

**Against Verres, Second
Philippic Against Antony,
On Duties**

Cicero

TRANSLATED BY C. D. YONGE, WALTER MILLER



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Against Verres, Second Philippic Against Antony, On Duties

Cicero

AGAINST VERRERES

TRANSLATED BY C. D. YONGE

[1]

That which was above all things to be desired, O judges, and which above all things was calculated to have the greatest influence towards allaying the unpopularity of your order, and putting an end to the discredit into which your judicial decisions have fallen, appears to have been thrown in your way, and given to you not by any human contrivance, but almost by the interposition of the gods, at a most important crisis of the republic. For an opinion has now become established, pernicious to us, and pernicious to the republic, which has been the common talk of every one, not only at Rome, but among foreign nations also,—that in the courts of law as they exist at present, no wealthy man, however guilty he may be, can possibly be convicted. ²Now at this time of peril to your order and to your tribunals, when men are ready to attempt by harangues, and by the proposal of new laws, to increase the existing unpopularity of the senate, Caius Verres is brought to trial as a criminal, a man condemned in the opinion of every one by his life and actions, but acquitted by the enormousness of his wealth according to his own hope and boast. I, O judges, have undertaken this cause as prosecutor with the greatest good wishes and expectation on the part of the Roman people, not in order to increase the unpopularity of the senate, but to relieve it from the discredit which I share with it. For I have brought before you a man, by acting justly in whose case you have an opportunity of retrieving the lost credit of your judicial proceedings, of regaining your credit with the Roman people, and of giving satisfaction to

foreign nations; a man, the embezzler of the public funds, the petty tyrant of Asia and Pamphylia, the robber who deprived the city of its rights, the disgrace and ruin of the province of Sicily. ³And if you come to a decision about this man with severity and a due regard to your oaths, that authority which ought to remain in you will cling to you still; but if that man's vast riches shall break down the sanctity and honesty of the courts of justice, at least I shall achieve this, that it shall be plain that it was rather honest judgment that was wanting to the republic, than a criminal to the judges, or an accuser to the criminal.

[2]

I, indeed, that I may confess to you the truth about myself, O judges, though many snares were laid for me by Caius Verres, both by land and sea, which I partly avoided by my own vigilance, and partly warded off by the zeal and kindness of my friends, yet I never seemed to be incurring so much danger, and I never was in such a state of great apprehension, as I am now in this very court of law. Nor does the expectation which people have formed of my conduct of this prosecution, nor this concourse of so vast a multitude as is here assembled, influence me (though indeed I am greatly agitated by these circumstances) so much as his nefarious plots which he is endeavouring to lay at one and the same time against me, against you, against Marcus Gabrio the praetor, and against the allies, against foreign nations, against the senate, and even against the very name of senator; whose favourite saying it is that they have got to fear who have stolen only as much as is enough for themselves, but that he has stolen so much that it may easily be plenty for many; that nothing is so holy that it cannot be corrupted, or so strongly fortified that it cannot be stormed by money. But if he were as secret in acting as he is audacious in attempting, perhaps in some particular he might some time or other have escaped our notice. But it happens very fortunately that to his incredible audacity there is joined a most unexampled folly. For as he was unconcealed in committing his robberies of money, so in his hope of corrupting the judges he has made his intentions and endeavours visible to every one. He says that once only in his life has he felt fear: at the time when he was first impeached as a criminal by me; because he was only lately arrived from his province, and was branded with unpopularity and infamy, not

modern but ancient and of long standing; and, besides that, the time was unlucky, being very ill-suited for corrupting the judges. Therefore, when I had demanded a very short time to prosecute my inquiries in Sicily, he found a man to ask for two days less to make investigations in Achaia; not with any real intention of doing the same with his diligence and industry, that I have accomplished by my labour, and daily and nightly investigations. For the Achaean inquisitor never even arrived at Brundisium. I in fifty days so traveled over the whole of Sicily that I examined into the records and injuries of all the tribes and of all private individuals, so that it was easily visible to every one, that he had been seeking out a man not really for the purpose of bringing the defendant whom he accused to trial, but merely to occupy the time which ought to belong to me.

[3]

Now that most audacious and most senseless man thinks this. He is aware that I am come into court so thoroughly prepared and armed, that I shall fix all his thefts and crimes not only in your ears, but in the very eyes of all men. He sees that many senators are witnesses of his audacity, he sees that many Roman knights are so too, and many citizens, and many of the allies besides to whom he has done unmistakable injuries. He sees also that very numerous and very important deputations have come here at the same time from most friendly cities, armed with the public authority and evidence collected by their states. And though this is the case, still he thinks so ill of all virtuous men, to such an extent does he believe the decisions of the senators to be corrupt and profligate, that he makes a custom of openly boasting that it was not without reason that he was greedy of money, since he now finds that there is such protection in money, and that he has bought (what was the hardest thing of all) the very time of his trial, in order to be able to buy everything else more easily; so that, as he could not by any possibility shirk the force of the accusations altogether, he might avoid the most violent gusts of the storm. But if he had placed any hope at all, not only in his cause, but in any honourable defence, or in the eloquence or in the influence of any one, he would not be so eager in collecting and catching at all these things; he would not scorn and despise the senatorial body to such a degree, as to procure a man to be selected out of the senate at his will to be made

a criminal of, who should plead his cause before him, while he in the meantime was preparing whatever he had need of. And what the circumstances are on which he founds his hopes, and what hopes he builds on them, and what he is fixing his mind on. I see clearly. But how he can have the confidence to think that he can effect anything with the present praetor, and the present bench of Judges, I cannot conceive. This one thing I know, which the Roman people perceived too when he rejected the judges, that his hopes were of that nature that he placed all his expectations of safety in his money; and that if this protection were taken from him, he thought nothing would be any help to him.

