Locke, an interpretation that has been strongly criticized.

Legal historian John Phillip Reid has written that the emphasis on the political philosophy of the Declaration has been misplaced. The Declaration is not a philosophical tract about natural rights, argues Reid, but is instead a legal document—an indictment against King George for violating the constitutional rights of the colonists. In contrast, historian Dennis J. Mahoney argues that the Declaration is not a legal document at all, but a philosophical document influenced by Emerich de Vattel, Jean-Jacques Burlamaqui, and Samuel Pufendorf. Historian David Armitage has argued that the Declaration is a document of international law. According to Armitage, the Declaration was strongly influenced by de Vattel's *The Law of Nations*, a book that Benjamin Franklin said was "continually in the hands of the members of our Congress". Armitage writes that because "Vattel made independence fundamental to his definition of statehood", the primary purpose of the Declaration was "to express the international legal sovereignty of the United States". If the United States were to have any hope of being recognized by the European powers, the American revolutionaries had first to make it clear that they were no longer dependent on Great Britain.

1B. extent source text

IN CONGRESS, July 4, 1776.

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.--Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.
He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.
He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.
He has affected to render the Military independent of and superior to the Civil power.
He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:
For Quartering large bodies of armed troops among us:
For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:
For cutting off our Trade with all parts of the world:
For imposing Taxes on us without our Consent:
For depriving us in many cases, of the benefits of Trial by Jury:
For transporting us beyond Seas to be tried for pretended offences
For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:
For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:
For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.
He has abdicated Government here, by declaring us out of his Protection and waging War against us.
He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.
He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.
He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.
He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.
In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.
Nor have We been wanting in attentions to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.
We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of

our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

book 3: Post-Modern and current texts
section 1: America
Part 2. United States Bill of Rights
2A. historical background
2B. extent source text

2A. historical background

The **Bill of Rights** is the collective name for the first ten amendments to the United States Constitution. Proposed to assuage the fears of Anti-Federalists who had opposed Constitutional ratification, these amendments guarantee a number of personal freedoms, limit the government's power in judicial and other proceedings, and reserve some powers to the states and the public. While originally the amendments applied only to the federal government, most of their provisions have since been extended to the states by way of the Fourteenth Amendment, a process known as incorporation.
The amendments were introduced by James Madison to the 1st United States Congress as a series of legislative articles. They were adopted by the House of Representatives on August 21, 1789, formally proposed by joint resolution of Congress on September 25, 1789, and came into effect as Constitutional Amendments on December 15, 1791, through the process of ratification by three-fourths of the states. While twelve amendments were proposed by Congress, only ten were originally ratified by the states. Of the remaining two, one was adopted 203 years later as the Twenty-seventh Amendment, and the other technically remains pending before the states.
The Bill of Rights enumerates freedoms not explicitly indicated in the main body of the Constitution, such as freedom of religion, freedom of speech, a free press, and free assembly; the right to keep and bear arms; freedom from unreasonable search and seizure, security in personal effects, and freedom from warrants issued without probable cause; indictment by a grand jury for any capital or "infamous crime"; guarantee of a speedy, public trial with an impartial jury; and prohibition of double jeopardy. In addition, the Bill of Rights reserves for the people any rights not specifically mentioned in the Constitution and reserves all powers not specifically granted to the federal government to the people or the States. The Bill was influenced by George Mason's 1776 Virginia Declaration of Rights, the English Bill of Rights 1689, and earlier English political documents such as Magna Carta (1215).
The Bill of Rights had little judicial impact for the first 150 years of its existence, but was the basis for many Supreme Court decisions of the 20th and 21st centuries. One of the first fourteen copies of the Bill of Rights is on public display at the National Archives in Washington, D.C.

Background
The Philadelphia Convention
Prior to the acceptance and implementation of the United States Constitution, the original 13 colonies followed the Articles of Confederation, created by the Second Continental Congress and ratified in 1781. However, the national government that operated under the Articles of Confederation was too weak to adequately regulate the various conflicts that arose between the states. The Philadelphia Convention set out to correct weaknesses of the Articles that had been apparent even before the American Revolutionary War had been successfully concluded.
The convention took place from May 14 to September 17, 1787, in Philadelphia, Pennsylvania. Although the Convention was purportedly intended only to revise the Articles, the intention of many of its proponents, chief among them James Madison of Virginia and Alexander Hamilton of New York, was to create a new government rather than fix the existing one. The convention convened in the Pennsylvania State House, and George Washington of Virginia was unanimously elected as president of the convention. The 55 delegates who drafted the Constitution are among the men known as the Founding Fathers of the new nation. Thomas Jefferson, who was Minister to France during the convention, characterized the delegates as an assembly of "demi-gods." Rhode Island refused to send delegates to the convention.
On September 12, George Mason of Virginia suggested the addition of a Bill of Rights

to the Constitution modeled on previous state declarations, and Elbridge Gerry of Massachusetts made it a formal motion. However, the motion was defeated by a unanimous vote of the state delegations after only a brief discussion. Madison, then an opponent of a Bill of Rights, later explained the vote by calling the state bills of rights "parchment barriers" that offered only an illusion of protection against tyranny. Another delegate, James Wilson of Pennsylvania, later argued that the act of enumerating the rights of the people would have been dangerous, because it would imply that rights not explicitly mentioned did not exist; Hamilton echoed this point in *Federalist* No. 84. Because Mason and Gerry had emerged as opponents of the proposed new Constitution, their motion—introduced five days before the end of the convention—may also have been seen by other delegates as a delaying tactic. The quick rejection of this motion, however, later endangered the entire ratification process. Author David O. Stewart calls the omission of a Bill of Rights in the original Constitution as "a political blunder of the first magnitude" while historian Jack N. Rakove calls it "the one serious miscalculation the framers made as they looked ahead to the struggle over ratification".

Thirteen delegates left before the final signing of the constitution, and three of those still at the convention refused to sign: Mason, Gerry, and Edmund Randolph of Virginia. The remaining 39 delegates signed the final document, and the Constitution was then submitted to the states for ratification, pursuant to its own Article VII.

The Anti-Federalists

Following the Philadelphia Convention, some leading revolutionary figures such as Patrick Henry, Samuel Adams, and Richard Henry Lee publicly opposed the Constitution, a position known as "Anti-Federalism". Elbridge Gerry wrote the most popular Anti-Federalist tract, "Hon. Mr. Gerry's Objections", which went through 46 printings; the essay particularly focused on the lack of a bill of rights in the proposed constitution. Many were concerned that a strong national government was a threat to individual rights and that the President would become a king. Jefferson wrote to Madison advocating a Bill of Rights: "Half a loaf is better than no bread. If we cannot secure all our rights, let us secure what we can."

The pseudonymous Anti-Federalist "Brutus" wrote,

We find they have, in the ninth section of the first article declared, that the writ of habeas corpus shall not be suspended, unless in cases of rebellion — that no bill of attainder, or ex post facto law, shall be passed — that no title of nobility shall be granted by the United States, etc. If every thing which is not given is reserved, what propriety is there in these exceptions? Does this Constitution any where grant the power of suspending the habeas corpus, to make ex post facto laws, pass bills of attainder, or grant titles of nobility? It certainly does not in express terms. The only answer that can be given is, that these are implied in the general powers granted. With equal truth it may be said, that all the powers which the bills of rights guard against the abuse of, are contained or implied in the general ones granted by this Constitution.

Brutus continued with an implication directed against the Constitution's framers:

Ought not a government, vested with such extensive and indefinite authority, to have been restricted by a declaration of rights? It certainly ought. So clear a point is this, that I cannot help suspecting that persons who attempt to persuade people that such reservations were less necessary under this Constitution than under those of the States, are wilfully endeavoring to deceive, and to lead you into an absolute state of vassalage.

Supporters of the Constitution, known as Federalists, opposed a bill of rights for much of the ratification period, in part due to the procedural uncertainties it would create. Madison argued against such an inclusion, suggesting that state governments were sufficient guarantors of personal liberty, in No. 46 of *The Federalist Papers*, a series

of essays promoting the Federalist position. Hamilton opposed a Bill of Rights in *Federalist* No. 84, stating that "the constitution is itself in every rational sense, and to every useful purpose, A BILL OF RIGHTS." He stated that ratification did not mean the American people were surrendering their rights, making protections unnecessary: "Here, in strictness, the people surrender nothing, and as they retain everything, they have no need of particular reservations." Critics pointed out that earlier political documents had protected specific rights, but Hamilton argued that the Constitution was inherently different:

Bills of rights are in their origin, stipulations between kings and their subjects, abridgments of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was "Magna Charta," obtained by the Barons, swords in hand, from King John.

Patrick Henry argued, in contrast, that the legislature must be firmly informed "of the extent of the rights retained by the people ... being in a state of uncertainty, they will assume rather than give up powers by implication."

Ratification and the Massachusetts Compromise

In December 1787 and January 1788, five states—Delaware, Pennsylvania, New Jersey, Georgia, and Connecticut—ratified the Constitution with relative ease, though the bitter minority report of the Pennsylvania opposition was widely circulated. In contrast to its predecessors, the Massachusetts convention was angry and contentious, at one point erupting into a fistfight between Federalist delegate Francis Dana and Anti-Federalist Elbridge Gerry when the latter was not allowed to speak. The impasse was resolved only when revolutionary heroes and leading Anti-Federalists Samuel Adams and John Hancock agreed to ratification on the condition that the convention also propose amendments. The convention's proposed amendments included a requirement for grand jury indictment in capital cases, which would form part of the Fifth Amendment, and an amendment reserving powers to the states not expressly given to the federal government, which would later form the basis for the Tenth Amendment.

Following Massachusetts' lead, the Federalist minorities in both Virginia and New York were able to obtain ratification in convention by linking ratification to recommended amendments. A committee of the Virginia convention headed by law professor George Wythe forwarded forty recommended amendments to Congress, twenty of which enumerated individual rights and another twenty of which enumerated states' rights. The latter amendments included limitations on federal powers to levy taxes and regulate trade.

A minority of the Constitution's critics, such as Maryland's Luther Martin, continued to oppose ratification. However, Martin's allies, such as New York's John Lansing, Jr., dropped moves to obstruct the Convention's process. They began to take exception to the Constitution "as it was," seeking amendments. Several conventions saw supporters for "amendments before" shift to a position of "amendments after" for the sake of staying in the Union. The New York Anti-Federalist "circular letter" was sent to each state legislature proposing a second constitutional convention for "amendments before", but it failed in the state legislatures. Ultimately, only North Carolina and Rhode Island waited for amendments from Congress before ratifying.

Article VII of the proposed constitution stipulated that only nine of the thirteen states had to ratify for the new government to go into effect (for the participating states). After a year had passed in state-by-state ratification battles, on September 13, 1788, the Articles of Confederation Congress certified that the new Constitution had been ratified. The new government was inaugurated with eleven of the thirteen states. The Articles Congress directed the new government to meet in New York City on the first Wednesday in March, and on March 4, 1789, the government began operations.

Proposal by Congress

The First Congress

The new Constitution's first Congress, which met in New York City's Federal Hall, was a triumph for the Federalists. The Senate of eleven states contained 20 Federalists with only two Anti-Federalists, both from Virginia. The House included 48 Federalists to 11 Anti-Federalists, the latter of whom were from only four states: Massachusetts, New York, Virginia and South Carolina.

Among the Virginia delegation to the House was James Madison, Patrick Henry's chief opponent in the Virginia ratification battle. In retaliation for Madison's victory at that convention, Henry and other Anti-Federalists, who controlled the Virginia House of Delegates had gerrymandered a hostile district for Madison's planned congressional run and recruited Madison's future presidential successor, James Monroe, to oppose him. Madison defeated Monroe after offering a campaign pledge that he would introduce constitutional amendments comprising a Bill of Rights at the First Congress.

Though Madison had originally opposed a Bill of Rights, he had gradually come to support one in the course of ratification debates. By taking the initiative to propose amendments himself through the Congress, he hoped to preempt a second Constitutional Convention that might have undone the difficult compromises of 1787: a second convention would open the entire Constitution to reconsideration and risk dissolving the federal Government. Writing to Jefferson, he stated, "The friends of the Constitution, some from an approbation of particular amendments, others from a spirit of conciliation, are generally agreed that the System should be revised. But they wish the revisal to be carried no farther than to supply additional guards for liberty." He also felt that amendments guaranteeing personal liberties would "give to the Government its due popularity and stability". Finally, he hoped that the amendments "would acquire by degrees the character of fundamental maxims of free government, and as they become incorporated with the national sentiment, counteract the impulses of interest and passion".

The federal government's first president, George Washington, endorsed limited amendments to the Constitution in his first address to Congress on April 30, 1789. He urged the legislators to focus on the issue of individual rights rather than making changes to the new government's structure:

"For I assure myself that whilst you carefully avoid any alteration which might endanger the benefits of an United and effective Government, or which ought to await the future lessons of experience; a reverence for the characteristic rights of freemen, and a regard for public harmony, will sufficiently influence your deliberations on the question."

On May 4, Madison announced his intention to present amendments on May 25.

Madison's proposed amendments

Madison attempted to introduce his proposed amendments on May 25 as planned, but other business forced his speech's postponement to June 8. Like Washington, he urged Congress to keep the revision to the Constitution "a moderate one", limited to protecting individual rights. Historians continue to debate the degree to which Madison considered the amendments of the Bill of Rights necessary, and to what degree he considered them politically expedient; in the outline of his address, he wrote, "Bill of Rights—useful—not essential—".

Madison proposed twenty amendments to Congress, one of which was a new preamble to the Constitution with greater stress on natural rights. Madison was deeply read in the history of government and used a range of sources in composing the amendments. The English Magna Carta of 1215 inspired the right to petition and to trial by jury, for example, while the English Bill of Rights of 1689 provided an early

precedent for the right to keep and bear arms and prohibited cruel and unusual punishment.
The greatest influence on Madison's text, however, was existing state constitutions. Many of his amendments, including his proposed new preamble, were based on the Virginia Declaration of Rights drafted by Anti-Federalist George Mason in 1776. To reduce future opposition to ratification, Madison also looked for recommendations shared by many states.

Congressional revisions

On Madison's concluding his speech, the proposal was quickly attacked by Federalist representatives who felt that immediately amending the new Constitution would create an appearance of instability in the government. The House, unlike the Senate, was open to the public, and members such as Fisher Ames warned that a prolonged "dissection of the constitution" before the galleries could shake public confidence. A procedural battle followed, and after initially forwarding the amendments to a select committee for revision, the House agreed to take Madison's proposal up as a full body beginning on July 21, 1789.
The eleven-member committee made some significant changes to Madison's twenty amendments, including eliminating most of his preamble, adding the phrase "freedom of speech, and of the press", and adding what would become the Tenth Amendment, reserving powers to the states. The House debated the amendments for eleven days. Roger Sherman of Connecticut persuaded the House to place the amendments at the Constitution's end so that the document would "remain inviolate", rather than adding them throughout, as Madison had proposed. The amendments, revised and condensed from twenty to seventeen, were approved and forwarded to the Senate on August 24, 1789.
The Senate edited these amendments still further, making 26 changes of its own. Madison's proposal to apply parts of the Bill of Rights to the states as well as the federal government was eliminated, and the seventeen amendments were condensed to twelve. The Senate also eliminated the last of Madison's proposed changes to the preamble. The two versions went to the Joint Committee, and the Senate's version was adopted by joint resolution of Congress on September 25, 1789, to be forwarded to the states on September 28.
Madison continued to be active in debate and legislative maneuvering throughout this process. Historian Gordon S. Wood writes that "there is no question that it was Madison's personal prestige and his dogged persistence that saw the amendments through the Congress. There might have been a federal Constitution without Madison but certainly no Bill of Rights."

Ratification process

By the time the Bill of Rights was submitted to the states for ratification, opinions had shifted in both parties. Many Federalists now supported the Bill as a means to silence the Anti-Federalists' most effective critique. Many Anti-Federalists, in contrast, now opposed it, realizing that the Bill's adoption would greatly lessen the chances of a second constitutional convention. Anti-Federalists such as Richard Henry Lee also argued that the Bill left the most objectionable portions of the Constitution, such as the federal judiciary and direct taxation, intact.
On November 20, 1789, New Jersey ratified eleven of the twelve amendments, rejecting Article II, which regulated Congressional pay raises. On December 19 and 22, respectively, Maryland and North Carolina ratified all twelve amendments. On January 19, 25, and 28, 1790, respectively, South Carolina, New Hampshire, and Delaware ratified the Bill, though New Hampshire rejected the amendment on Congressional pay raises, and Delaware rejected Article I, which regulated the size of the House. This brought the total of ratifying states to six of the required ten, but the

process stalled in other states: Connecticut and Georgia found a Bill of Rights unnecessary and so refused to ratify, while Massachusetts ratified most of the amendments, but failed to send official notice to the Secretary of State that it had done so.
In February through June of 1790, New York, Pennsylvania, and Rhode Island ratified eleven of the amendments, though all three rejected the amendment on Congressional pay raises. Virginia initially postponed its debate, but after Vermont was admitted to the Union in 1791, the total number of states needed for ratification rose to eleven. Vermont ratified on November 3, 1791, approving all twelve amendments, and Virginia finally followed on December 15, 1791. Secretary of State Thomas Jefferson announced the adoption of the ten successfully ratified amendments on March 1, 1792.

Unratified amendments proposed with the Bill of Rights

Article I

After the enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall be not less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.
Article I was ratified by ten of fourteen states, but was rejected by Delaware, which favored a small House due to the state's small population. Despite later ratification by Kentucky (bringing the total to eleven of fifteen), the article has never since received the approval of enough states for it to become part of the Constitution.

Article II

No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.
Article II was initially ratified by six of fourteen states, but after 1791 did not receive another state ratification for almost a century. In 1873, Ohio's state legislature ratified it in protest of a Congressional pay raise, followed another century later by Wyoming, which ratified in 1978. Gregory Watson, a Texas undergraduate, launched a campaign in 1982 to complete the ratification process, and by 1992, thirty-eight of the fifty states had ratified. Because of the unusual two-century delay in the process, the amendment's adoption was certified by Archivist of the United States Don W. Wilson and approved by a vote of Congress on May 20, 1992. The article then became the Twenty-seventh Amendment.

Application

The Bill of Rights had little judicial impact for the first 150 years of its existence; in the words of Gordon S. Wood, "After ratification, most Americans promptly forgot about the first ten amendments to the Constitution." The Court made no important decisions protecting free speech rights, for example, until 1931. Historian Richard Labunski attributes the Bill's long legal dormancy to three factors: first, it took time for a "culture of tolerance" to develop that would support the Bill's provisions with judicial and popular will; second, the Supreme Court spent much of the 19th century focused on issues relating to intergovernmental balances of power; and third, the Bill initially only applied to the federal government, a restriction affirmed by *Barron v. Baltimore* (1833). In the twentieth century, however, most of the Bill's provisions were applied to the states via the Fourteenth Amendment—a process known as incorporation—beginning with the freedom of speech clause, in *Gitlow v. New York*

(1925). In *Talton v. Mayes* (1896), the Court ruled that Constitutional protections, including the provisions of the Bill of Rights, do not apply to the actions of American Indian tribal governments.

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The First Amendment prohibits the making of any law respecting an establishment of religion, impeding the free exercise of religion, abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances. Initially, the First Amendment applied only to laws enacted by Congress, and many of its provisions were interpreted more narrowly than they are today.

In *Everson v. Board of Education* (1947), the Court drew on Thomas Jefferson's correspondence to call for "a wall of separation between church and State", though the precise boundary of this separation remains in dispute. Speech rights were expanded significantly in a series of 20th- and 21st-century court decisions that protected various forms of political speech, anonymous speech, campaign financing, pornography, and school speech; these rulings also defined a series of exceptions to First Amendment protections. The Supreme Court overturned English common law precedent to increase the burden of proof for defamation and libel suits, most notably in *New York Times Co. v. Sullivan* (1964). Commercial speech is less protected by the First Amendment than political speech, and is therefore subject to greater regulation.

The Free Press Clause protects publication of information and opinions, and applies to a wide variety of media. In *Near v. Minnesota* (1931) and *New York Times v. United States* (1971), the Supreme Court ruled that the First Amendment protected against prior restraint—pre-publication censorship—in almost all cases. The Petition Clause protects the right to petition all branches and agencies of government for action. In addition to the right of assembly guaranteed by this clause, the Court has also ruled that the amendment implicitly protects freedom of association.

Second Amendment

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

The Second Amendment protects the right to keep and bear arms. The concept of a *right to keep and bear arms* existed within English common law long before the enactment of the Bill of Rights. Eighteenth century English jurist and judge Sir William Blackstone described this right as a public allowance under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

First codified in the English Bill of Rights of 1689, this right was enshrined in fundamental laws of several states during the Revolutionary era, including the 1776 Virginia Declaration of Rights and the Pennsylvania Constitution of 1776.

Long a controversial issue in American political, legal and social discourse, the Second Amendment has been at the heart of several Supreme Court decisions.

- In *United States v. Cruikshank* (1875), the Court ruled that "[t]he right to bear arms is not granted by the Constitution; neither is it in any manner dependent upon that instrument for its existence. The Second Amendment means no more than that it shall not be infringed by Congress, and has no other effect than to restrict the powers of the National Government."
- In *United States v. Miller* (1939), the Court ruled that the amendment

"[protects arms that had a] reasonable relationship to the preservation or efficiency of a well regulated militia".

- In *District of Columbia v. Heller* (2008), the Court ruled that the Second Amendment "codified a pre-existing right" and that it "protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home" but also stated that "the right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose".
- In *McDonald v. Chicago* (2010), the Court ruled that the Second Amendment limits state and local governments to the same extent that it limits the federal government.

Third Amendment

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

The Third Amendment restricts the quartering of soldiers in private homes, in response to Quartering Acts passed by the British parliament during the Revolutionary War. The amendment is one of the least controversial of the Constitution, and, as of 2012, has never been the primary basis of a Supreme Court decision.

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fourth Amendment guards against unreasonable searches and seizures, along with requiring any warrant to be judicially sanctioned and supported by probable cause. It was adopted as a response to the abuse of the writ of assistance, which is a type of general search warrant, in the American Revolution. Search and seizure (including arrest) must be limited in scope according to specific information supplied to the issuing court, usually by a law enforcement officer who has sworn by it. The amendment is the basis for the exclusionary rule, which mandates that evidence obtained illegally cannot be introduced into a criminal trial. The amendment's interpretation has varied over time; its protections expanded under left-leaning courts such as that headed by Earl Warren and contracted under right-leaning courts such as that of William Rehnquist.

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fifth Amendment protects against double jeopardy and self-incrimination and guarantees the rights to due process, grand jury screening of criminal indictments, and compensation for the seizure of private property under eminent domain. The amendment was the basis for the court's decision in *Miranda v. Arizona* (1966), which established that defendants must be informed of their rights to an attorney and against self-incrimination prior to interrogation by police.

Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The Sixth Amendment establishes a number of rights of the defendant in a criminal trial:

- The right to a speedy and public trial
- The right to trial by an impartial jury
- The right to be informed of criminal charges
- The right to confront witnesses
- The right to compel witnesses to appear in court
- The right to assistance of counsel

In *Gideon v. Wainwright* (1963), the Court ruled that the amendment guaranteed the right to legal representation in all felony prosecutions in both state and federal courts.

Seventh Amendment

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

The Seventh Amendment guarantees jury trials in federal civil cases that deal with claims of more than twenty dollars. It also prohibits judges from overruling findings of fact by juries in federal civil trials. In *Colgrove v. Battin* (1973), the Court ruled that the amendment's requirements could be fulfilled by a jury with a minimum of six members. The Seventh is one of the only parts of the Bill of Rights not to be incorporated (applied to the states).

Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Eighth Amendment forbids the imposition of excessive bails or fines, though it leaves the term "excessive" open to interpretation.

The most frequently litigated clause of the amendment is the last, which forbids cruel and unusual punishment. This clause was only occasionally applied by the Supreme Court prior to the 1970s, generally in cases dealing with means of execution. In *Furman v. Georgia* (1972), some members of the Court found capital punishment itself in violation of the amendment, arguing that the clause could reflect "evolving standards of decency" as public opinion changed; others found certain practices in capital trials to be unacceptably arbitrary, resulting in a majority decision that effectively halted executions in the United States for several years. Executions resumed following *Gregg v. Georgia* (1976), which found capital punishment to be constitutional if the jury was directed by concrete sentencing guidelines. The Court has also found that some poor prison conditions constitute cruel and unusual punishment, as in *Estelle v. Gamble* (1976).

Ninth Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The Ninth Amendment protects rights not specifically enumerated by the Constitution. It was rarely cited before the second half of the 20th century, when it

was used as a partial foundation for the right to privacy in several landmark cases: *Griswold v. Connecticut* (1965), which struck down a law banning contraceptives, and *Roe v. Wade* (1973), which established a woman's right to an abortion. In *Planned Parenthood v. Casey* (1992), the Court used the amendment to strike down part of another abortion law, a case the *Encyclopedia of the American Constitution* describes as "the high-water mark, to date, of judicial willingness to use the Ninth Amendment"; between 1992 and 2000, the Court did not refer to the amendment a single time.

Tenth Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Tenth Amendment states the Constitution's principle of federalism by providing that powers not granted to the federal government by the Constitution, nor prohibited to the states, are reserved to the states or the people. The amendment provides no new powers or rights to the states, but rather preserves their authority in all matters not specifically granted to the federal government.

2B. extent source text

The Preamble to The Bill of Rights

Congress of the United States
begun and held at the City of New-York, on
Wednesday the fourth of March,
one thousand seven hundred and eighty nine.

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Note: The following text is a transcription of the first ten amendments to the Constitution in their original form. These amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights."

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Constitutional Amendments 1-10 make up what is known as The Bill of Rights.
Amendments 11-27 are listed below.

AMENDMENT XI

Passed by Congress March 4, 1794. Ratified February 7, 1795.
Note: Article III, section 2, of the Constitution was modified by amendment 11.

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII

Passed by Congress December 9, 1803. Ratified June 15, 1804.
Note: A portion of Article II, section 1 of the Constitution was superseded by the 12th amendment.

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; -- the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -- The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. --]* The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

*Superseded by section 3 of the 20th amendment.

AMENDMENT XIII

Passed by Congress January 31, 1865. Ratified December 6, 1865.
Note: A portion of Article IV, section 2, of the Constitution was superseded by the 13th amendment.

Section 1.
Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.
Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV

Passed by Congress June 13, 1866. Ratified July 9, 1868.
Note: Article I, section 2, of the Constitution was modified by section 2 of the 14th amendment.

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.
Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age,* and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3.
No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4.
The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5.
The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

*Changed by section 1 of the 26th amendment.

AMENDMENT XV
Passed by Congress February 26, 1869. Ratified February 3, 1870.

Section 1.
The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude--

Section 2.
The Congress shall have the power to enforce this article by appropriate legislation.

AMENDMENT XVI

Passed by Congress July 2, 1909. Ratified February 3, 1913.
Note: Article I, section 9, of the Constitution was modified by amendment 16.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII

Passed by Congress May 13, 1912. Ratified April 8, 1913.
Note: Article I, section 3, of the Constitution was modified by the 17th amendment.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XVIII

Passed by Congress December 18, 1917. Ratified January 16, 1919. Repealed by amendment 21.

Section 1.
After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2.
The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3.
This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX

Passed by Congress June 4, 1919. Ratified August 18, 1920.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX

Passed by Congress March 2, 1932. Ratified January 23, 1933.
Note: Article I, section 4, of the Constitution was modified by section 2 of this amendment. In addition, a portion of the 12th amendment was superseded by section 3.

Section 1.
The terms of the President and the Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2.
The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3.
If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4.
The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5.
Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6.
This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

AMENDMENT XXI

Passed by Congress February 20, 1933. Ratified December 5, 1933.

Section 1.
The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2.
The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the

laws thereof, is hereby prohibited.

Section 3.
This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XXII
Passed by Congress March 21, 1947. Ratified February 27, 1951.

Section 1.
No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2.
This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

AMENDMENT XXIII
Passed by Congress June 16, 1960. Ratified March 29, 1961.

Section 1.
The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2.
The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV
Passed by Congress August 27, 1962. Ratified January 23, 1964.

Section 1.
The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.

Section 2.
The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV

Passed by Congress July 6, 1965. Ratified February 10, 1967.
Note: Article II, section 1, of the Constitution was affected by the 25th amendment.

Section 1.
In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2.
Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3.
Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4.
Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT XXVI

Passed by Congress March 23, 1971. Ratified July 1, 1971.
Note: Amendment 14, section 2, of the Constitution was modified by section 1 of the 26th amendment.

Section 1.
The right of citizens of the United States, who are eighteen years of age or older, to

vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2.
The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXVII

Originally proposed Sept. 25, 1789. Ratified May 7, 1992.

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of representatives shall have intervened.

section 2. Globalism
Part 1. the Communist Manifesto
1A. historical background
1B. extent source text

1A. historical background

The Communist Manifesto (*Das Kommunistische Manifest*), originally titled ***Manifesto of the Communist Party*** (German: *Manifest der Kommunistischen Partei*), is a short 1848 publication written by the political theorists Karl Marx and Friedrich Engels. It has since been recognized as one of the world's most influential political manuscripts. Commissioned by the Communist League, it laid out the League's purposes and program. It presents an analytical approach to the class struggle (historical and present) and the problems of capitalism, rather than a prediction of communism's potential future forms.
The book contains Marx and Engels' theories about the nature of society and politics, that in their own words, "The history of all hitherto existing society is the history of class struggles". It also briefly features their ideas for how the capitalist society of the time would eventually be replaced by socialism, and then eventually communism.

Authorship

Friedrich Engels has often been credited in composing the first drafts, which led to *The Communist Manifesto*. In July 1847, Engels was elected into the Communist League, where he was assigned to draw up a catechism. This became the *Draft of a Communist Confession of Faith.* The draft contained almost two dozen questions that helped express the ideas of both Engels and Karl Marx at the time. In October 1847, Engels composed his second draft for the Communist League entitled *The Principles of Communism.* The text remained unpublished until 1914, despite its basis for *The Manifesto.* From Engels's drafts Marx was able to write, once commissioned by the Communist League, *The Communist Manifesto,* where he combined more of his ideas along with Engels's drafts and work, *The Condition of the Working Class in England.*
Although the names of both Engels and Karl Marx appear on the title page alongside the "persistent assumption of joint-authorship", Engels, in the preface introduction to the 1883 German edition of the Manifesto, said that the *Manifesto* was "essentially Marx's work" and that "the basic thought... belongs solely and exclusively to Marx."
Engels wrote after Marx's death,
"I cannot deny that both before and during my forty years' collaboration with Marx I had a certain independent share in laying the foundations of the theory, but the greater part of its leading basic principles belongs to Marx....Marx was a genius; we others were at best talented. Without him the theory would not be by far what it is today. It therefore rightly bears his name."
Despite Engels's modesty in these two quotations, in fact he made major contributions to the Manifesto, starting with the suggestion to abandon "the form of a catechism and entitle it the Communist *Manifesto*." Moreover, Engels joined Marx in Brussels for the writing of the Manifesto. There is no evidence of what his contributions to the final writing were, but the Manifesto bears the stamp of Marx's more rhetorical writing style. Nevertheless, it seems clear that Engels's contributions justify his name's appearance on the title page after Marx's.

Textual history

The Communist Manifesto was first published (in German) in London by a group of German political refugees in 1848. It was also serialised at around the same time in a German-language London newspaper, the *Deutsche Londoner Zeitung*. The first English translation was produced by Helen Macfarlane in 1850, and the book was first published in the United States by Stephen Pearl Andrews. The *Manifesto* went through a number of editions from 1872 to 1890; notable new prefaces were written by Marx and Engels for the 1872 German edition, the 1882 Russian edition, the 1883 French edition, and the 1888 English edition. The 1910 edition, translated by Samuel Moore with the assistance of Engels, has been the most commonly used English text

since.
However, some recent English editions, such as Phil Gasper's annotated "road map" (Haymarket Books, 2006), have used a slightly modified text in response to criticisms of the Moore translation made by Hal Draper in his 1994 history of the *Manifesto*, *The Adventures of the "Communist Manifesto"* (Center for Socialist History, 1994).
In late 2010, Red Quill Books announced the release of a modern, illustrated "comic book" version of the Communist Manifesto in four parts.

Contents

The *Manifesto* is divided into an introduction, three substantive sections, and a conclusion.

Introduction

The preamble to the main text of the Manifesto states that the continent of Europe fears the "spectre of communism", and the powers of old Europe are uniting in "a holy alliance [intended to] exorcise this spectre". Marx refers here to not only the houses of power and landed gentry of old Europe—the bourgeoisie—but diverse factions such as the papacy and the emerging corporate world as well. Marx declares that "It is high time that Communists should openly, in the face of the whole world, publish their views, their aims, their tendencies, and meet this nursery tale of the spectre of communism with a manifesto of the party itself".

I. Bourgeois and Proletarians

The first chapter of the *Manifesto*, "Bourgeois and Proletarians", examines the Marxist conception of history, with the initial idea asserting that "The history of all hitherto existing society is the history of class struggles". It goes on to say that in capitalism, the working class, proletariat, are fighting in the class struggle against the owners of the means of production, the bourgeois, and that past class struggle ended either with revolution that restructured society, or "common ruin of the contending classes".
It continues by adding that the bourgeois exploits the proletariat through the "constant revolutionising of production [and] uninterrupted disturbance of all social conditions".
The Manifesto explains that the reason the bourgeois exist and exploit the proletariat with low wages is private property, "the accumulation of wealth in private hands, the formation and increase of capital", and that wage labor is created entirely by competition among the workers.
This section further explains that the proletarians will eventually rise to power through class struggle: the bourgeoisie constantly exploits the proletariat for its manual labour and cheap wages, ultimately to create profit for the bourgeois; the proletariat rise to power through revolution against the bourgeoisie such as riots or creation of unions. The Communist Manifesto states that while there is still class struggle amongst society, capitalism will be overthrown by the proletariat only to start again in the near future; ultimately communism is the key to class equality amongst the citizens of Europe.

II. Proletarians and Communists

The second section, "Proletarians and Communists", starts by stating the relationship of conscious communists to the rest of the working class, declaring that they will not form a separate party that opposes other working-class parties, will express the interests and general will of the proletariat as a whole, and will distinguish themselves from other working-class parties by always expressing the common interest of the entire proletariat independently of all nationalities and representing the interests of the movement as a whole.

The section goes on to defend communism from various objections, such as the claim that communists advocate "free love", and the claim that people will not perform labour in a communist society because they have no incentive to work. The section ends by outlining a set of short-term demands:

1. Abolition of property in land and application of all rents of land to public purposes.
2. A heavy progressive or graduated income tax.
3. Abolition of all right of inheritance.
4. Confiscation of the property of all emigrants and rebels.
5. Centralisation of credit in the hands of the State, by means of a national bank with State capital and an exclusive monopoly.
6. Centralisation of the means of communication and transport in the hands of the State.
7. Extension of factories and instruments of production owned by the State; the bringing into cultivation of waste-lands, and the improvement of the soil generally in accordance with a common plan.
8. Equal liability of all to labour. Establishment of industrial armies, especially for agriculture.
9. Combination of agriculture with manufacturing industries; gradual abolition of the distinction between town and country, by a more equitable distribution of the population over the country.
10. Free education for all children in public schools. Abolition of children's factory labour in its present form and combination of education with industrial production.

The implementation of these policies would, as believed by Marx and Engels, be a precursor to the stateless and classless society. In a controversial passage they suggested that the "proletariat" might in competition with the bourgeoisie be compelled to organise as a class, form a revolution, make itself a ruling class, sweep away the old conditions of production, and in that step have abolished its own supremacy as a class. This account of the transition from socialism to communism was criticised particularly during and after the Soviet era.

III. Socialist and Communist Literature

The third section, "Socialist and Communist Literature," distinguishes communism from other socialist doctrines prevalent at the time the *Manifesto* was written. While the degree of reproach of Marx and Engels toward rival perspectives varies, all are dismissed for advocating reformism and failing to recognise the preeminent role of the working class.

IV. Position of the Communists in Relation to the Various Opposition Parties

The concluding section, "Position of the Communists in Relation to the Various Opposition Parties", briefly discusses the communist position on struggles in specific countries in the mid-nineteenth century such as France, Switzerland, Poland, and Germany, and declares that Germany "is on the eve of a bourgeois revolution", and predicts that a world revolution will soon follow. It then ends by declaring an alliance with the social democrats, boldly supporting other communist revolutions, and calling the proletarians to action, ending with the rallying cry of communism, "Workers of the world, unite!".

1B. extent source text

Manifesto of the Communist Party

A spectre is haunting Europe – the spectre of communism. All the powers of old Europe have entered into a holy alliance to exorcise this spectre: Pope and Tsar, Metternich and Guizot, French Radicals and German police-spies.
Where is the party in opposition that has not been decried as communistic by its opponents in power? Where is the opposition that has not hurled back the branding reproach of communism, against the more advanced opposition parties, as well as against its reactionary adversaries?
Two things result from this fact:
I. Communism is already acknowledged by all European powers to be itself a power.
II. It is high time that Communists should openly, in the face of the whole world, publish their views, their aims, their tendencies, and meet this nursery tale of the Spectre of Communism with a manifesto of the party itself.
To this end, Communists of various nationalities have assembled in London and sketched the following manifesto, to be published in the English, French, German, Italian, Flemish and Danish languages.
I. Bourgeois and Proletarians*
The history of all hitherto existing society† is the history of class struggles.
Freeman and slave, patrician and plebeian, lord and serf, guild-master‡ and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of the contending classes.
In the earlier epochs of history, we find almost everywhere a complicated arrangement of society into various orders, a manifold gradation of social rank. In ancient Rome we have patricians, knights, plebeians, slaves; in the Middle Ages, feudal lords, vassals, guild-masters, journeymen, apprentices, serfs; in almost all of these classes, again, subordinate gradations.
The modern bourgeois society that has sprouted from the ruins of feudal society has not done away with class antagonisms. It has but established new classes, new conditions of oppression, new forms of struggle in place of the old ones.
Our epoch, the epoch of the bourgeoisie, possesses, however, this distinct feature: it has simplified class antagonisms. Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly facing each other – Bourgeoisie and Proletariat.
From the serfs of the Middle Ages sprang the chartered burghers of the earliest towns. From these burgesses the first elements of the bourgeoisie were developed.
The discovery of America, the rounding of the Cape, opened up fresh ground for the rising bourgeoisie. The East-Indian and Chinese markets, the colonisation of America, trade with the colonies, the increase in the means of exchange and in commodities generally, gave to commerce, to navigation, to industry, an impulse never before known, and thereby, to the revolutionary element in the tottering feudal society, a rapid development.
The feudal system of industry, in which industrial production was monopolised by closed guilds, now no longer sufficed for the growing wants of the new markets. The manufacturing system took its place. The guild-masters were pushed on one side by the manufacturing middle class; division of labour between the different corporate guilds vanished in the face of division of labour in each single workshop.
Meantime the markets kept ever growing, the demand ever rising. Even manufacturer no longer sufficed. Thereupon, steam and machinery revolutionised

industrial production. The place of manufacture was taken by the giant, Modern Industry; the place of the industrial middle class by industrial millionaires, the leaders of the whole industrial armies, the modern bourgeois.
Modern industry has established the world market, for which the discovery of America paved the way. This market has given an immense development to commerce, to navigation, to communication by land. This development has, in its turn, reacted on the extension of industry; and in proportion as industry, commerce, navigation, railways extended, in the same proportion the bourgeoisie developed, increased its capital, and pushed into the background every class handed down from the Middle Ages.
We see, therefore, how the modern bourgeoisie is itself the product of a long course of development, of a series of revolutions in the modes of production and of exchange.
Each step in the development of the bourgeoisie was accompanied by a corresponding political advance of that class. An oppressed class under the sway of the feudal nobility, an armed and self-governing association in the medieval commune*: here independent urban republic (as in Italy and Germany); there taxable “third estate” of the monarchy (as in France); afterwards, in the period of manufacturing proper, serving either the semi-feudal or the absolute monarchy as a counterpoise against the nobility, and, in fact, cornerstone of the great monarchies in general, the bourgeoisie has at last, since the establishment of Modern Industry and of the world market, conquered for itself, in the modern representative State, exclusive political sway. The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie.
The bourgeoisie, historically, has played a most revolutionary part.
The bourgeoisie, wherever it has got the upper hand, has put an end to all feudal, patriarchal, idyllic relations. It has pitilessly torn asunder the motley feudal ties that bound man to his “natural superiors”, and has left remaining no other nexus between man and man than naked self-interest, than callous “cash payment”. It has drowned the most heavenly ecstasies of religious fervour, of chivalrous enthusiasm, of philistine sentimentalism, in the icy water of egotistical calculation. It has resolved personal worth into exchange value, and in place of the numberless indefeasible chartered freedoms, has set up that single, unconscionable freedom – Free Trade. In one word, for exploitation, veiled by religious and political illusions, it has substituted naked, shameless, direct, brutal exploitation.
The bourgeoisie has stripped of its halo every occupation hitherto honoured and looked up to with reverent awe. It has converted the physician, the lawyer, the priest, the poet, the man of science, into its paid wage labourers.
The bourgeoisie has torn away from the family its sentimental veil, and has reduced the family relation to a mere money relation.
The bourgeoisie has disclosed how it came to pass that the brutal display of vigour in the Middle Ages, which reactionaries so much admire, found its fitting complement in the most slothful indolence. It has been the first to show what man’s activity can bring about. It has accomplished wonders far surpassing Egyptian pyramids, Roman aqueducts, and Gothic cathedrals; it has conducted expeditions that put in the shade all former Exoduses of nations and crusades.
The bourgeoisie cannot exist without constantly revolutionising the instruments of production, and thereby the relations of production, and with them the whole relations of society. Conservation of the old modes of production in unaltered form, was, on the contrary, the first condition of existence for all earlier industrial classes. Constant revolutionising of production, uninterrupted disturbance of all social conditions, everlasting uncertainty and agitation distinguish the bourgeois epoch from all earlier ones. All fixed, fast-frozen relations, with their train of ancient and venerable prejudices and opinions, are swept away, all new-formed ones become

antiquated before they can ossify. All that is solid melts into air, all that is holy is profaned, and man is at last compelled to face with sober senses his real conditions of life, and his relations with his kind.

The need of a constantly expanding market for its products chases the bourgeoisie over the entire surface of the globe. It must nestle everywhere, settle everywhere, establish connexions everywhere.

The bourgeoisie has through its exploitation of the world market given a cosmopolitan character to production and consumption in every country. To the great chagrin of Reactionists, it has drawn from under the feet of industry the national ground on which it stood. All old-established national industries have been destroyed or are daily being destroyed. They are dislodged by new industries, whose introduction becomes a life and death question for all civilised nations, by industries that no longer work up indigenous raw material, but raw material drawn from the remotest zones; industries whose products are consumed, not only at home, but in every quarter of the globe. In place of the old wants, satisfied by the production of the country, we find new wants, requiring for their satisfaction the products of distant lands and climes. In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal inter-dependence of nations. And as in material, so also in intellectual production. The intellectual creations of individual nations become common property. National one-sidedness and narrow-mindedness become more and more impossible, and from the numerous national and local literatures, there arises a world literature.