[4]

In truth, what genius is there so powerful, what faculty of speaking, what eloquence so mighty, as to be in any particular able to defend the life of that man, convicted as it is of so many vices and crimes, and long since condemned by the inclinations and private sentiments of every one? And, to say nothing of the stains and disgraces of his youth, what other remarkable event is there in his quaestorship, that first step to honour, except that Cnaeus Carbo was robbed by his quaestor of the public money? that the consul was plundered and betrayed? his army deserted? his province abandoned? the holy nature and obligations imposed on him by lot violated?—whose lieutenancy was the ruin of all Asia and Pamphylia, in which provinces he plundered many houses, very many cities, all the shrines and temples; when he renewed and repeated against Cnaeus Dolabella his ancient wicked tricks when he had been quaestor, and did not only in his danger desert, but even attack and betray the man to whom he had been lieutenant, and proquaestor, and whom he had brought into odium by his crimes;—whose only praetorship was the destruction of the sacred temples and the public works, and, as to his legal decisions, was the adjudging and awarding of property contrary to all established rules and precedents. But now he has established great and numerous monuments and proofs of all his vices in the province of Sicily, which he for three years so harassed and ruined that it can by no possibility be restored to its former condition, and appears scarcely able to be at all recovered after a long series of years, and a long succession of virtuous praetors. While this man was praetor the Sicilians enjoyed neither their own laws, nor the degrees of our

senate, nor the common rights of every nation. Every one in Sicily has only so much left as either escaped the notice or was disregarded by the satiety of that most avaricious and licentious man.

[5]

No legal decision for three years was given on any other ground but his will; no property was so secure to any man, even if it had descended to him from his father and grandfather, but he was deprived of it at his command; enormous sums of money were exacted from the property of the cultivators of the soil by a new and nefarious system. The most faithful of the allies were classed in the number of enemies. Roman citizens were tortured and put to death like slaves; the greatest criminals were acquitted in the courts of justice through bribery; the most upright and honourable men, being prosecuted while absent, were condemned and banished without being heard in their own defence; the most fortified harbours, the greatest and strongest cities, were laid open to pirates and robbers; the sailors and soldiers of the Sicilians, our own allies and friends, died of hunger; the best built fleets on the most important stations were lost and destroyed, to the great disgrace of the Roman people. This same man while praetor plundered and stripped those most ancient monuments, some erected by wealthy monarchs and intended by them as ornaments for their cities; some, too, the work of our own generals, which they either gave or restored as conquerors to the different states in Sicily. And he did this not only in the case of public statues and ornaments, but he also plundered all the temples consecrated in the deepest religious feelings of the people. He did not leave, in short, one god to the Sicilians which appeared to him to be made in a tolerably workmanlike manner, and with any of the skill of the ancients. I am prevented by actual shame from speaking of his nefarious licentiousness as shown in rapes and other such enormities; and I am unwilling also to increase the distress of those men who have been unable to preserve their children and their wives unpolluted by his wanton lust. But, you will say, these things were done by him in such a manner as not to be notorious to all men. I think there is no man who has heard his name who cannot also relate wicked actions of his; so that I ought rather to be afraid of being thought to omit many of his crimes, than to invent any charges against him. And

indeed I do not think that this multitude which has collected to listen to me wishes so much to learn of me what the facts of the case are, as to go over it with me, refreshing its recollection of what it knows already.

[6]

And as this is the case, that senseless and profligate man attempts to combat me in another manner. He does not seek to oppose the eloquence of any one also to me, he does not rely on the popularity, or influence, or authority of any one. He pretends that he trusts to these things; but I see what he is really aiming at; (and indeed he is not acting with any concealment.) He sets before me empty titles of nobility, that is to say the names of arrogant men, who do not hinder me so much by being noble, as assist me by being notorious,—he pretends to rely on their protection; when he has in reality been contriving something else this long time. What hope he now has, and what he is endeavouring to do, I will now briefly explain to you, O judges. But first of all, remark, I beg you, how the matter has been arranged by him from the beginning. When he first returned from the province, he endeavoured to get rid of this prosecution by corrupting the judges at a great expense; and this object he continued to keep in view till the conclusion of the appointment of the judges. After the judges were appointed—because in drawing lots for them the fortune of the Roman people had defeated his hopes, and because in rejecting some, my diligence had defeated his impudence—the whole attempt at bribery was abandoned. The affair was going on admirably; lists of your names and of the whole tribunal were in every one's hands. It did not seem possible to mark the votes of these men with any distinguishing mark or colour or spot of dirt; and that fellow, from having been brisk and in high spirits, became on a sudden so downcast and humbled, that he seemed to be condemned not only by the Roman people but even by himself. But lo! all of a sudden, within these few days, since the consular comitia have taken place, he has gone back to his original plan with more money, and the same plots are now laid against your reputation and against the fortunes of every one, by the instrumentality of the same people; which fact at first, O judges, was pointed out to me by a very slight hint and indication; but afterwards, when my suspicions were once aroused, I arrived at

the knowledge of all the most secret counsels of that party without any mistake.