The bourgeoisie, by the rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws all, even the most barbarian, nations into civilisation. The cheap prices of commodities are the heavy artillery with which it batters down all Chinese walls, with which it forces the barbarians' intensely obstinate hatred of foreigners to capitulate. It compels all nations, on pain of extinction, to adopt the bourgeois mode of production; it compels them to introduce what it calls civilisation into their midst, i.e., to become bourgeois themselves. In one word, it creates a world after its own image.

The bourgeoisie has subjected the country to the rule of the towns. It has created enormous cities, has greatly increased the urban population as compared with the rural, and has thus rescued a considerable part of the population from the idiocy of rural life. Just as it has made the country dependent on the towns, so it has made barbarian and semi-barbarian countries dependent on the civilised ones, nations of peasants on nations of bourgeois, the East on the West.

The bourgeoisie keeps more and more doing away with the scattered state of the population, of the means of production, and of property. It has agglomerated population, centralised the means of production, and has concentrated property in a few hands. The necessary consequence of this was political centralisation. Independent, or but loosely connected provinces, with separate interests, laws, governments, and systems of taxation, became lumped together into one nation, with one government, one code of laws, one national class-interest, one frontier, and one customs-tariff.

The bourgeoisie, during its rule of scarce one hundred years, has created more massive and more colossal productive forces than have all preceding generations together. Subjection of Nature's forces to man, machinery, application of chemistry to industry and agriculture, steam-navigation, railways, electric telegraphs, clearing of whole continents for cultivation, canalisation of rivers, whole populations conjured out of the ground – what earlier century had even a presentiment that such productive forces slumbered in the lap of social labour?

We see then: the means of production and of exchange, on whose foundation the bourgeoisie built itself up, were generated in feudal society. At a certain stage in the development of these means of production and of exchange, the conditions under

which feudal society produced and exchanged, the feudal organisation of agriculture and manufacturing industry, in one word, the feudal relations of property became no longer compatible with the already developed productive forces; they became so many fetters. They had to be burst asunder; they were burst asunder.

Into their place stepped free competition, accompanied by a social and political constitution adapted in it, and the economic and political sway of the bourgeois class.

A similar movement is going on before our own eyes. Modern bourgeois society, with its relations of production, of exchange and of property, a society that has conjured up such gigantic means of production and of exchange, is like the sorcerer who is no longer able to control the powers of the nether world whom he has called up by his spells. For many a decade past the history of industry and commerce is but the history of the revolt of modern productive forces against modern conditions of production, against the property relations that are the conditions for the existence of the bourgeois and of its rule. It is enough to mention the commercial crises that by their periodical return put the existence of the entire bourgeois society on its trial, each time more threateningly. In these crises, a great part not only of the existing products, but also of the previously created productive forces, are periodically destroyed. In these crises, there breaks out an epidemic that, in all earlier epochs, would have seemed an absurdity – the epidemic of over-production. Society suddenly finds itself put back into a state of momentary barbarism; it appears as if a famine, a universal war of devastation, had cut off the supply of every means of subsistence; industry and commerce seem to be destroyed; and why? Because there is too much civilisation, too much means of subsistence, too much industry, too much commerce. The productive forces at the disposal of society no longer tend to further the development of the conditions of bourgeois property; on the contrary, they have become too powerful for these conditions, by which they are fettered, and so soon as they overcome these fetters, they bring disorder into the whole of bourgeois society, endanger the existence of bourgeois property. The conditions of bourgeois society are too narrow to comprise the wealth created by them. And how does the bourgeoisie get over these crises? On the one hand by enforced destruction of a mass of productive forces; on the other, by the conquest of new markets, and by the more thorough exploitation of the old ones. That is to say, by paving the way for more extensive and more destructive crises, and by diminishing the means whereby crises are prevented.

The weapons with which the bourgeoisie felled feudalism to the ground are now turned against the bourgeoisie itself.

But not only has the bourgeoisie forged the weapons that bring death to itself; it has also called into existence the men who are to wield those weapons – the modern working class – the proletarians.

In proportion as the bourgeoisie, i.e., capital, is developed, in the same proportion is the proletariat, the modern working class, developed – a class of labourers, who live only so long as they find work, and who find work only so long as their labour increases capital. These labourers, who must sell themselves piecemeal, are a commodity, like every other article of commerce, and are consequently exposed to all the vicissitudes of competition, to all the fluctuations of the market.

Owing to the extensive use of machinery, and to the division of labour, the work of the proletarians has lost all individual character, and, consequently, all charm for the workman. He becomes an appendage of the machine, and it is only the most simple, most monotonous, and most easily acquired knack, that is required of him. Hence, the cost of production of a workman is restricted, almost entirely, to the means of subsistence that he requires for maintenance, and for the propagation of his race. But the price of a commodity, and therefore also of labour, is equal to its cost of production. In proportion, therefore, as the repulsiveness of the work increases, the wage decreases. Nay more, in proportion as the use of machinery and division of

labour increases, in the same proportion the burden of toil also increases, whether by prolongation of the working hours, by the increase of the work exacted in a given time or by increased speed of machinery, etc.

Modern Industry has converted the little workshop of the patriarchal master into the great factory of the industrial capitalist. Masses of labourers, crowded into the factory, are organised like soldiers. As privates of the industrial army they are placed under the command of a perfect hierarchy of officers and sergeants. Not only are they slaves of the bourgeois class, and of the bourgeois State; they are daily and hourly enslaved by the machine, by the overlooker, and, above all, by the individual bourgeois manufacturer himself. The more openly this despotism proclaims gain to be its end and aim, the more petty, the more hateful and the more embittering it is.

The less the skill and exertion of strength implied in manual labour, in other words, the more modern industry becomes developed, the more is the labour of men superseded by that of women. Differences of age and sex have no longer any distinctive social validity for the working class. All are instruments of labour, more or less expensive to use, according to their age and sex.

No sooner is the exploitation of the labourer by the manufacturer, so far, at an end, that he receives his wages in cash, than he is set upon by the other portions of the bourgeoisie, the landlord, the shopkeeper, the pawnbroker, etc.

The lower strata of the middle class – the small tradespeople, shopkeepers, and retired tradesmen generally, the handicraftsmen and peasants – all these sink gradually into the proletariat, partly because their diminutive capital does not suffice for the scale on which Modern Industry is carried on, and is swamped in the competition with the large capitalists, partly because their specialised skill is rendered worthless by new methods of production. Thus the proletariat is recruited from all classes of the population.

The proletariat goes through various stages of development. With its birth begins its struggle with the bourgeoisie. At first the contest is carried on by individual labourers, then by the workpeople of a factory, then by the operative of one trade, in one locality, against the individual bourgeois who directly exploits them. They direct their attacks not against the bourgeois conditions of production, but against the instruments of production themselves; they destroy imported wares that compete with their labour, they smash to pieces machinery, they set factories ablaze, they seek to restore by force the vanished status of the workman of the Middle Ages.

At this stage, the labourers still form an incoherent mass scattered over the whole country, and broken up by their mutual competition. If anywhere they unite to form more compact bodies, this is not yet the consequence of their own active union, but of the union of the bourgeoisie, which class, in order to attain its own political ends, is compelled to set the whole proletariat in motion, and is moreover yet, for a time, able to do so. At this stage, therefore, the proletarians do not fight their enemies, but the enemies of their enemies, the remnants of absolute monarchy, the landowners, the non-industrial bourgeois, the petty bourgeois. Thus, the whole historical movement is concentrated in the hands of the bourgeoisie; every victory so obtained is a victory for the bourgeoisie.

But with the development of industry, the proletariat not only increases in number; it becomes concentrated in greater masses, its strength grows, and it feels that strength more. The various interests and conditions of life within the ranks of the proletariat are more and more equalised, in proportion as machinery obliterates all distinctions of labour, and nearly everywhere reduces wages to the same low level. The growing competition among the bourgeois, and the resulting commercial crises, make the wages of the workers ever more fluctuating. The increasing improvement of machinery, ever more rapidly developing, makes their livelihood more and more precarious; the collisions between individual workmen and individual bourgeois take more and more the character of collisions between two classes. Thereupon, the

workers begin to form combinations (Trades' Unions) against the bourgeois; they club together in order to keep up the rate of wages; they found permanent associations in order to make provision beforehand for these occasional revolts. Here and there, the contest breaks out into riots.

Now and then the workers are victorious, but only for a time. The real fruit of their battles lies, not in the immediate result, but in the ever expanding union of the workers. This union is helped on by the improved means of communication that are created by modern industry, and that place the workers of different localities in contact with one another. It was just this contact that was needed to centralise the numerous local struggles, all of the same character, into one national struggle between classes. But every class struggle is a political struggle. And that union, to attain which the burghers of the Middle Ages, with their miserable highways, required centuries, the modern proletarian, thanks to railways, achieve in a few years.

This organisation of the proletarians into a class, and, consequently into a political party, is continually being upset again by the competition between the workers themselves. But it ever rises up again, stronger, firmer, mightier. It compels legislative recognition of particular interests of the workers, by taking advantage of the divisions among the bourgeoisie itself. Thus, the ten-hours' bill in England was carried.

Altogether collisions between the classes of the old society further, in many ways, the course of development of the proletariat. The bourgeoisie finds itself involved in a constant battle. At first with the aristocracy; later on, with those portions of the bourgeoisie itself, whose interests have become antagonistic to the progress of industry; at all time with the bourgeoisie of foreign countries. In all these battles, it sees itself compelled to appeal to the proletariat, to ask for help, and thus, to drag it into the political arena. The bourgeoisie itself, therefore, supplies the proletariat with its own elements of political and general education, in other words, it furnishes the proletariat with weapons for fighting the bourgeoisie.

Further, as we have already seen, entire sections of the ruling class are, by the advance of industry, precipitated into the proletariat, or are at least threatened in their conditions of existence. These also supply the proletariat with fresh elements of enlightenment and progress.

Finally, in times when the class struggle nears the decisive hour, the progress of dissolution going on within the ruling class, in fact within the whole range of old society, assumes such a violent, glaring character, that a small section of the ruling class cuts itself adrift, and joins the revolutionary class, the class that holds the future in its hands. Just as, therefore, at an earlier period, a section of the nobility went over to the bourgeoisie, so now a portion of the bourgeoisie goes over to the proletariat, and in particular, a portion of the bourgeois ideologists, who have raised themselves to the level of comprehending theoretically the historical movement as a whole.

Of all the classes that stand face to face with the bourgeoisie today, the proletariat alone is a really revolutionary class. The other classes decay and finally disappear in the face of Modern Industry; the proletariat is its special and essential product.

The lower middle class, the small manufacturer, the shopkeeper, the artisan, the peasant, all these fight against the bourgeoisie, to save from extinction their existence as fractions of the middle class. They are therefore not revolutionary, but conservative. Nay more, they are reactionary, for they try to roll back the wheel of history. If by chance, they are revolutionary, they are only so in view of their impending transfer into the proletariat; they thus defend not their present, but their future interests, they desert their own standpoint to place themselves at that of the proletariat.

The "dangerous class", [*lumpenproletariat*] the social scum, that passively rotting

mass thrown off by the lowest layers of the old society, may, here and there, be swept into the movement by a proletarian revolution; its conditions of life, however, prepare it far more for the part of a bribed tool of reactionary intrigue.

In the condition of the proletariat, those of old society at large are already virtually swamped. The proletarian is without property; his relation to his wife and children has no longer anything in common with the bourgeois family relations; modern industry labour, modern subjection to capital, the same in England as in France, in America as in Germany, has stripped him of every trace of national character. Law, morality, religion, are to him so many bourgeois prejudices, behind which lurk in ambush just as many bourgeois interests.

All the preceding classes that got the upper hand sought to fortify their already acquired status by subjecting society at large to their conditions of appropriation. The proletarians cannot become masters of the productive forces of society, except by abolishing their own previous mode of appropriation, and thereby also every other previous mode of appropriation. They have nothing of their own to secure and to fortify; their mission is to destroy all previous securities for, and insurances of, individual property.

All previous historical movements were movements of minorities, or in the interest of minorities. The proletarian movement is the self-conscious, independent movement of the immense majority, in the interest of the immense majority. The proletariat, the lowest stratum of our present society, cannot stir, cannot raise itself up, without the whole superincumbent strata of official society being sprung into the air.

Though not in substance, yet in form, the struggle of the proletariat with the bourgeoisie is at first a national struggle. The proletariat of each country must, of course, first of all settle matters with its own bourgeoisie.

In depicting the most general phases of the development of the proletariat, we traced the more or less veiled civil war, raging within existing society, up to the point where that war breaks out into open revolution, and where the violent overthrow of the bourgeoisie lays the foundation for the sway of the proletariat.

Hitherto, every form of society has been based, as we have already seen, on the antagonism of oppressing and oppressed classes. But in order to oppress a class, certain conditions must be assured to it under which it can, at least, continue its slavish existence. The serf, in the period of serfdom, raised himself to membership in the commune, just as the petty bourgeois, under the yoke of the feudal absolutism, managed to develop into a bourgeois. The modern labourer, on the contrary, instead of rising with the process of industry, sinks deeper and deeper below the conditions of existence of his own class. He becomes a pauper, and pauperism develops more rapidly than population and wealth. And here it becomes evident, that the bourgeoisie is unfit any longer to be the ruling class in society, and to impose its conditions of existence upon society as an over-riding law. It is unfit to rule because it is incompetent to assure an existence to its slave within his slavery, because it cannot help letting him sink into such a state, that it has to feed him, instead of being fed by him. Society can no longer live under this bourgeoisie, in other words, its existence is no longer compatible with society.

The essential conditions for the existence and for the sway of the bourgeois class is the formation and augmentation of capital; the condition for capital is wage-labour. Wage-labour rests exclusively on competition between the labourers. The advance of industry, whose involuntary promoter is the bourgeoisie, replaces the isolation of the labourers, due to competition, by the revolutionary combination, due to association. The development of Modern Industry, therefore, cuts from under its feet the very foundation on which the bourgeoisie produces and appropriates products. What the bourgeoisie therefore produces, above all, are its own grave-diggers. Its fall and the victory of the proletariat are equally inevitable.

II. Proletarians and Communists

In what relation do the Communists stand to the proletarians as a whole?
The Communists do not form a separate party opposed to the other working-class parties.
They have no interests separate and apart from those of the proletariat as a whole.
They do not set up any sectarian principles of their own, by which to shape and mould the proletarian movement.
The Communists are distinguished from the other working-class parties by this only: 1. In the national struggles of the proletarians of the different countries, they point out and bring to the front the common interests of the entire proletariat, independently of all nationality. 2. In the various stages of development which the struggle of the working class against the bourgeoisie has to pass through, they always and everywhere represent the interests of the movement as a whole.
The Communists, therefore, are on the one hand, practically, the most advanced and resolute section of the working-class parties of every country, that section which pushes forward all others; on the other hand, theoretically, they have over the great mass of the proletariat the advantage of clearly understanding the line of march, the conditions, and the ultimate general results of the proletarian movement.
The immediate aim of the Communists is the same as that of all other proletarian parties: formation of the proletariat into a class, overthrow of the bourgeois supremacy, conquest of political power by the proletariat.
The theoretical conclusions of the Communists are in no way based on ideas or principles that have been invented, or discovered, by this or that would-be universal reformer.
They merely express, in general terms, actual relations springing from an existing class struggle, from a historical movement going on under our very eyes. The abolition of existing property relations is not at all a distinctive feature of communism.
All property relations in the past have continually been subject to historical change consequent upon the change in historical conditions.
The French Revolution, for example, abolished feudal property in favour of bourgeois property.
The distinguishing feature of Communism is not the abolition of property generally, but the abolition of bourgeois property. But modern bourgeois private property is the final and most complete expression of the system of producing and appropriating products, that is based on class antagonisms, on the exploitation of the many by the few.
In this sense, the theory of the Communists may be summed up in the single sentence: Abolition of private property.
We Communists have been reproached with the desire of abolishing the right of personally acquiring property as the fruit of a man's own labour, which property is alleged to be the groundwork of all personal freedom, activity and independence.
Hard-won, self-acquired, self-earned property! Do you mean the property of petty artisan and of the small peasant, a form of property that preceded the bourgeois form? There is no need to abolish that; the development of industry has to a great extent already destroyed it, and is still destroying it daily.
Or do you mean the modern bourgeois private property?
But does wage-labour create any property for the labourer? Not a bit. It creates capital, *i.e.*, that kind of property which exploits wage-labour, and which cannot increase except upon condition of begetting a new supply of wage-labour for fresh exploitation. Property, in its present form, is based on the antagonism of capital and wage labour. Let us examine both sides of this antagonism.

To be a capitalist, is to have not only a purely personal, but a social *status* in production. Capital is a collective product, and only by the united action of many members, nay, in the last resort, only by the united action of all members of society, can it be set in motion.

Capital is therefore not only personal; it is a social power.

When, therefore, capital is converted into common property, into the property of all members of society, personal property is not thereby transformed into social property. It is only the social character of the property that is changed. It loses its class character.

Let us now take wage-labour.

The average price of wage-labour is the minimum wage, *i.e.*, that quantum of the means of subsistence which is absolutely requisite to keep the labourer in bare existence as a labourer. What, therefore, the wage-labourer appropriates by means of his labour, merely suffices to prolong and reproduce a bare existence. We by no means intend to abolish this personal appropriation of the products of labour, an appropriation that is made for the maintenance and reproduction of human life, and that leaves no surplus wherewith to command the labour of others. All that we want to do away with is the miserable character of this appropriation, under which the labourer lives merely to increase capital, and is allowed to live only in so far as the interest of the ruling class requires it.

In bourgeois society, living labour is but a means to increase accumulated labour. In Communist society, accumulated labour is but a means to widen, to enrich, to promote the existence of the labourer.

In bourgeois society, therefore, the past dominates the present; in Communist society, the present dominates the past. In bourgeois society capital is independent and has individuality, while the living person is dependent and has no individuality.

And the abolition of this state of things is called by the bourgeois, abolition of individuality and freedom! And rightly so. The abolition of bourgeois individuality, bourgeois independence, and bourgeois freedom is undoubtedly aimed at.

By freedom is meant, under the present bourgeois conditions of production, free trade, free selling and buying.

But if selling and buying disappears, free selling and buying disappears also. This talk about free selling and buying, and all the other “brave words” of our bourgeois about freedom in general, have a meaning, if any, only in contrast with restricted selling and buying, with the fettered traders of the Middle Ages, but have no meaning when opposed to the Communistic abolition of buying and selling, of the bourgeois conditions of production, and of the bourgeoisie itself.

You are horrified at our intending to do away with private property. But in your existing society, private property is already done away with for nine-tenths of the population; its existence for the few is solely due to its non-existence in the hands of those nine-tenths. You reproach us, therefore, with intending to do away with a form of property, the necessary condition for whose existence is the non-existence of any property for the immense majority of society.

In one word, you reproach us with intending to do away with your property. Precisely so; that is just what we intend.

From the moment when labour can no longer be converted into capital, money, or rent, into a social power capable of being monopolised, *i.e.*, from the moment when individual property can no longer be transformed into bourgeois property, into capital, from that moment, you say, individuality vanishes.

You must, therefore, confess that by “individual” you mean no other person than the bourgeois, than the middle-class owner of property. This person must, indeed, be swept out of the way, and made impossible.

Communism deprives no man of the power to appropriate the products of society; all that it does is to deprive him of the power to subjugate the labour of others by means

of such appropriations.
It has been objected that upon the abolition of private property, all work will cease, and universal laziness will overtake us.
According to this, bourgeois society ought long ago to have gone to the dogs through sheer idleness; for those of its members who work, acquire nothing, and those who acquire anything do not work. The whole of this objection is but another expression of the tautology: that there can no longer be any wage-labour when there is no longer any capital.
All objections urged against the Communistic mode of producing and appropriating material products, have, in the same way, been urged against the Communistic mode of producing and appropriating intellectual products. Just as, to the bourgeois, the disappearance of class property is the disappearance of production itself, so the disappearance of class culture is to him identical with the disappearance of all culture.
That culture, the loss of which he laments, is, for the enormous majority, a mere training to act as a machine.
But don't wrangle with us so long as you apply, to our intended abolition of bourgeois property, the standard of your bourgeois notions of freedom, culture, law, &c. Your very ideas are but the outgrowth of the conditions of your bourgeois production and bourgeois property, just as your jurisprudence is but the will of your class made into a law for all, a will whose essential character and direction are determined by the economical conditions of existence of your class.
The selfish misconception that induces you to transform into eternal laws of nature and of reason, the social forms springing from your present mode of production and form of property – historical relations that rise and disappear in the progress of production – this misconception you share with every ruling class that has preceded you. What you see clearly in the case of ancient property, what you admit in the case of feudal property, you are of course forbidden to admit in the case of your own bourgeois form of property.
Abolition [*Aufhebung*] of the family! Even the most radical flare up at this infamous proposal of the Communists.
On what foundation is the present family, the bourgeois family, based? On capital, on private gain. In its completely developed form, this family exists only among the bourgeoisie. But this state of things finds its complement in the practical absence of the family among the proletarians, and in public prostitution.
The bourgeois family will vanish as a matter of course when its complement vanishes, and both will vanish with the vanishing of capital.
Do you charge us with wanting to stop the exploitation of children by their parents? To this crime we plead guilty.
But, you say, we destroy the most hallowed of relations, when we replace home education by social.
And your education! Is not that also social, and determined by the social conditions under which you educate, by the intervention direct or indirect, of society, by means of schools, &c.? The Communists have not invented the intervention of society in education; they do but seek to alter the character of that intervention, and to rescue education from the influence of the ruling class.
The bourgeois clap-trap about the family and education, about the hallowed co-relation of parents and child, becomes all the more disgusting, the more, by the action of Modern Industry, all the family ties among the proletarians are torn asunder, and their children transformed into simple articles of commerce and instruments of labour.
But you Communists would introduce community of women, screams the bourgeoisie in chorus.
The bourgeois sees his wife a mere instrument of production. He hears that the

instruments of production are to be exploited in common, and, naturally, can come to no other conclusion that the lot of being common to all will likewise fall to the women.

He has not even a suspicion that the real point aimed at is to do away with the status of women as mere instruments of production.

For the rest, nothing is more ridiculous than the virtuous indignation of our bourgeois at the community of women which, they pretend, is to be openly and officially established by the Communists. The Communists have no need to introduce community of women; it has existed almost from time immemorial.

Our bourgeois, not content with having wives and daughters of their proletarians at their disposal, not to speak of common prostitutes, take the greatest pleasure in seducing each other's wives.

Bourgeois marriage is, in reality, a system of wives in common and thus, at the most, what the Communists might possibly be reproached with is that they desire to introduce, in substitution for a hypocritically concealed, an openly legalised community of women. For the rest, it is self-evident that the abolition of the present system of production must bring with it the abolition of the community of women springing from that system, *i.e.*, of prostitution both public and private.

The Communists are further reproached with desiring to abolish countries and nationality.

The working men have no country. We cannot take from them what they have not got. Since the proletariat must first of all acquire political supremacy, must rise to be the leading class of the nation, must constitute itself *the* nation, it is so far, itself national, though not in the bourgeois sense of the word.

National differences and antagonism between peoples are daily more and more vanishing, owing to the development of the bourgeoisie, to freedom of commerce, to the world market, to uniformity in the mode of production and in the conditions of life corresponding thereto.

The supremacy of the proletariat will cause them to vanish still faster. United action, of the leading civilised countries at least, is one of the first conditions for the emancipation of the proletariat.

In proportion as the exploitation of one individual by another will also be put an end to, the exploitation of one nation by another will also be put an end to. In proportion as the antagonism between classes within the nation vanishes, the hostility of one nation to another will come to an end.

The charges against Communism made from a religious, a philosophical and, generally, from an ideological standpoint, are not deserving of serious examination.

Does it require deep intuition to comprehend that man's ideas, views, and conception, in one word, man's consciousness, changes with every change in the conditions of his material existence, in his social relations and in his social life?

What else does the history of ideas prove, than that intellectual production changes its character in proportion as material production is changed? The ruling ideas of each age have ever been the ideas of its ruling class.

When people speak of the ideas that revolutionise society, they do but express that fact that within the old society the elements of a new one have been created, and that the dissolution of the old ideas keeps even pace with the dissolution of the old conditions of existence.

When the ancient world was in its last throes, the ancient religions were overcome by Christianity. When Christian ideas succumbed in the 18th century to rationalist ideas, feudal society fought its death battle with the then revolutionary bourgeoisie. The ideas of religious liberty and freedom of conscience merely gave expression to the sway of free competition within the domain of knowledge.

"Undoubtedly," it will be said, "religious, moral, philosophical, and juridical ideas have been modified in the course of historical development. But religion, morality,

philosophy, political science, and law, constantly survived this change."
"There are, besides, eternal truths, such as Freedom, Justice, etc., that are common to all states of society. But Communism abolishes eternal truths, it abolishes all religion, and all morality, instead of constituting them on a new basis; it therefore acts in contradiction to all past historical experience."
What does this accusation reduce itself to? The history of all past society has consisted in the development of class antagonisms, antagonisms that assumed different forms at different epochs.
But whatever form they may have taken, one fact is common to all past ages, *viz.*, the exploitation of one part of society by the other. No wonder, then, that the social consciousness of past ages, despite all the multiplicity and variety it displays, moves within certain common forms, or general ideas, which cannot completely vanish except with the total disappearance of class antagonisms.
The Communist revolution is the most radical rupture with traditional property relations; no wonder that its development involved the most radical rupture with traditional ideas.
But let us have done with the bourgeois objections to Communism.
We have seen above, that the first step in the revolution by the working class is to raise the proletariat to the position of ruling class to win the battle of democracy.
The proletariat will use its political supremacy to wrest, by degree, all capital from the bourgeoisie, to centralise all instruments of production in the hands of the State, *i.e.*, of the proletariat organised as the ruling class; and to increase the total productive forces as rapidly as possible.
Of course, in the beginning, this cannot be effected except by means of despotic inroads on the rights of property, and on the conditions of bourgeois production; by means of measures, therefore, which appear economically insufficient and untenable, but which, in the course of the movement, outstrip themselves, necessitate further inroads upon the old social order, and are unavoidable as a means of entirely revolutionising the mode of production.
These measures will, of course, be different in different countries.
Nevertheless, in most advanced countries, the following will be pretty generally applicable.
1. Abolition of property in land and application of all rents of land to public purposes.
2. A heavy progressive or graduated income tax.
3. Abolition of all rights of inheritance.
4. Confiscation of the property of all emigrants and rebels.
5. Centralisation of credit in the hands of the state, by means of a national bank with State capital and an exclusive monopoly.
6. Centralisation of the means of communication and transport in the hands of the State.
7. Extension of factories and instruments of production owned by the State; the bringing into cultivation of waste-lands, and the improvement of the soil generally in accordance with a common plan.
8. Equal liability of all to work. Establishment of industrial armies, especially for agriculture.
9. Combination of agriculture with manufacturing industries; gradual abolition of all the distinction between town and country by a more equable distribution of the populace over the country.
10. Free education for all children in public schools. Abolition of children's factory labour in its present form. Combination of education with industrial production, &c, &c.
When, in the course of development, class distinctions have disappeared, and all production has been concentrated in the hands of a vast association of the whole

nation, the public power will lose its political character. Political power, properly so called, is merely the organised power of one class for oppressing another. If the proletariat during its contest with the bourgeoisie is compelled, by the force of circumstances, to organise itself as a class, if, by means of a revolution, it makes itself the ruling class, and, as such, sweeps away by force the old conditions of production, then it will, along with these conditions, have swept away the conditions for the existence of class antagonisms and of classes generally, and will thereby have abolished its own supremacy as a class.

In place of the old bourgeois society, with its classes and class antagonisms, we shall have an association, in which the free development of each is the condition for the free development of all.

III. Socialist and Communist Literature

1. Reactionary Socialism

A. Feudal Socialism

Owing to their historical position, it became the vocation of the aristocracies of France and England to write pamphlets against modern bourgeois society. In the French Revolution of July 1830, and in the English reform agitation, these aristocracies again succumbed to the hateful upstart. Thenceforth, a serious political struggle was altogether out of the question. A literary battle alone remained possible. But even in the domain of literature the old cries of the restoration period had become impossible.*

In order to arouse sympathy, the aristocracy was obliged to lose sight, apparently, of its own interests, and to formulate their indictment against the bourgeoisie in the interest of the exploited working class alone. Thus, the aristocracy took their revenge by singing lampoons on their new masters and whispering in his ears sinister prophesies of coming catastrophe.

In this way arose feudal Socialism: half lamentation, half lampoon; half an echo of the past, half menace of the future; at times, by its bitter, witty and incisive criticism, striking the bourgeoisie to the very heart's core; but always ludicrous in its effect, through total incapacity to comprehend the march of modern history.

The aristocracy, in order to rally the people to them, waved the proletarian alms-bag in front for a banner. But the people, so often as it joined them, saw on their hindquarters the old feudal coats of arms, and deserted with loud and irreverent laughter.

One section of the French Legitimists and "Young England" exhibited this spectacle.

In pointing out that their mode of exploitation was different to that of the bourgeoisie, the feudalists forget that they exploited under circumstances and conditions that were quite different and that are now antiquated. In showing that, under their rule, the modern proletariat never existed, they forget that the modern bourgeoisie is the necessary offspring of their own form of society.

For the rest, so little do they conceal the reactionary character of their criticism that their chief accusation against the bourgeois amounts to this, that under the bourgeois *ré*gime a class is being developed which is destined to cut up root and branch the old order of society.

What they upbraid the bourgeoisie with is not so much that it creates a proletariat as that it creates a *revolutionary* proletariat.

In political practice, therefore, they join in all coercive measures against the working class; and in ordinary life, despite their high-falutin phrases, they stoop to pick up the golden apples dropped from the tree of industry, and to barter truth, love, and honour, for traffic in wool, beetroot-sugar, and potato spirits.†

As the parson has ever gone hand in hand with the landlord, so has Clerical Socialism with Feudal Socialism.

Nothing is easier than to give Christian asceticism a Socialist tinge. Has not Christianity declaimed against private property, against marriage, against the State? Has it not preached in the place of these, charity and poverty, celibacy and mortification of the flesh, monastic life and Mother Church? Christian Socialism is but the holy water with which the priest consecrates the heart-burnings of the aristocrat.

B. Petty-Bourgeois Socialism

The feudal aristocracy was not the only class that was ruined by the bourgeoisie, not the only class whose conditions of existence pined and perished in the atmosphere of modern bourgeois society. The medieval burgesses and the small peasant proprietors were the precursors of the modern bourgeoisie. In those countries which are but little developed, industrially and commercially, these two classes still vegetate side by side with the rising bourgeoisie.

In countries where modern civilisation has become fully developed, a new class of petty bourgeois has been formed, fluctuating between proletariat and bourgeoisie, and ever renewing itself as a supplementary part of bourgeois society. The individual members of this class, however, are being constantly hurled down into the proletariat by the action of competition, and, as modern industry develops, they even see the moment approaching when they will completely disappear as an independent section of modern society, to be replaced in manufactures, agriculture and commerce, by overlookers, bailiffs and shopmen.

In countries like France, where the peasants constitute far more than half of the population, it was natural that writers who sided with the proletariat against the bourgeoisie should use, in their criticism of the bourgeois *régime*, the standard of the peasant and petty bourgeois, and from the standpoint of these intermediate classes, should take up the cudgels for the working class. Thus arose petty-bourgeois Socialism. Sismondi was the head of this school, not only in France but also in England.

This school of Socialism dissected with great acuteness the contradictions in the conditions of modern production. It laid bare the hypocritical apologies of economists. It proved, incontrovertibly, the disastrous effects of machinery and division of labour; the concentration of capital and land in a few hands; overproduction and crises; it pointed out the inevitable ruin of the petty bourgeois and peasant, the misery of the proletariat, the anarchy in production, the crying inequalities in the distribution of wealth, the industrial war of extermination between nations, the dissolution of old moral bonds, of the old family relations, of the old nationalities.

In its positive aims, however, this form of Socialism aspires either to restoring the old means of production and of exchange, and with them the old property relations, and the old society, or to cramping the modern means of production and of exchange within the framework of the old property relations that have been, and were bound to be, exploded by those means. In either case, it is both reactionary and Utopian.

Its last words are: corporate guilds for manufacture; patriarchal relations in agriculture.

Ultimately, when stubborn historical facts had dispersed all intoxicating effects of self-deception, this form of Socialism ended in a miserable fit of the blues.

C. German or “True” Socialism

The Socialist and Communist literature of France, a literature that originated under the pressure of a bourgeoisie in power, and that was the expressions of the struggle against this power, was introduced into Germany at a time when the bourgeoisie, in that country, had just begun its contest with feudal absolutism.

German philosophers, would-be philosophers, and *beaux esprits* (men of letters), eagerly seized on this literature, only forgetting, that when these writings immigrated from France into Germany, French social conditions had not immigrated

along with them. In contact with German social conditions, this French literature lost all its immediate practical significance and assumed a purely literary aspect. Thus, to the German philosophers of the Eighteenth Century, the demands of the first French Revolution were nothing more than the demands of "Practical Reason" in general, and the utterance of the will of the revolutionary French bourgeoisie signified, in their eyes, the laws of pure Will, of Will as it was bound to be, of true human Will generally.

The work of the German *literati* consisted solely in bringing the new French ideas into harmony with their ancient philosophical conscience, or rather, in annexing the French ideas without deserting their own philosophic point of view.

This annexation took place in the same way in which a foreign language is appropriated, namely, by translation.

It is well known how the monks wrote silly lives of Catholic Saints *over* the manuscripts on which the classical works of ancient heathendom had been written. The German *literati* reversed this process with the profane French literature. They wrote their philosophical nonsense beneath the French original. For instance, beneath the French criticism of the economic functions of money, they wrote "Alienation of Humanity", and beneath the French criticism of the bourgeois state they wrote "Dethronement of the Category of the General", and so forth.

The introduction of these philosophical phrases at the back of the French historical criticisms, they dubbed "Philosophy of Action", "True Socialism", "German Science of Socialism", "Philosophical Foundation of Socialism", and so on.

The French Socialist and Communist literature was thus completely emasculated. And, since it ceased in the hands of the German to express the struggle of one class with the other, he felt conscious of having overcome "French one-sidedness" and of representing, not true requirements, but the requirements of Truth; not the interests of the proletariat, but the interests of Human Nature, of Man in general, who belongs to no class, has no reality, who exists only in the misty realm of philosophical fantasy.

This German socialism, which took its schoolboy task so seriously and solemnly, and extolled its poor stock-in-trade in such a mountebank fashion, meanwhile gradually lost its pedantic innocence.

The fight of the Germans, and especially of the Prussian bourgeoisie, against feudal aristocracy and absolute monarchy, in other words, the liberal movement, became more earnest.

By this, the long-wished for opportunity was offered to "True" Socialism of confronting the political movement with the Socialist demands, of hurling the traditional anathemas against liberalism, against representative government, against bourgeois competition, bourgeois freedom of the press, bourgeois legislation, bourgeois liberty and equality, and of preaching to the masses that they had nothing to gain, and everything to lose, by this bourgeois movement. German Socialism forgot, in the nick of time, that the French criticism, whose silly echo it was, presupposed the existence of modern bourgeois society, with its corresponding economic conditions of existence, and the political constitution adapted thereto, the very things those attainment was the object of the pending struggle in Germany.

To the absolute governments, with their following of parsons, professors, country squires, and officials, it served as a welcome scarecrow against the threatening bourgeoisie.

It was a sweet finish, after the bitter pills of flogging and bullets, with which these same governments, just at that time, dosed the German working-class risings.

While this "True" Socialism thus served the government as a weapon for fighting the German bourgeoisie, it, at the same time, directly represented a reactionary interest, the interest of German Philistines. In Germany, the *petty-bourgeois* class, a relic of the sixteenth century, and since then constantly cropping up again under the

various forms, is the real social basis of the existing state of things.
To preserve this class is to preserve the existing state of things in Germany. The industrial and political supremacy of the bourgeoisie threatens it with certain destruction – on the one hand, from the concentration of capital; on the other, from the rise of a revolutionary proletariat. "True" Socialism appeared to kill these two birds with one stone. It spread like an epidemic.
The robe of speculative cobwebs, embroidered with flowers of rhetoric, steeped in the dew of sickly sentiment, this transcendental robe in which the German Socialists wrapped their sorry "eternal truths", all skin and bone, served to wonderfully increase the sale of their goods amongst such a public.
And on its part German Socialism recognised, more and more, its own calling as the bombastic representative of the petty-bourgeois Philistine.
It proclaimed the German nation to be the model nation, and the German petty Philistine to be the typical man. To every villainous meanness of this model man, it gave a hidden, higher, Socialistic interpretation, the exact contrary of its real character. It went to the extreme length of directly opposing the "brutally destructive" tendency of Communism, and of proclaiming its supreme and impartial contempt of all class struggles. With very few exceptions, all the so-called Socialist and Communist publications that now (1847) circulate in Germany belong to the domain of this foul and enervating literature.*

2. Conservative or Bourgeois Socialism

A part of the bourgeoisie is desirous of redressing social grievances in order to secure the continued existence of bourgeois society.
To this section belong economists, philanthropists, humanitarians, improvers of the condition of the working class, organisers of charity, members of societies for the prevention of cruelty to animals, temperance fanatics, hole-and-corner reformers of every imaginable kind. This form of socialism has, moreover, been worked out into complete systems.
We may cite Proudhon's *Philosophie de la Misère* as an example of this form.
The Socialistic bourgeois want all the advantages of modern social conditions without the struggles and dangers necessarily resulting therefrom. They desire the existing state of society, minus its revolutionary and disintegrating elements. They wish for a bourgeoisie without a proletariat. The bourgeoisie naturally conceives the world in which it is supreme to be the best; and bourgeois Socialism develops this comfortable conception into various more or less complete systems. In requiring the proletariat to carry out such a system, and thereby to march straightway into the social New Jerusalem, it but requires in reality, that the proletariat should remain within the bounds of existing society, but should cast away all its hateful ideas concerning the bourgeoisie.
A second, and more practical, but less systematic, form of this Socialism sought to depreciate every revolutionary movement in the eyes of the working class by showing that no mere political reform, but only a change in the material conditions of existence, in economical relations, could be of any advantage to them. By changes in the material conditions of existence, this form of Socialism, however, by no means understands abolition of the bourgeois relations of production, an abolition that can be affected only by a revolution, but administrative reforms, based on the continued existence of these relations; reforms, therefore, that in no respect affect the relations between capital and labour, but, at the best, lessen the cost, and simplify the administrative work, of bourgeois government.
Bourgeois Socialism attains adequate expression when, and only when, it becomes a mere figure of speech.
Free trade: for the benefit of the working class. Protective duties: for the benefit of the working class. Prison Reform: for the benefit of the working class. This is the last

word and the only seriously meant word of bourgeois socialism.
It is summed up in the phrase: the bourgeois is a bourgeois – for the benefit of the working class.

3. Critical-Utopian Socialism and Communism

We do not here refer to that literature which, in every great modern revolution, has always given voice to the demands of the proletariat, such as the writings of Babeuf and others.
The first direct attempts of the proletariat to attain its own ends, made in times of universal excitement, when feudal society was being overthrown, necessarily failed, owing to the then undeveloped state of the proletariat, as well as to the absence of the economic conditions for its emancipation, conditions that had yet to be produced, and could be produced by the impending bourgeois epoch alone. The revolutionary literature that accompanied these first movements of the proletariat had necessarily a reactionary character. It inculcated universal asceticism and social levelling in its crudest form.
The Socialist and Communist systems, properly so called, those of Saint-Simon, Fourier, Owen, and others, spring into existence in the early undeveloped period, described above, of the struggle between proletariat and bourgeoisie (see Section I. Bourgeois and Proletarians).
The founders of these systems see, indeed, the class antagonisms, as well as the action of the decomposing elements in the prevailing form of society. But the proletariat, as yet in its infancy, offers to them the spectacle of a class without any historical initiative or any independent political movement.
Since the development of class antagonism keeps even pace with the development of industry, the economic situation, as they find it, does not as yet offer to them the material conditions for the emancipation of the proletariat. They therefore search after a new social science, after new social laws, that are to create these conditions.
Historical action is to yield to their personal inventive action; historically created conditions of emancipation to fantastic ones; and the gradual, spontaneous class organisation of the proletariat to an organisation of society especially contrived by these inventors. Future history resolves itself, in their eyes, into the propaganda and the practical carrying out of their social plans.
In the formation of their plans, they are conscious of caring chiefly for the interests of the working class, as being the most suffering class. Only from the point of view of being the most suffering class does the proletariat exist for them.
The undeveloped state of the class struggle, as well as their own surroundings, causes Socialists of this kind to consider themselves far superior to all class antagonisms. They want to improve the condition of every member of society, even that of the most favoured. Hence, they habitually appeal to society at large, without the distinction of class; nay, by preference, to the ruling class. For how can people, when once they understand their system, fail to see in it the best possible plan of the best possible state of society?
Hence, they reject all political, and especially all revolutionary action; they wish to attain their ends by peaceful means, necessarily doomed to failure, and by the force of example, to pave the way for the new social Gospel.
Such fantastic pictures of future society, painted at a time when the proletariat is still in a very undeveloped state and has but a fantastic conception of its own position, correspond with the first instinctive yearnings of that class for a general reconstruction of society.
But these Socialist and Communist publications contain also a critical element. They attack every principle of existing society. Hence, they are full of the most valuable materials for the enlightenment of the working class. The practical measures proposed in them – such as the abolition of the distinction between town and country,

of the family, of the carrying on of industries for the account of private individuals, and of the wage system, the proclamation of social harmony, the conversion of the function of the state into a more superintendence of production – all these proposals point solely to the disappearance of class antagonisms which were, at that time, only just cropping up, and which, in these publications, are recognised in their earliest indistinct and undefined forms only. These proposals, therefore, are of a purely Utopian character.

The significance of Critical-Utopian Socialism and Communism bears an inverse relation to historical development. In proportion as the modern class struggle develops and takes definite shape, this fantastic standing apart from the contest, these fantastic attacks on it, lose all practical value and all theoretical justification. Therefore, although the originators of these systems were, in many respects, revolutionary, their disciples have, in every case, formed mere reactionary sects. They hold fast by the original views of their masters, in opposition to the progressive historical development of the proletariat. They, therefore, endeavour, and that consistently, to deaden the class struggle and to reconcile the class antagonisms. They still dream of experimental realisation of their social Utopias, of founding isolated "phalansteres", of establishing "Home Colonies", or setting up a "Little Icaria"* – duodecimo editions of the New Jerusalem – and to realise all these castles in the air, they are compelled to appeal to the feelings and purses of the bourgeois. By degrees, they sink into the category of the reactionary [or] conservative Socialists depicted above, differing from these only by more systematic pedantry, and by their fanatical and superstitious belief in the miraculous effects of their social science.

They, therefore, violently oppose all political action on the part of the working class; such action, according to them, can only result from blind unbelief in the new Gospel.

The Owenites in England, and the Fourierists in France, respectively, oppose the Chartists and the *Réformistes*.

IV. Position of the Communists in Relation to the Various Existing Opposition Parties

Section II has made clear the relations of the Communists to the existing working-class parties, such as the Chartists in England and the Agrarian Reformers in America.

The Communists fight for the attainment of the immediate aims, for the enforcement of the momentary interests of the working class; but in the movement of the present, they also represent and take care of the future of that movement. In France, the Communists ally with the Social-Democrats* against the conservative and radical bourgeoisie, reserving, however, the right to take up a critical position in regard to phases and illusions traditionally handed down from the great Revolution.

In Switzerland, they support the Radicals, without losing sight of the fact that this party consists of antagonistic elements, partly of Democratic Socialists, in the French sense, partly of radical bourgeois.

In Poland, they support the party that insists on an agrarian revolution as the prime condition for national emancipation, that party which fomented the insurrection of Cracow in 1846.

In Germany, they fight with the bourgeoisie whenever it acts in a revolutionary way, against the absolute monarchy, the feudal squirearchy, and the petty bourgeoisie.

But they never cease, for a single instant, to instil into the working class the clearest possible recognition of the hostile antagonism between bourgeoisie and proletariat, in order that the German workers may straightway use, as so many weapons against the bourgeoisie, the social and political conditions that the bourgeoisie must

necessarily introduce along with its supremacy, and in order that, after the fall of the reactionary classes in Germany, the fight against the bourgeoisie itself may immediately begin.

The Communists turn their attention chiefly to Germany, because that country is on the eve of a bourgeois revolution that is bound to be carried out under more advanced conditions of European civilisation and with a much more developed proletariat than that of England was in the seventeenth, and France in the eighteenth century, and because the bourgeois revolution in Germany will be but the prelude to an immediately following proletarian revolution.

In short, the Communists everywhere support every revolutionary movement against the existing social and political order of things.

In all these movements, they bring to the front, as the leading question in each, the property question, no matter what its degree of development at the time.

Finally, they labour everywhere for the union and agreement of the democratic parties of all countries.

The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communistic revolution. The proletarians have nothing to lose but their chains. They have a world to win.

Working Men of All Countries, Unite!

section 2. Globalism
Part 2. Liber OZ
2A. historical background
2B. extent source text

2A. historical background

"Liber OZ" (or "Book 77") is a single page by English author and occultist Aleister Crowley purporting to declare mankind's basic and intrinsic rights according to Crowley's philosophy of Thelema. Written in 1941, the work consists of five succinct and concise paragraphs, being one of the latest and shortest of Crowley's many "libri," or books.

Crowley wrote the piece for Louis Wilkinson in order to convey as simply as possible the "O.T.O. plan in words of one syllable" broken down into "five sections: moral, bodily, mental, sexual, and the safeguard tyrannicide...".

The document is written in very simple English. No word within Liber OZ has more than one syllable. This is to ensure that it will be understandable to anyone who reads it, no matter what their proficiency in English.

The last enumerated statement, "Man has the right to kill those who would thwart these rights", often arouses anger in readers who would thwart those rights. 'Sabazius', the leader of the United States branch of Ordo Templi Orientis, redefines this controversial statement by saying that people *should* be punished for such tyrannicidal killing after all- punishments which include legal action, confinement, and potential execution.

2B. extent source text

Liber LXXVII

"the law of
the strong:
this is our law
and the joy
of the world."
— *AL. II. 21*

"Do what thou wilt shall be the whole of the Law."
— *AL. I. 40*

"thou has no right but to do thy will. Do that, and no other shall say nay." — *AL. I. 42–3*

"Every man and every woman is a star." — *AL. I. 3*

There is no god but man.

1. Man has the right to live by his own law —
to live in the way that he wills to do:
to work as he will:
to play as he will:
to rest as he will:
to die when and how he will.
2. Man has the right to eat what he will:
to drink what he will:
to dwell where he will:
to move as he will on the face of the earth.
3. Man has the right to think what he will:
to speak what he will:
to write what he will:
to draw, paint, carve, etch, mould, build as he will:
to dress as he will.
4. Man has the right to love as he will: —
"take your fill and will of love as ye will,
when, where and with whom ye will." — *AL. I. 51*
5. Man has the right to kill those who would thwart these rights.

"the slaves shall serve." — *AL. II. 58*

"Love is the law, love under will." — *AL. I. 57*

section 2. Globalism
Part 3. Man's Rights and The Nature of Government
3A. historical background
3B. extent source text

3A. historical background

Ayn Rand (born **Alisa Zinov'yevna Rosenbaum**; February 2 [O.S. January 20] 1905 – March 6, 1982) was an American novelist, philosopher, playwright, and screenwriter. She is known for her two best-selling novels, *The Fountainhead* and *Atlas Shrugged*, and for developing a philosophical system she called Objectivism. Born and educated in Russia, Rand moved to the United States in 1926. She had a play produced on Broadway in 1935–1936. After two early novels that were initially unsuccessful in America, she achieved fame with her 1943 novel, *The Fountainhead*.
In 1957, she published her best-known work, the novel *Atlas Shrugged*. Afterward, she turned to non-fiction to promote her philosophy, publishing her own magazines and releasing several collections of essays until her death in 1982. Rand advocated reason as the only means of acquiring knowledge and rejected faith and religion. She supported rational and ethical egoism, and rejected ethical altruism. In politics, she condemned the initiation of force as immoral and opposed collectivism and statism as well as anarchism, instead supporting a minarchist limited government and *laissez-faire* capitalism, which she believed to be the only social system that protected individual rights. In art, Rand promoted romantic realism. She was sharply critical of most philosophers and philosophical traditions known to her, except for some Aristotelians and classical liberals.
Literary critics received Rand's fiction with mixed reviews, and academia generally ignored or rejected her philosophy, though academic interest has increased in recent decades. The Objectivist movement attempts to spread her ideas, both to the public and in academic settings. She has been a significant influence among libertarians and American conservatives.

3B. extent source text

Man's Rights
by Ayn Rand

If one wishes to advocate a free society — that is, capitalism — one must realize that its indispensable foundation is the principle of individual rights. If one wishes to uphold individual rights, one must realize that capitalism is the only system that can uphold and protect them. And if one wishes to gauge the relationship of freedom to the goals of today's intellectuals, one may gauge it by the fact that the concept of individual rights is evaded, distorted, perverted and seldom discussed, most conspicuously seldom by the so-called "conservatives."

"Rights" are a moral concept — the concept that provides a logical transition from the principles guiding an individual's actions to the principles guiding his relationship with others — the concept that preserves and protects individual morality in a social context — the link between the moral code of a man and the legal code of a society, between ethics and politics. *Individual rights are the means of subordinating society to moral law.*

Every political system is based on some code of ethics. The dominant ethics of mankind's history were variants of the altruist-collectivist doctrine which subordinated the individual to some higher authority, either mystical or social. Consequently, most political systems were variants of the same statist tyranny, differing only in degree, not in basic principle, limited only by the accidents of tradition, of chaos, of bloody strife and periodic collapse. Under all such systems, morality was a code applicable to the individual, but not to society. Society was placed *outside* the moral law, as its embodiment or source or exclusive interpreter — and the inculcation of self-sacrificial devotion to social duty was regarded as the main purpose of ethics in man's earthly existence.

Since there is no such entity as "society," since society is only a number of individual men, this meant, in practice, that the rulers of society were exempt from moral law; subject only to traditional rituals, they held total power and exacted blind obedience — on the implicit principle of: "The good is that which is good for society (or for the tribe, the race, the nation), and the ruler's edicts are its voice on earth."

This was true of all statist systems, under all variants of the altruist-collectivist ethics, mystical or social. "The Divine Right of Kings" summarizes the political theory of the first — *"Vox populi, vox dei"* of the second. As witness: the theocracy of Egypt, with the Pharaoh as an embodied god — the unlimited majority rule or *democracy* of Athens — the welfare state run by the Emperors of Rome — the Inquisition of the late Middle Ages — the absolute monarchy of France — the welfare state of Bismarck's Prussia — the gas chambers of Nazi Germany — the slaughterhouse of the Soviet Union.

All these political systems were expressions of the altruist-collectivist ethics — and their common characteristic is the fact that society stood above the moral law, as an omnipotent, sovereign whim worshiper. Thus, politically, all these systems were variants of an *amoral* society.

The most profoundly revolutionary achievement of the United States of America was the *subordination of society to moral law.*

The principle of man's individual rights represented the extension of morality into the social system — as a limitation on the power of the state, as man's protection against the brute force of the collective, as the subordination of *might* to *right.* The United States was the first *moral* society in history.

All previous systems had regarded man as a sacrificial means to the ends of others, and society as an end in itself. The United States regarded man as an end in himself,

and society as a means to the peaceful, orderly, *voluntary* coexistence of individuals. All previous systems had held that man's life belongs to society, that society can dispose of him in any way it pleases, and that any freedom he enjoys is his only by favor, by the *permission* of society, which may be revoked at any time. The United States held that man's life is his by right (which means: by moral principle and by his nature), that a right is the property of an individual, that society as such has no rights, and that the only moral purpose of a government is the protection of individual rights.

A "right" is a moral principle defining and sanctioning a man's freedom of action in a social context. There is only one fundamental right (all the others are its consequences or corollaries): a man's right to his own life. Life is a process of self-sustaining and self-generated action; the right to life means the right to engage in self-sustaining and self-generated action — which means: the freedom to take all the actions required by the nature of a rational being for the support, the furtherance, the fulfillment and the enjoyment of his own life. (Such is the meaning of the right to life, liberty and the pursuit of happiness.)

The concept of a "right" pertains only to action — specifically, to freedom of action. It means freedom from physical compulsion, coercion or interference by other men.

Thus, for every individual, a right is the moral sanction of a *positive* — of his freedom to act on his own judgment, for his own goals, by his own *voluntary*, *uncoerced* choice. As to his neighbors, his rights impose no obligations on them except of a *negative* kind: to abstain from violating his rights.

The right to life is the source of all rights — and the right to property is their only implementation. Without property rights, no other rights are possible. Since man has to sustain his life by his own effort, the man who has no right to the product of his effort has no means to sustain his life. The man who produces while others dispose of his product, is a slave.

Bear in mind that the right to property is a right to action, like all the others: it is not the right *to an object*, but to the action and the consequences of producing or earning that object. It is not a guarantee that a man *will* earn any property, but only a guarantee that he will own it if he earns it. It is the right to gain, to keep, to use and to dispose of material values.

The concept of individual rights is so new in human history that most men have not grasped it fully to this day. In accordance with the two theories of ethics, the mystical or the social, some men assert that rights are a gift of God — others, that rights are a gift of society. But, in fact, the source of rights is man's nature.

The Declaration of Independence stated that men "are endowed by their Creator with certain unalienable rights." Whether one believes that man is the product of a Creator or of nature, the issue of man's origin does not alter the fact that he is an entity of a specific kind — a rational being — that he cannot function successfully under coercion, and that rights are a necessary condition of his particular mode of survival.

"The source of man's rights is not divine law or congressional law, but the law of identity. A is A — and Man is Man. *Rights* are conditions of existence required by man's nature for his proper survival. If man is to live on earth, it is *right* for him to use his mind, it is *right* to act on his own free judgment, it is *right* to work for his values and to keep the product of his work. If life on earth is his purpose, he has a *right* to live as a rational being: nature forbids him the irrational." (*Atlas Shrugged*)

To violate man's rights means to compel him to act against his own judgment, or to expropriate his values. Basically, there is only one way to do it: by the use of physical force. There are two potential violators of man's rights: the criminals and the government. The great achievement of the United States was to draw a distinction between these two — by forbidding to the second the legalized version of the activities

of the first.

The Declaration of Independence laid down the principle that "to secure these rights, governments are instituted among men." This provided the only valid justification of a government and defined its only proper purpose: to protect man's rights by protecting him from physical violence.

Thus the government's function was changed from the role of ruler to the role of servant. The government was set to protect man from criminals — and the Constitution was written to protect man from the government. The Bill of Rights was not directed against private citizens, but against the government — as an explicit declaration that individual rights supersede any public or social power.

The result was the pattern of a civilized society which — for the brief span of some hundred and fifty years — America came close to achieving. A civilized society is one in which physical force is banned from human relationships — in which the government, acting as a policeman, may use force *only* in retaliation and *only* against those who initiate its use.

This was the essential meaning and intent of America's political philosophy, implicit in the principle of individual rights. But it was not formulated explicitly, nor fully accepted nor consistently practiced.

America's inner contradiction was the altruist-collectivist ethics. Altruism is incompatible with freedom, with capitalism and with individual rights. One cannot combine the pursuit of happiness with the moral status of a sacrificial animal.

It was the concept of individual rights that had given birth to a free society. It was with the destruction of individual rights that the destruction of freedom had to begin.

A collectivist tyranny dare not enslave a country by an outright confiscation of its values, material or moral. It has to be done by a process of internal corruption. Just as in the material realm the plundering of a country's wealth is accomplished by inflating the currency — so today one may witness the process of inflation being applied to the realm of rights. The process entails such a growth of newly promulgated "rights" that people do not notice the fact that the meaning of the concept is being reversed. Just as bad money drives out good money, so these "printing-press rights" negate authentic rights.

Consider the curious fact that never has there been such a proliferation, all over the world, of two contradictory phenomena: of alleged new "rights" and of slave-labor camps.

The "gimmick" was the switch of the concept of rights from the political to the economic realm.

The Democratic Party platform of 1960 summarizes the switch boldly and explicitly. It declares that a Democratic Administration "will reaffirm the economic bill of rights which Franklin Roosevelt wrote into our national conscience sixteen years ago."

Bear clearly in mind the meaning of the concept of "*rights*" when you read the list which the platform offers:

"1. The right to a useful and remunerative job in the industries or shops or farms or mines of the nation.

"2. The right to earn enough to provide adequate food and clothing and recreation.

"3. The right of every farmer to raise and sell his products at a return which will give him and his family a decent living.

"4. The right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home and abroad.

"5. The right of every family to a decent home.

"6. The right to adequate medical care and the opportunity to achieve and enjoy good health.

"7. The right to adequate protection from the economic fears of old age, sickness, accidents and unemployment.

"8. The right to a good education."

A single question added to each of the above eight clauses would make the issue clear: *At whose expense*?

Jobs, food, clothing, recreation(!), homes, medical care, education, etc., do not grow in nature. These are man-made values — goods and services produced by men. *Who* is to provide them?

If some men are entitled *by right* to the products of the work of others, it means that those others are deprived of rights and condemned to slave labor.

Any alleged "right" of one man, which necessitates the violation of the rights of another, is not and cannot be a right.

No man can have a right to impose an unchosen obligation, an unrewarded duty or an involuntary servitude on another man. There can be no such thing as "*the right to enslave*."

A right does not include the material implementation of that right by other men; it includes only the freedom to earn that implementation by one's own effort.

Observe, in this context, the intellectual precision of the Founding Fathers: they spoke of the right to *the pursuit* of happiness — *not* of the right to happiness. It means that a man has the right to take the actions he deems necessary to achieve his happiness; it does *not* mean that others must make him happy.

The right to life means that a man has the right to support his life by his own work (on any economic level, as high as his ability will carry him); it does *not* mean that others must provide him with the necessities of life.

The right to property means that a man has the right to take the economic actions necessary to earn property, to use it and to dispose of it; it does *not* mean that others must provide him with property.

The right of free speech means that a man has the right to express his ideas without danger of suppression, interference or punitive action by the government. It does *not* mean that others must provide him with a lecture hall, a radio station or a printing press through which to express his ideas.

Any undertaking that involves more than one man, requires the *voluntary* consent of every participant. Every one of them has the *right* to make his own decision, but none has the right to force his decision on the others.

There is no such thing as "a right to a job" — there is only the right of free trade, that is: a man's right to take a job if another man chooses to hire him. There is no "right to a home," only the right of free trade: the right to build a home or to buy it. There are no "rights to a 'fair' wage or a 'fair' price" if no one chooses to pay it, to hire a man or to buy his product. There are no "rights of consumers" to milk, shoes, movies or champagne if no producers choose to manufacture such items (there is only the right to manufacture them oneself). There are no "rights" of special groups, there are no "rights of farmers, of workers, of businessmen, of employees, of employers, of the old, of the young, of the unborn." There are only the *Rights of Man* — rights possessed by every individual man and by *all* men as individuals.

Property rights and the right of free trade are man's only "economic rights" (they are, in fact, *political* rights) — and there can be no such thing as "an *economic* bill of rights." But observe that the advocates of the latter have all but destroyed the former.

Remember that rights are moral principles which define and protect a man's freedom of action, but impose no obligations on other men. Private citizens are not a threat to one another's rights or freedom. A private citizen who resorts to physical force and violates the rights of others is a criminal — and men have legal protection against him.

Criminals are a small minority in any age or country. And the harm they have done to mankind is infinitesimal when compared to the horrors — the bloodshed, the wars, the persecutions, the confiscations, the famines, the enslavements, the wholesale destructions — perpetrated by mankind's governments. Potentially, a government is

the most dangerous threat to man's rights: it holds a legal monopoly on the use of physical force against legally disarmed victims. When unlimited and unrestricted by individual rights, a government is men's deadliest enemy. It is not as protection against *private* actions, but against governmental actions that the Bill of Rights was written.

Now observe the process by which that protection is being destroyed.

The process consists of ascribing to private citizens the specific violations constitutionally forbidden to the government (which private citizens have no power to commit) and thus freeing the government from all restrictions. The switch is becoming progressively more obvious in the field of free speech. For years, the collectivists have been propagating the notion that a private individual's refusal to finance an opponent is a violation of the opponent's right of free speech and an act of "censorship."

It is "censorship," they claim, if a newspaper refuses to employ or publish writers whose ideas are diametrically opposed to its policy.

It is "censorship," they claim, if businessmen refuse to advertise in a magazine that denounces, insults and smears them.

It is "censorship," they claim, if a TV sponsor objects to some outrage perpetrated on a program he is financing — such as the incident of Alger Hiss being invited to denounce former Vice-President Nixon.

And then there is [Chairman of the Federal Communications Commission] Newton N. Minow who declares: "There is censorship by ratings, by advertisers, by networks, by affiliates which reject programming offered to their areas." It is the same Mr. Minow who threatens to revoke the license of any station that does not comply with his views on programming — and who claims that *that* is not censorship.

Consider the implications of such a trend.

"Censorship" is a term pertaining only to governmental action. No private action is censorship. No private individual or agency can silence a man or suppress a publication; only the government can do so. The freedom of speech of private individuals includes the right not to agree, not to listen and not to finance one's own antagonists.

But according to such doctrines as the "economic bill of rights," an individual has no right to dispose of his own material means by the guidance of his own convictions — and must hand over his money indiscriminately to any speakers or propagandists, who have a "right" to his property.

This means that the ability to provide the material tools for the expression of ideas deprives a man of the right to hold any ideas. It means that a publisher has to publish books he considers worthless, false or evil — that a TV sponsor has to finance commentators who choose to affront his convictions-that the owner of a newspaper must turn his editorial pages over to any young hooligan who clamors for the enslavement of the press. It means that one group of men acquires the "right" to unlimited license — while another group is reduced to helpless irresponsibility.

But since it is obviously impossible to provide every claimant with a job, a microphone or a newspaper column, *who* will determine the "distribution" of "economic rights" and select the recipients, when the owners' right to choose has been abolished? Well, Mr. Minow has indicated *that* quite clearly.

And if you make the mistake of thinking that this applies only to big property owners, you had better realize that the theory of "economic rights" includes the "right" of every would-be playwright, every beatnik poet, every noise-composer and every nonobjective artist (who have political pull) to the financial support you did not give them when you did not attend their shows. What else is the meaning of the project to spend your tax money on subsidized art?

And while people are clamoring about "economic rights," the concept of political rights is vanishing. It is forgotten that the right of free speech means the freedom to

advocate one's views and to bear the possible consequences, including disagreement with others, opposition, unpopularity and lack of support. The political function of "the right of free speech" is to protect dissenters and unpopular minorities from forcible suppression — *not* to guarantee them the support, advantages and rewards of a popularity they have not gained.

The Bill of Rights reads: "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." It does not demand that private citizens provide a microphone for the man who advocates their destruction, or a passkey for the burglar who seeks to rob them, or a knife for the murderer who wants to cut their throats.

Such is the state of one of today's most crucial issues: *political* rights versus "*economic* rights." It's either-or. One destroys the other. But there are, in fact, no "economic rights," no "collective rights," no "public-interest rights." The term "individual rights" is a redundancy: there is no other kind of rights and no one else to possess them.

Those who advocate *laissez-faire* capitalism are the only advocates of man's rights.

The Nature of Government
by Ayn Rand

A government is an institution that holds the exclusive power to *enforce* certain rules of social conduct in a given geographical area.

Do men need such an institution—and why?

Since man's mind is his basic tool of survival, his means of gaining knowledge to guide his actions-the basic condition he requires is the freedom to think and to act according to his rational judgment. This does not mean that a man must live alone and that a desert island is the environment best suited to his needs. Men can derive enormous benefits from dealing with one another. A social environment is most conducive to their successful survival—*but only on certain conditions*.

"The two great values to be gained from social existence are: knowledge and trade. Man is the only species that can transmit and expand his store of knowledge from generation to generation; the knowledge potentially available to man is greater than any one man could begin to acquire in his own lifespan; every man gains an incalculable benefit from the knowledge discovered by others. The second great benefit is the division of labor: it enables a man to devote his effort to a particular field of work and to trade with others who specialize in other fields. This form of cooperation allows all men who take part in it to achieve a greater knowledge, skill and productive return on their effort than they could achieve if each had to produce everything he needs, on a desert island or on a self-sustaining farm.

"But these very benefits indicate, delimit and define what kind of men can be of value to one another and in what kind of society: only rational, productive, independent men in a rational, productive, free society." ("The Objectivist Ethics," *The Virtue of Selfishness*)

A society that robs an individual of the product of his effort, or enslaves him, or attempts to limit the freedom of his mind, or compels him to act against his own rational judgment-a society that sets up a conflict between its edicts and the requirements of man's nature—is not, strictly speaking, a society, but a mob held together by institutionalized gang-rule. Such a society destroys all the values of human coexistence, has no possible justification and represents, not a source of benefits, but the deadliest threat to man's survival. Life on a desert island is safer than and incomparably preferable to existence in Soviet Russia or Nazi Germany.

If men are to live together in a peaceful, productive, rational society and deal with one another to mutual benefit, they must accept the basic social principle without

which no moral or civilized society is possible: the principle of individual rights.

To recognize individual rights means to recognize and accept the conditions required by man's nature for his proper survival.

Man's rights can be violated only by the use of physical force. It is only by means of physical force that one man can deprive another of his life, or enslave him, or rob him, or prevent him from pursuing his own goals, or compel him to act against his own rational judgment.

The precondition of a civilized society is the barring of physical force from social relationships—thus establishing the principle that if men wish to deal with one another, they may do so only by means of *reason*: by discussion, persuasion and voluntary, uncoerced agreement.

The necessary consequence of man's right to life is his right to self-defense. In a civilized society, force may be used only in retaliation and only against those who initiate its use. All the reasons which make the initiation of physical force an evil, make the retaliatory use of physical force a moral imperative.

If some "pacifist" society renounced the retaliatory use of force, it would be left helplessly at the mercy of the first thug who decided to be immoral. Such a society would achieve the opposite of its intention: instead of abolishing evil, it would encourage and reward it.

If a society provided no organized protection against force, it would compel every citizen to go about armed, to turn his home into a fortress, to shoot any strangers approaching his door—or to join a protective gang of citizens who would fight other gangs, formed for the same purpose, and thus bring about the degeneration of that society into the chaos of gang-rule, *i.e.*, rule by brute force, into perpetual tribal warfare of prehistoric savages.

The use of physical force—even its retaliatory use—cannot be left at the discretion of individual citizens. Peaceful coexistence is impossible if a man has to live under the constant threat of force to be unleashed against him by any of his neighbors at any moment. Whether his neighbors' intentions are good or bad, whether their judgment is rational or irrational, whether they are motivated by a sense of justice or by ignorance or by prejudice or by malice-the use of force against one man cannot be left to the arbitrary decision of another.

Visualize, for example, what would happen if a man missed his wallet, concluded that he had been robbed, broke into every house in the neighborhood to search it, and shot the first man who gave him a dirty look, taking the look to be a proof of guilt.

The retaliatory use of force requires *objective* rules of evidence to establish that a crime has been committed and to *prove* who committed it, as well as *objective* rules to define punishments and enforcement procedures. Men who attempt to prosecute crimes, without such rules, are a lynch mob. If a society left the retaliatory use of force in the hands of individual citizens, it would degenerate into mob rule, lynch law and an endless series of bloody private feuds or vendettas.

If physical force is to be barred from social relationships, men need an institution charged with the task of protecting their rights under an *objective* code of rules.

This is the task of a government—of a *proper* government—its basic task, its only moral justification and the reason why men do need a government.

A government is the means of placing the retaliatory use of physical force under objective control—i.e., under objectively defined laws.

The fundamental difference between private action and governmental action—a difference thoroughly ignored and evaded today—lies in the fact that a government holds a monopoly on the legal use of physical force. It has to hold such a monopoly, since it is the agent of restraining and combating the use of force; and for that very same reason, its actions have to be rigidly defined, delimited and circumscribed; no touch of whim or caprice should be permitted in its performance; it should be an impersonal robot, with the laws as its only motive power. If a society is to be free, its

government has to be controlled.

Under a proper social system, a private individual is legally free to take any action he pleases (so long as he does not violate the rights of others), while a government official is bound by law in his every official act. A private individual may do anything except that which is legally *forbidden*; a government official may do nothing except that which is legally *permitted*.

This is the means of subordinating "might" to "right." This is the American concept of "a government of laws and not of men."

The nature of the laws proper to a free society and the source of its government's authority are both to be derived from the nature and purpose of a proper government. The basic principle of both is indicated in the Declaration of Independence: "to secure these [individual] rights, governments are instituted among men, deriving their just powers from the consent of the governed . . ."

Since the protection of individual rights is the only proper purpose of a government, it is the only proper subject of legislation: all laws must be based on individual rights and aimed at their protection. All laws must be *objective* (and objectively justifiable): men must know clearly, and in advance of taking an action, what the law forbids them to do (and why), what constitutes a crime and what penalty they will incur if they commit it.

The source of the government's authority is "the consent of the governed." This means that the government is not the *ruler*, but the servant or *agent* of the citizens; it means that the government as such has no rights except the rights *delegated* to it by the citizens for a specific purpose.

There is only one basic principle to which an individual must consent if he wishes to live in a free, civilized society: the principle of renouncing the use of physical force and delegating to the government his right of physical self-defense, for the purpose of an orderly, objective, legally defined enforcement. Or, to put it another way, he must accept *the separation of force and whim* (any whim, including his own).

Now what happens in case of a disagreement between two men about an undertaking in which both are involved?

In a free society, men are not forced to deal with one another. They do so only by voluntary agreement and, when a time element is involved, by *contract*. If a contract is broken by the arbitrary decision of one man, it may cause a disastrous financial injury to the other—and the victim would have no recourse except to seize the offender's property as compensation. But here again, the use of force cannot be left to the decision of private individuals. And this leads to one of the most important and most complex functions of the government: to the function of an arbiter who settles disputes among men according to objective laws.

Criminals are a small minority in any semicivilized society. But the protection and enforcement of contracts through courts of civil law is the most crucial need of a peaceful society; without such protection, no civilization could be developed or maintained.

Man cannot survive, as animals do, by acting on the range of the immediate moment. Man has to project his goals and achieve them across a span of time; he has to calculate his actions and plan his life long-range. The better a man's mind and the greater his knowledge, the longer the range of his planning. The higher or more complex a civilization, the longer the range of activity it requires—and, therefore, the longer the range of contractual agreements among men, and the more urgent their need of protection for the security of such agreements.

Even a primitive barter society could not function if a man agreed to trade a bushel of potatoes for a basket of eggs and, having received the eggs, refused to deliver the potatoes. Visualize what this sort of whim-directed action would mean in an industrial society where men deliver a billion dollars' worth of goods on credit, or contract to build multimillion-dollar structures, or sign ninety-nine-year leases.

A unilateral breach of contract involves an indirect use of physical force: it consists, in essence, of one man receiving the material values, goods or services of another, then refusing to pay for them and thus keeping them by force (by mere physical possession), not by right—*i.e.*, keeping them without the consent of their owner. Fraud involves a similarly indirect use of force: it consists of obtaining material values without their owner's consent, under false pretenses or false promises. Extortion is another variant of an indirect use of force: it consists of obtaining material values, not in exchange for values, but by the threat of force, violence or injury.

Some of these actions are obviously criminal. Others, such as a unilateral breach of contract, may not be criminally motivated, but may be caused by irresponsibility and irrationality. Still others may be complex issues with some claim to justice on both sides. But whatever the case may be, all such issues have to be made subject to objectively defined laws and have to be resolved by an impartial arbiter, administering the laws, *i.e.*, by a judge (and a jury, when appropriate).

Observe the basic principle governing justice in all these cases: it is the principle that no man may obtain any values from others without the owners' consent—and, as a corollary, that a man's rights may not be left at the mercy of the unilateral decision, the arbitrary choice, the irrationality, *the whim* of another man.

Such, in essence, is the proper purpose of a government: to make social existence possible to men, by protecting the benefits and combating the evils which men can cause to one another.

The proper functions of a government fall into three broad categories, all of them involving the issues of physical force and the protection of men's rights: *the police*, to protect men from criminals—*the armed services*, to protect men from foreign invaders—*the law courts*, to settle disputes among men according to objective laws.

These three categories involve many corollary and derivative issues—and their implementation in practice, in the form of specific legislation, is enormously complex. It belongs to the field of a special science: the philosophy of law. Many errors and many disagreements are possible in the field of implementation, but what is essential here is the principle to be implemented: the principle that the purpose of law and of government is the protection of individual rights.

Today, this principle is forgotten, ignored and evaded. The result is the present state of the world, with mankind's retrogression to the lawlessness of absolutist tyranny, to the primitive savagery of rule by brute force.

In unthinking protest against this trend, some people are raising the question of whether government as such is evil by nature and whether anarchy is the ideal social system. Anarchy, as a political concept, is a naive floating abstraction: for all the reasons discussed above, a society without an organized government would be at the mercy of the first criminal who came along and who would precipitate it into the chaos of gang warfare. But the possibility of human immorality is not the only objection to anarchy: even a society whose every member were fully rational and faultlessly moral, could not function in a state of anarchy: it is the need of *objective* laws and of an arbiter for honest disagreements among men that necessitates the establishment of a government.

A recent variant of anarchistic theory, which is befuddling some of the younger advocates of freedom, is a weird absurdity called "competing governments." Accepting the basic premise of the modern statists—who see no difference between the functions of government and the functions of industry, between force and production, and who advocate government ownership of business—the proponents of "competing governments" take the other side of the same coin and declare that since competition is so beneficial to business, it should also be applied to government. Instead of a single, monopolistic government, they declare, there should be a number of different governments in the same geographical area, competing for the

allegiance of individual citizens, with every citizen free to "shop" and to patronize whatever government he chooses.

Remember that forcible restraint of men is the only service a government has to offer. Ask yourself what a competition in forcible restraint would have to mean.

One cannot call this theory a contradiction in terms, since it is obviously devoid of any understanding of the terms "competition" and "government." Nor can one call it a floating abstraction, since it is devoid of any contact with or reference to reality and cannot be concretized at all, not even roughly or approximately. One illustration will be sufficient: suppose Mr. Smith, a customer of Government A, suspects that his next-door neighbor, Mr. Jones, a customer of Government B, has robbed him; a squad of Police A proceeds to Mr. Jones' house and is met at the door by a squad of Police B, who declare that they do not accept the validity of Mr. Smith's complaint and do not recognize the authority of Government A. What happens then? You take it from there.

The evolution of the concept of "government" has had a long, tortuous history. Some glimmer of the government's proper function seems to have existed in every organized society, manifesting itself in such phenomena as the recognition of some implicit (if often nonexistent) difference between a government and a robber gang—the aura of respect and of moral authority granted to the government as the guardian of "law and order"-the fact that even the most evil types of government found it necessary to maintain some semblance of order and some pretense at justice, if only by routine and tradition, and to claim some sort of moral justification for their power, of a mystical or social nature. Just as the absolute monarchs of France had to invoke "The Divine Right of Kings," so the modern dictators of Soviet Russia have to spend fortunes on propaganda to justify their rule in the eyes of their enslaved subjects.

In mankind's history, the understanding of the government's proper function is a very recent achievement: it is only two hundred years old and it dates from the Founding Fathers of the American Revolution. Not only did they identify the nature and the needs of a free society, but they devised the means to translate it into practice. A free society—like any other human product—cannot be achieved by random means, by mere wishing or by the leaders' "good intentions." A complex legal system, based on *objectively* valid principles, is required to make a society free and *to keep it free*-a system that does not depend on the motives, the moral character or the intentions of any given official, a system that leaves no opportunity, no legal loophole for the development of tyranny.

The American system of checks and balances was just such an achievement. And although certain contradictions in the Constitution did leave a loophole for the growth of statism, the incomparable achievement was the concept of a constitution as a means of limiting and restricting the power of the government.

Today, when a concerted effort is made to obliterate this point, it cannot be repeated too often that the Constitution is a limitation on the government, not on private individuals—that it does not prescribe the conduct of private individuals, only the conduct of the government—that it is not a charter *for* government power, but a charter of the citizens' protection *against* the government.

Now consider the extent of the moral and political inversion in today's prevalent view of government. Instead of being a protector of man's rights, the government is becoming their most dangerous violator; instead of guarding freedom, the government is establishing slavery; instead of protecting men from the initiators of physical force, the government is initiating physical force and coercion in any manner and issue it pleases; instead of serving as the instrument of *objectivity* in human relationships, the government is creating a deadly, subterranean reign of uncertainty and fear, by means of nonobjective laws whose interpretation is left to the arbitrary decisions of random bureaucrats; instead of protecting men from

injury by whim, the government is arrogating to itself the power of unlimited whim—so that we are fast approaching the stage of the ultimate inversion: the stage where the government is *free* to do anything it pleases, while the citizens may act only by *permission*; which is the stage of the darkest periods of human history, the stage of rule by brute force.

It has often been remarked that in spite of its material progress, mankind has not achieved any comparable degree of moral progress. That remark is usually followed by some pessimistic conclusion about human nature. It is true that the moral state of mankind is disgracefully low. But if one considers the monstrous moral inversions of the governments (made possible by the altruist-collectivist morality) under which mankind has had to live through most of its history, one begins to wonder how men have managed to preserve even a semblance of civilization, and what indestructible vestige of self-esteem has kept them walking upright on two feet.

One also begins to see more clearly the nature of the political principles that have to be accepted and advocated, as part of the battle for man's intellectual Renaissance.

section 2. Globalism
Part 4. the United Nation's Declaration of Human Rights
4A. historical background
4B. extent source text

4A. historical background

The ***Universal Declaration of Human Rights*** (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris. The *Declaration* arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled. The full text is published by the United Nations on its website.
The *Declaration* consists of thirty articles which have been elaborated in subsequent international treaties, regional human rights instruments, national constitutions, and other laws. The International Bill of Human Rights consists of the *Universal Declaration of Human Rights*, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols. In 1966, the General Assembly adopted the two detailed Covenants, which complete the International Bill of Human Rights. In 1976, after the Covenants had been ratified by a sufficient number of individual nations, the Bill took on the force of international law.

Precursors

During World War II, the Allies adopted the Four Freedoms—freedom of speech, freedom of religion, freedom from fear, and freedom from want—as their basic war aims. The United Nations Charter "reaffirmed faith in fundamental human rights, and dignity and worth of the human person" and committed all member states to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".
When the atrocities committed by Nazi Germany became apparent after the war, the consensus within the world community was that the United Nations Charter did not sufficiently define the rights to which it referred. A universal declaration that specified the rights of individuals was necessary to give effect to the Charter's provisions on human rights.

Creation and drafting

The *Declaration* was commissioned in 1946 and was drafted over two years by the Commission on Human Rights. The Commission consisted of 18 members from various nationalities and political backgrounds. The Universal Declaration of Human Rights Drafting Committee was chaired by Eleanor Roosevelt, who was known for her human rights advocacy.
Canadian John Peters Humphrey was called upon by the United Nations Secretary-General to work on the project and became the *Declaration*'s principal drafter. At the time, Humphrey was newly appointed as Director of the Division of Human Rights within the United Nations Secretariat. The Commission on Human Rights, a standing body of the United Nations, was constituted to undertake the work of preparing what was initially conceived as an International Bill of Rights. The membership of the Commission was designed to be broadly representative of the global community, served by representatives from the following countries: Australia, Belgium, Byelorussian Soviet Socialist Republic, Chile, Republic of China, Egypt, France, India, Iran, Lebanon, Panama, Philippines, United Kingdom, United States, Union of Soviet Socialist Republics, Uruguay, and Yugoslavia. Well-known members of the Commission included Eleanor Roosevelt of the United States (who was the Chairperson), René Cassin of France, Charles Malik of Lebanon, P. C. Chang of the Republic of China, and Hansa Mehta of India. Humphrey provided the initial draft which became the working text of the Commission.
According to Allan Carlson in *Globalizing Family Values*, the *Declaration*'s pro-family phrases were the result of the Christian Democratic movement's influence on Cassin and Malik.

Adoption

On 10 December 1948, the *Universal Declaration* was adopted by the General Assembly by a vote of 48 in favor, none against, and eight abstentions (the Soviet Union, Ukrainian SSR, Byelorussian SSR, People's Federal Republic of Yugoslavia, People's Republic of Poland, Union of South Africa, Czechoslovakia, and the Kingdom of Saudi Arabia). Honduras and Yemen—both members of UN at the time—failed to vote or abstain. South Africa's position can be seen as an attempt to protect its system of apartheid, which clearly violated any number of articles in the *Declaration*. The Saudi Arabian delegation's abstention was prompted primarily by two of the *Declaration*'s articles: Article 18, which states that everyone has the right "to change his religion or belief"; and Article 16, on equal marriage rights. Eleanor Roosevelt attributed the abstention of the Soviet bloc nations to Article 13, which provided the right of citizens to leave their countries.

Structure

The underlying structure of the *Universal Declaration* was introduced in its second draft, which was prepared by René Cassin. Cassin worked from a first draft, which was prepared by John Peters Humphrey. The structure was influenced by the *Code Napoléon*, including a preamble and introductory general principles.

Cassin compared the *Declaration* to the portico of a Greek temple, with a foundation, steps, four columns, and a pediment. Articles 1 and 2 are the foundation blocks, with their principles of dignity, liberty, equality, and brotherhood. The seven paragraphs of the preamble—setting out the reasons for the *Declaration*—represent the steps. The main body of the *Declaration* forms the four columns. The first column (articles 3–11) constitutes rights of the individual such as the right to life and the prohibition of slavery. Articles 6 through 11 refer to the fundamental legality of human rights with specific remedies cited for their defense when violated. The second column (articles 12–17) constitutes the rights of the individual in civil and political society. The third column (articles 18–21) is concerned with spiritual, public, and political freedoms such as freedom of association, thought, conscience, and religion. The fourth column (articles 22–27) sets out social, economic, and cultural rights. In Cassin's model, the last three articles of the *Declaration* provide the pediment which binds the structure together. These articles are concerned with the duty of the individual to society and the prohibition of use of rights in contravention of the purposes of the United Nations Organisation.

International Human Rights Day

The adoption of the *Universal Declaration* is a significant international commemoration marked each year on 10 December, and is known as Human Rights Day or International Human Rights Day. The commemoration is observed by individuals, community and religious groups, human rights organisations, parliaments, governments, and the United Nations. Decadal commemorations are often accompanied by campaigns to promote awareness of the *Declaration* and human rights. 2008 marked the 60th anniversary of the *Declaration*, and was accompanied by year-long activities around the theme "Dignity and justice for all of us".

Significance

The *Guinness Book of Records* describes the *Declaration* as the world's "Most Translated Document". In its preamble, governments commit themselves and their people to progressive measures which secure the universal and effective recognition and observance of the human rights set out in the *Declaration*. Eleanor Roosevelt supported the adoption of the *Declaration* as a declaration rather than as a treaty

because she believed that it would have the same kind of influence on global society as the United States Declaration of Independence had within the United States. In this, she proved to be correct. Even though it is not legally binding, the *Declaration* has been adopted in or has influenced most national constitutions since 1948. It has also served as the foundation for a growing number of national laws, international laws, and treaties, as well as for a growing number of regional, national, and sub-national institutions protecting and promoting human rights.

Legal effect

While not a treaty itself, the *Declaration* was explicitly adopted for the purpose of defining the meaning of the words "fundamental freedoms" and "human rights" appearing in the United Nations Charter, which is binding on all member states. For this reason, the *Universal Declaration* is a fundamental constitutive document of the United Nations. In addition, many international lawyers believe that the *Declaration* forms part of customary international law and is a powerful tool in applying diplomatic and moral pressure to governments that violate any of its articles. The 1968 United Nations International Conference on Human Rights advised that the *Declaration* "constitutes an obligation for the members of the international community" to all persons. The *Declaration* has served as the foundation for two binding UN human rights covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The principles of the *Declaration* are elaborated in international treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of Discrimination Against Women, the United Nations Convention on the Rights of the Child, the United Nations Convention Against Torture, and many more. The *Declaration* continues to be widely cited by governments, academics, advocates, and constitutional courts, and by individuals who appeal to its principles for the protection of their recognised human rights.

4B. extent source text

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
Whereas it is essential to promote the development of friendly relations between nations,
Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,
Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.
All human beings are born free and equal in dignity and rights.They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.
Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.
Everyone has the right to life, liberty and security of person.

Article 4.
No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.
Everyone has the right to recognition everywhere as a person before the law.

Article 7.
All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.
Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.
No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.
Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.
(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.
(1) Everyone has the right to freedom of movement and residence within the borders of each state.
(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.
(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.
(1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.
(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
(2) Marriage shall be entered into only with the free and full consent of the intending spouses.
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.
(1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.

Article 18.
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.
(1) Everyone has the right to freedom of peaceful assembly and association.
(2) No one may be compelled to belong to an association.

Article 21.
(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
(2) Everyone has the right of equal access to public service in his country.
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.
Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.
(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(2) Everyone, without any discrimination, has the right to equal pay for equal work.
(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
(4) Everyone has the right to form and to join trade unions for the protection of his

interests.

Article 24.
Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.
(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.
(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
(3) Parents have a prior right to choose the kind of education that shall be given to their children.

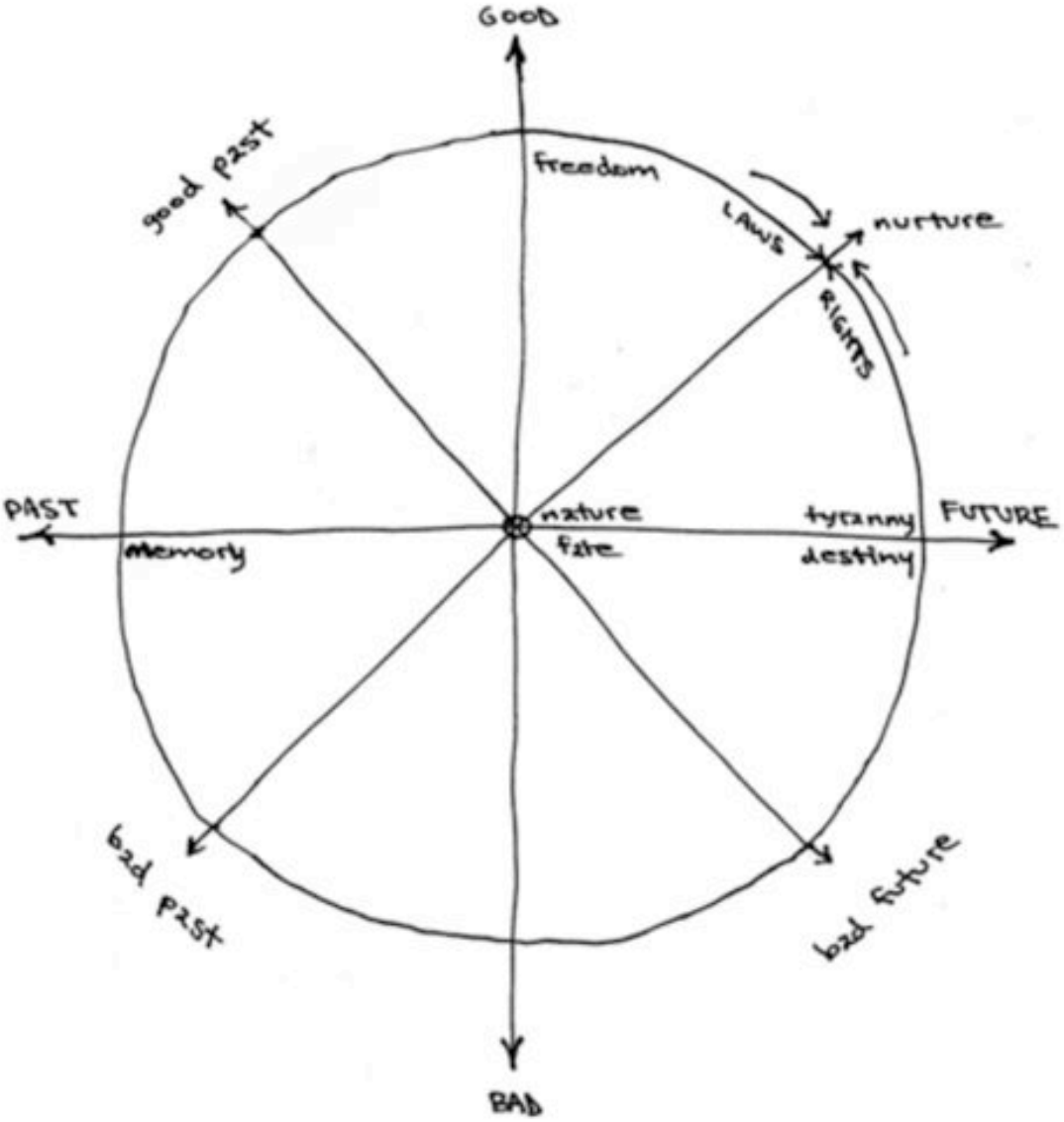
Article 27.
(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.
Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

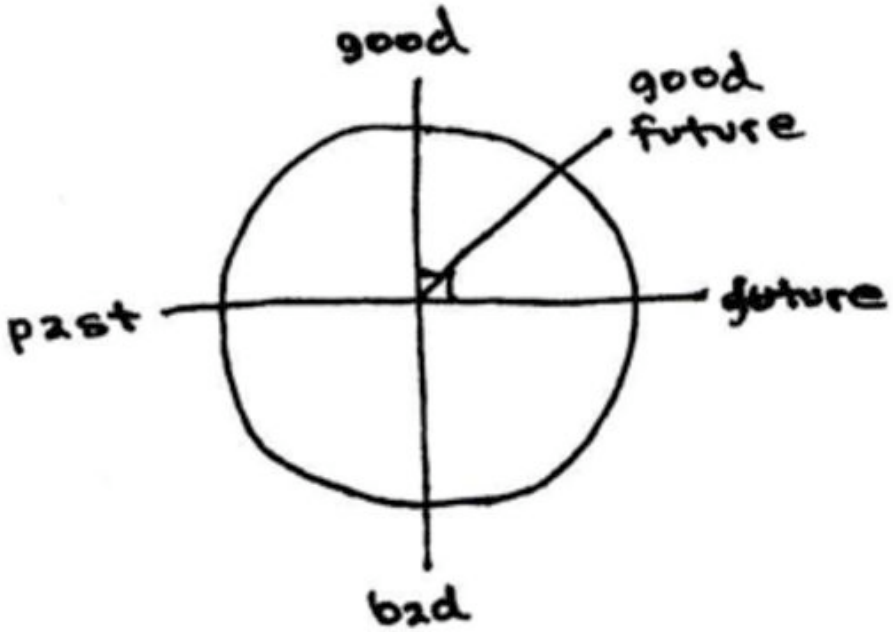
Article 29.
(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.
Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

book 4: Future Themes and Hypotheses
section 1: Jon Gee
Part 1. a “re-aligned” model of Rights, 2014 ed.



In this overtly simple model, we see “good” and “bad” oriented as polar opposites from one another along the vertical axis, and along the horizontal axis measuring from left (past) to right (future) we measure the passage of time. As a person’s “Karma” may be either “good” or “bad” in the immediate (and more distant) past, and also either “good” or “bad” in the immediate (and more distant) future, so one’s central self-concept, or “ego” is merely propelled along a sinusoidal wave bouncing between “good” above and “bad” below upon the moving surface of time. Thus, if we wish to prevail against entropy and gravity causing us a “downward” shift in “Karma” towards a “bad future,” we must assail the upper-right most quadrant of this assemblage, where the Absolute “good” of “Freedom” and the Absolute certainty of “Destiny” delineate the no-man’s land of tyrannical laws between them. In the next few diagrams, we will look at how the underlying geometry of this diagram may be changed, and thus the relative positioning of location of one assigned attribute on the model also be changed into a different location and relative meaning on an altered geometric version of this model. However, regardless of how one bends this model, it IS the True and Only “Law” that applies to us all universally.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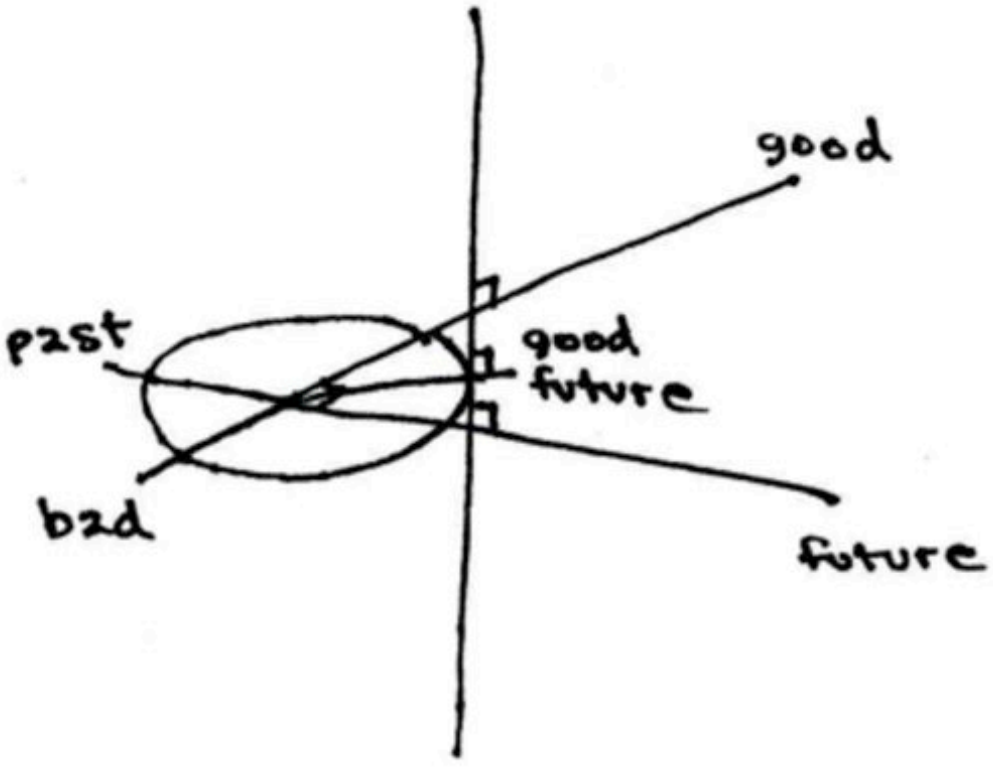
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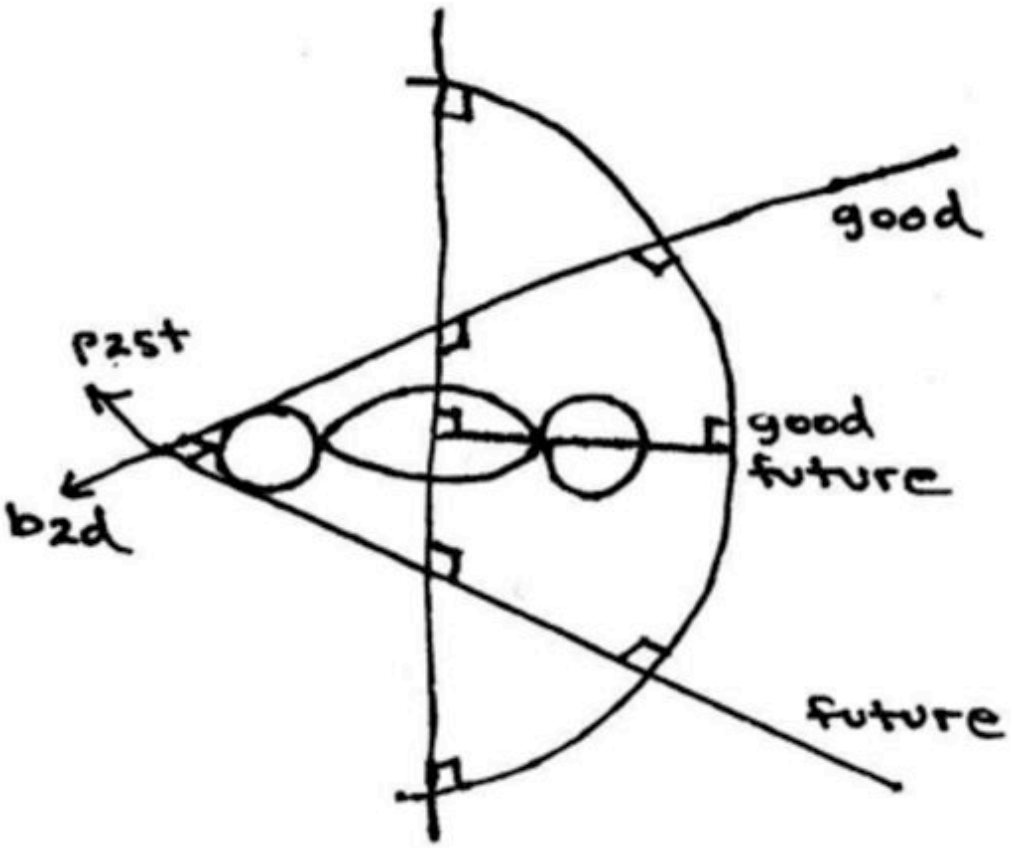
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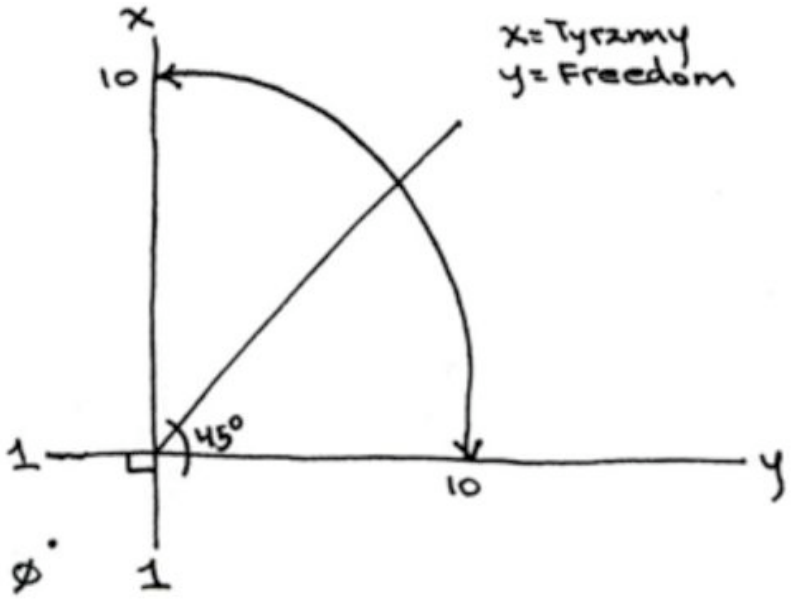
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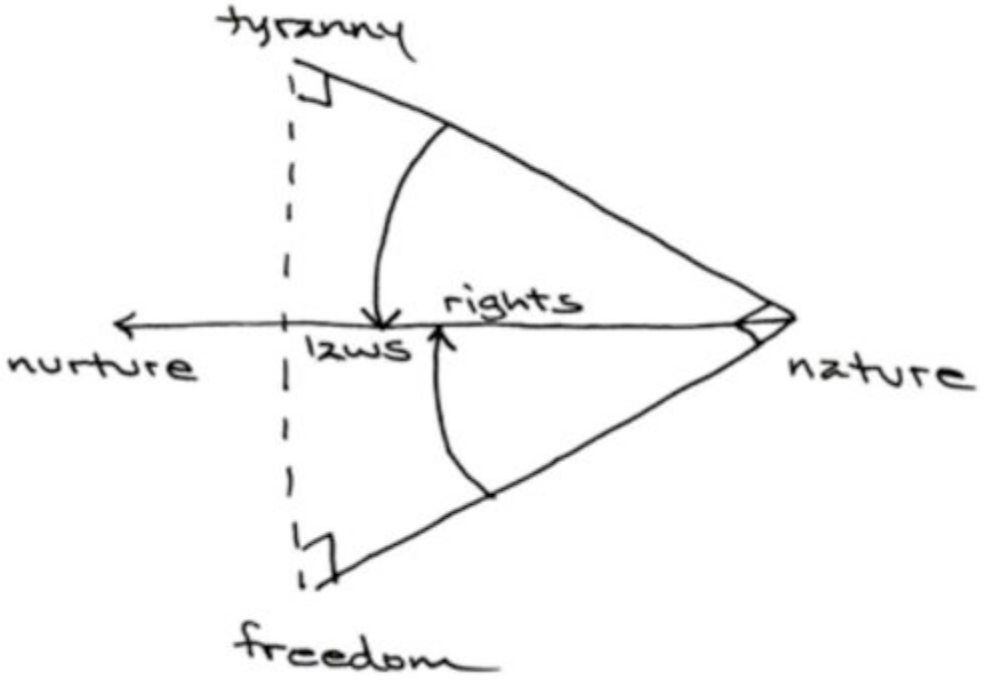
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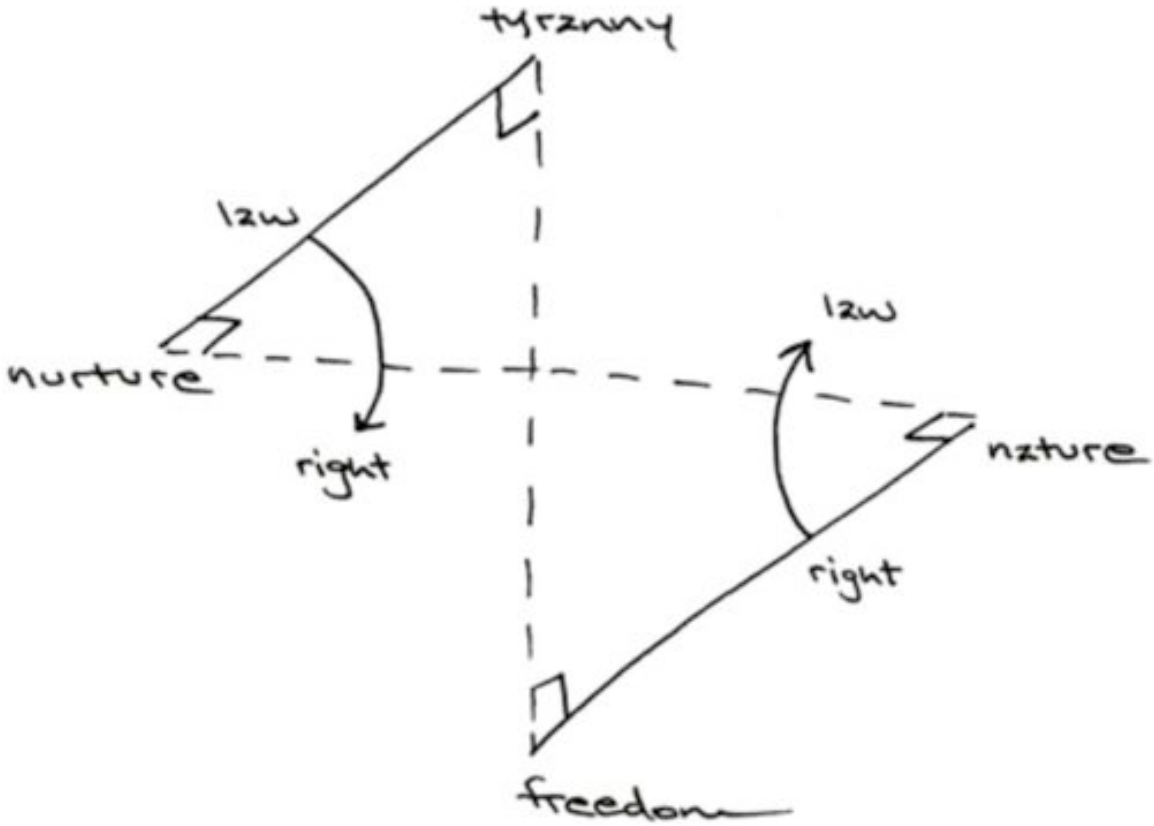
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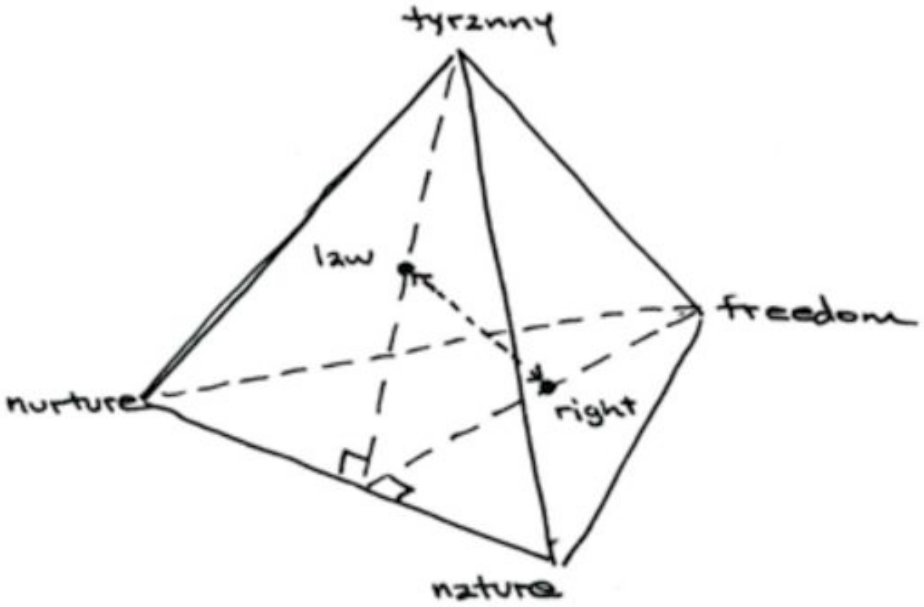
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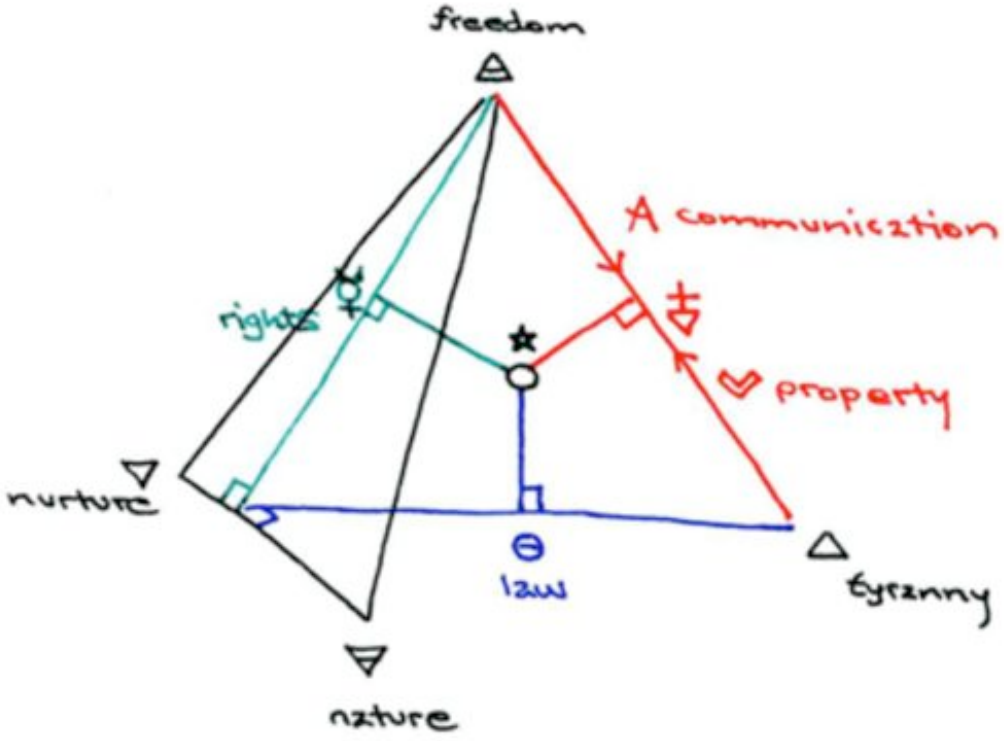
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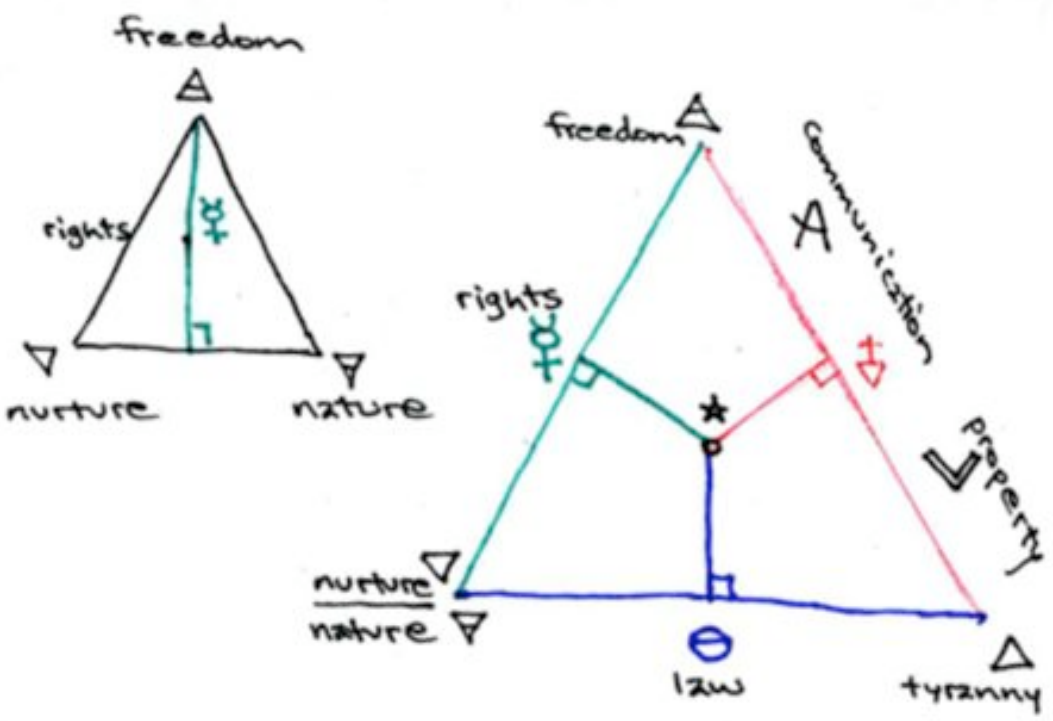
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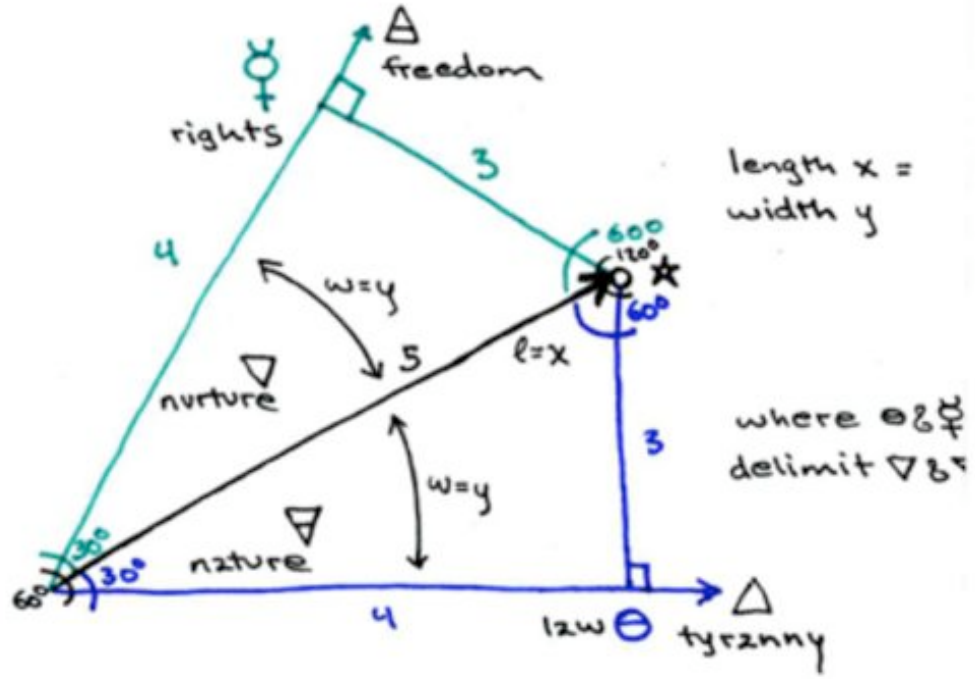
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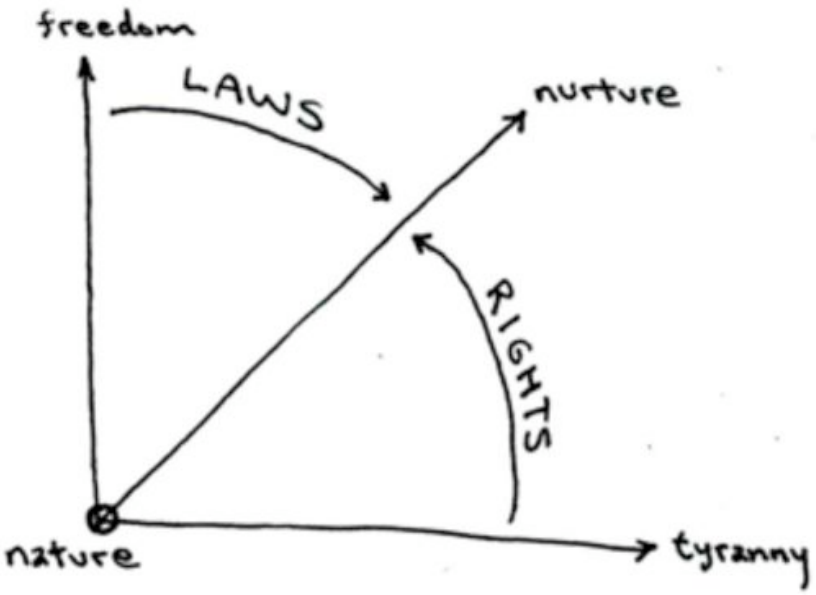
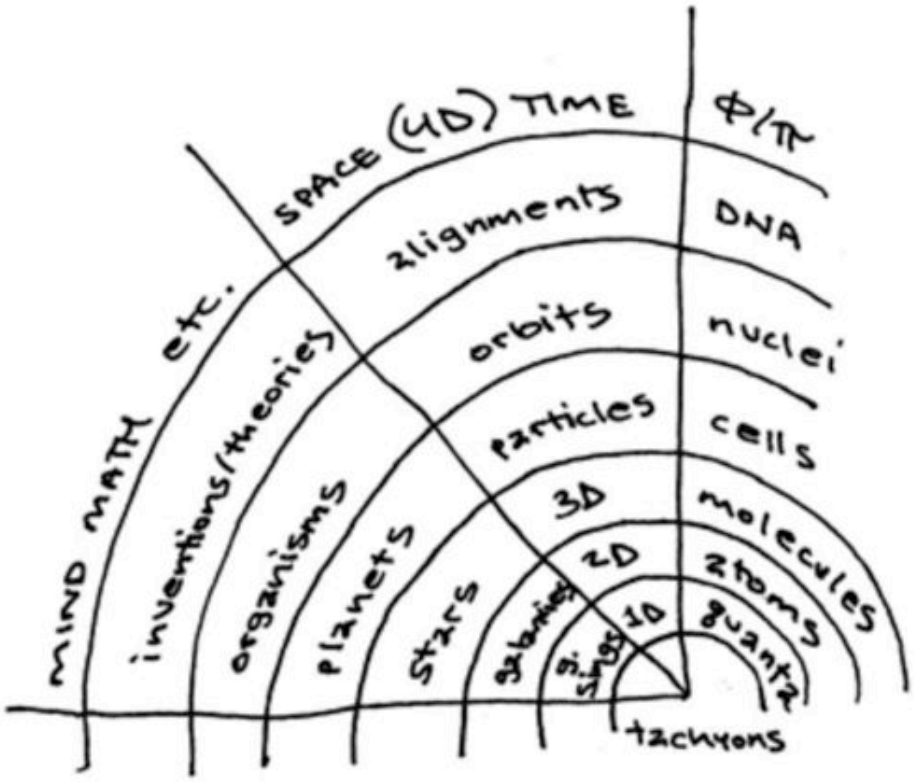
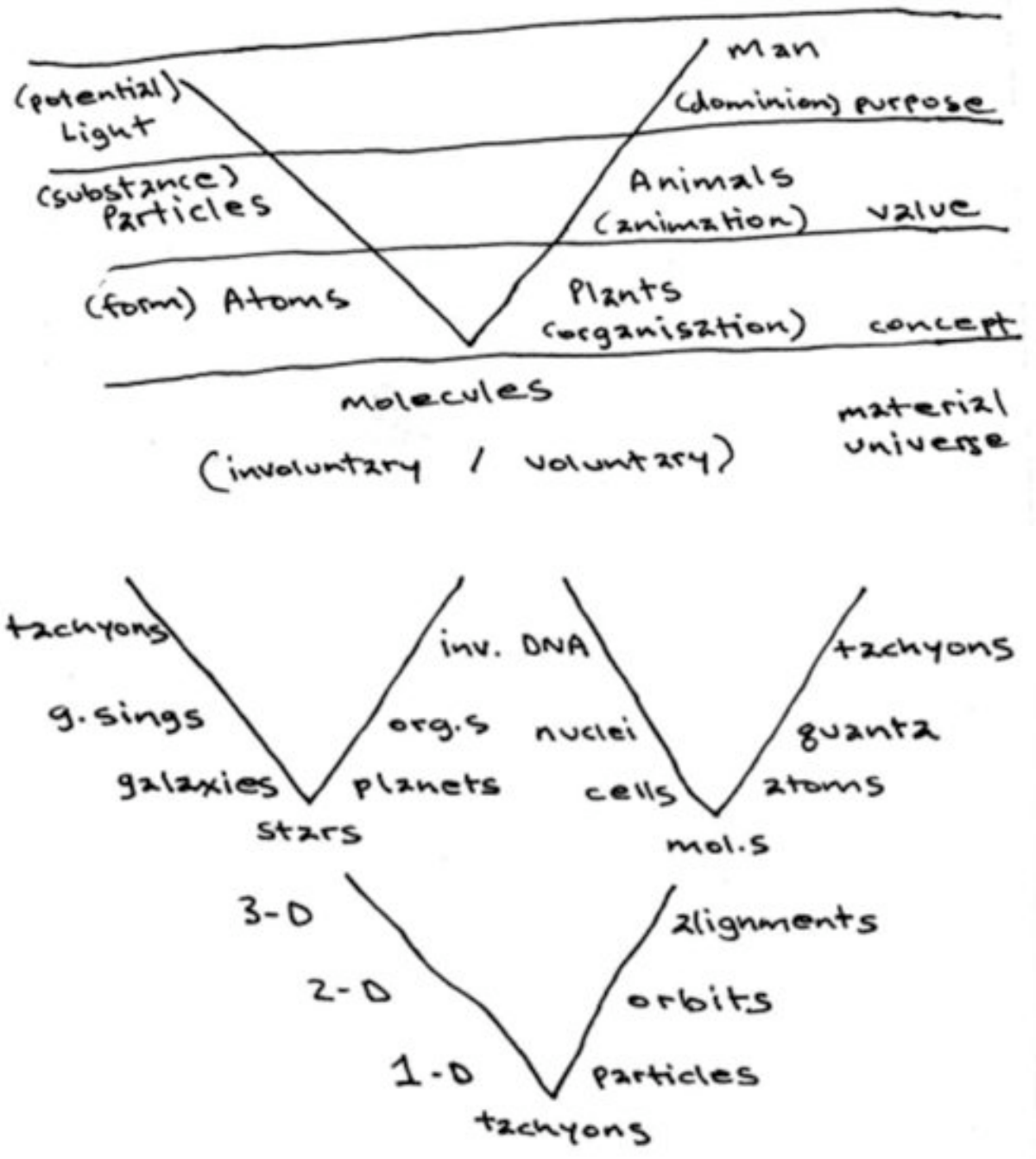
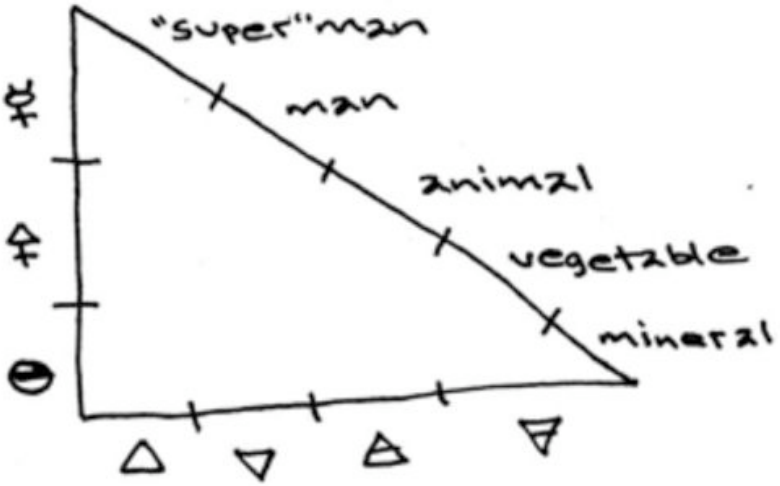


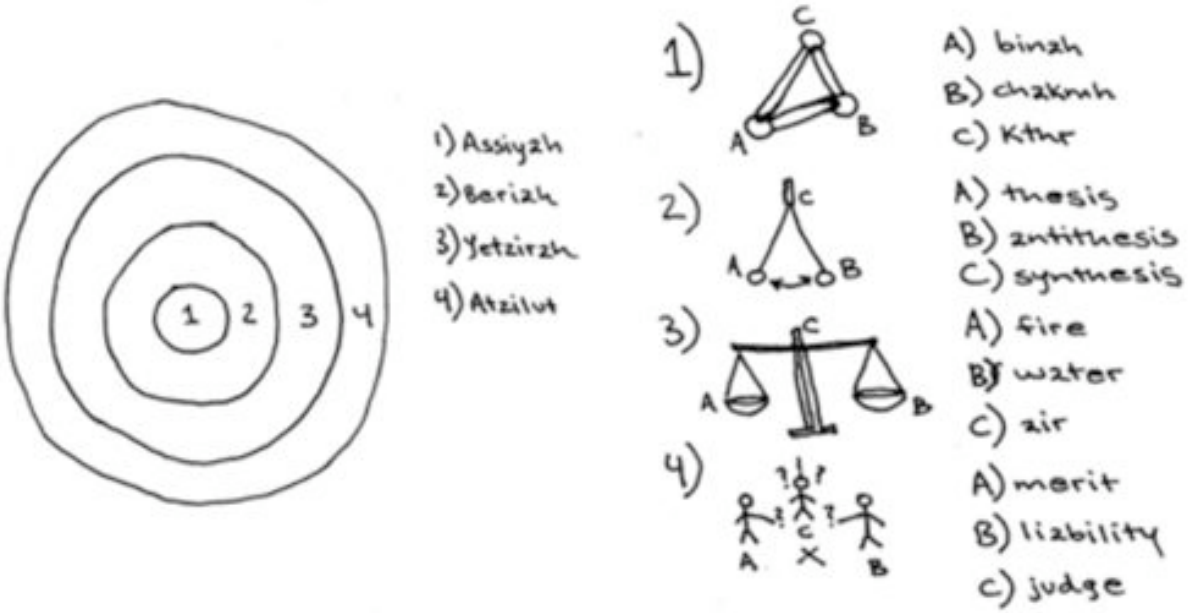


In the same manner we may now see the relationship between “Rights” (pushing toward the side of “Freedom” on the one hand) and “Laws” (pushing toward the side of “Tyranny” on the other hand) conflict with one another along the central axis at 45° connecting “nature” in the present to “nurture” in the “good future.” Likewise, we may see that this same, overtly simple model, may also yield many other means of describing the layered and leveled correspondences between traits and aspects across the entire spectrum of scales, from the sub-atomic to the cosmological.

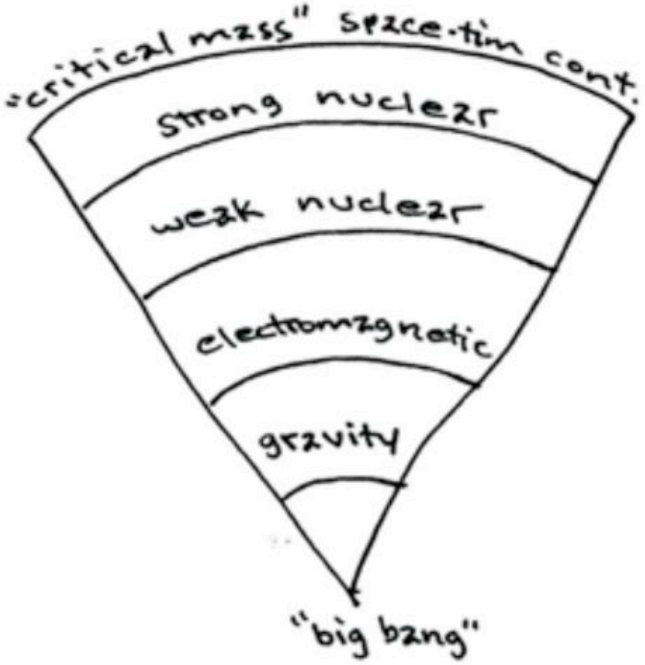


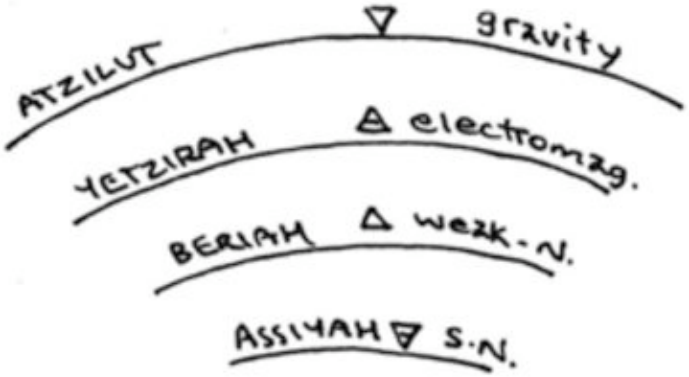
The manner in which the Laws governing living organisms as well as sub-atomic particles and the cosmological geometry of spacetime itself are here laid out clearly and overtly simply. That all of these “divided lines” depict the same relationship should go without saying, as shuold it that they may thus, and should thus be so, all overlapped to understand the relationship of one scales’ laws to another’s. So too as there “tachyons” throughout this entire model’s manifold positionings, such all is Light, and thus, self-awareness’ reflection upon itself within the wellspring of its own inner-eye.





As any two things MAY be related, thus so too may ALL things be constantly related and changing relationships relative to one another as well. In truth, not only is ALL in constant motion at varying velocities differing per scale of size, but ALL things are related into One Big Thing, and this One Big Thing is our entire cosmos over all time. From the utmost furthest extent of the “macrocosm” to the innermost speck of star-dust floating in one’s cerebral neural synapses, the utmost “microcosm,” ALL is related one to the another and thus to the ALL, and likewise, the clear Light of tachyons permeate the entirety of the cosmos, and so all is One as well. The Hebrews express the Light of tachyons as “Atziluth,” the outermost and highest of the 4 QBLHistic “worlds.” They imagine they may attain to this level of cognitive perception by ascending the dialectical model of ha QBLH itself alike a ladder. The goal in this methodology is reunion of the “godhead” within one’s intellect with the “bride of god” or “spirit” dwelling within one’s emotions. The desired outcome is to strengthen the will and resolve to survive and flourish against disadvantages.


"critical mass" space-time cont.
strong nuclear
weak nuclear
electromagnetic
gravity
"big bang"


ATZILUT
gravity
YETZIRAH
electromag.
BERIAH
weak-N.
ASSIYAH
S.N.

ONE SOUL
ONE BODY
MANY BODIES
MANY SOULS

ΕΠΟΓΔΟΩΝ
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