[7]

For as Hortensius the consul elect was being attended home again from the Campus by a great concourse and multitude of people, Caius Curio fell in with that multitude by chance,—a man whom I wish to name by way of honour rather than of disparagement. I will tell you what, if he had been unwilling to have it mentioned, he would not have spoken of in so large an assembly so openly and undisguisedly; which, however, shall be mentioned by me deliberately and cautiously, that it may be seen that I pay due regard to our friendship and to his dignity. He sees Verres in the crowd by the arch of Fabius; he speaks to the man, and with a loud voice congratulates him on his victory. He does not say a word to Hortensius himself, who had been made consul, or to his friends and relations who were present attending on him; but he stops to speak to this man, embraces him, and bids him cast off all anxiety. "I give you notice," said he, "that you have been acquitted by this day's comitia." And as many most honourable men heard this, it is immediately reported to me; indeed, every one who saw me mentioned it to me the first thing. To some it appeared scandalous, to others ridiculous; ridiculous to those who thought that this cause depended on the credibility of the witnesses, on the importance of the charges, and on the power of the judges, and not on the consular comitia; scandalous to those who looked deeper, and who thought that this congratulation had reference to the corruption of the judge. In truth, they argued in this manner—the most honourable men spoke to one another and to me in this manner—that there were now manifestly and undeniably no courts of justice at all. The very criminal who the day before thought that he was already condemned, is acquitted now that his defender has been made consul. What are we to think then? Will it avail nothing that all Sicily, all the Sicilians, that all the merchants who have business in that country, that all public and private documents are now at Rome? Nothing, if the consul elect wills it otherwise. What! will not the judges be influenced by the accusation, by the evidence, by the universal opinion of the Roman people? No. Everything will be governed by the power and authority of one man.

[8]

I will speak the truth, O judges. This thing agitated me greatly; for every good man was speaking in this way—"That fellow will be taken out of your hands; but we shall not preserve our judicial authority much longer; for who, when Verres is acquitted, will be able to make any objection to transferring it from us?" It was a grievous thing to every one, and the sudden elation of that profligate man did not weigh with them as much as that fresh congratulation of a very honourable one. I wished to dissemble my own vexation at it; I wished to conceal my own grief of mind under a cheerful countenance, and to bury it in silence. But lo! on the very days when the praetors elected were dividing their duties by lot, and when it fell to the share of Marcus Metellus to hold trials concerning extortion, information is given me that that fellow was receiving such congratulations, that he also sent men home to announce it to his wife. And this too in truth displeased me; and yet I was not quite aware what I had so much to fear from this allotment of the praetor's duties. But I ascertained this one thing from trustworthy men from whom I received all my intelligence; that many chests full of Sicilian money had been sent by some senator to a Roman knight, and that of these about ten chests had been left at that senator's house, with the statement that they were left to be used in the comitia when I expected to be elected aedile, and that men to distribute this money among all the tribes had been summoned to attend him by night. Of whom one, who thought himself under the greatest obligations to me, came to me that same night; reports to me the speech which that fellow had addressed to them; that he had reminded them how liberally he had treated them formerly when he was candidate for the praetorship, and at the last consular and praetorian comitia; and in the second place that he had promised them immediately whatever money they required, if they could procure my rejection from the aedileship. That on this some of them said that they did not dare attempt it; that others answered that they did not think it could be managed; but that one bold friend was found, a man of the same family as himself, Quintus Verres, of the Romilian tribe, of the most perfect school of bribers, the pupil and friend of Verres' father, who promised that, if five hundred thousand sesterces were provided, he would manage it; and that there were some others who said that they would

cooperate with him. And as this was the case, he warned me beforehand with a friendly disposition, to take great care.

[9]

I was disquieted about many most important matters at one and the same moment, and with very little time to deliberate. The comitia were at hand; and at them I was to be opposed at immense expenditure of money. This trial was at hand; the Sicilian treasurers menaced that matter also. I was afraid, from apprehension about the comitia, to conduct the matters relating to the trial with freedom; and because of the trial, I was unable to attend with all my heart to my canvass. Threatening the agents of bribery was out of the question, because I saw that they were aware that I was hampered and fettered by this trial. And at this same moment I hear that notice has been given to the Sicilians by Hortensius to come to speak to him at his house; that the Sicilians behaved in that matter with a proper sense of their own liberty, and, when they understood on what account they were sent for, they would not go. In the meantime my comitia began to be held; of which that fellow thought himself the master, as he had been of all the other comitia this year. He began to run about, that influential man, with his son, a youth of engaging and popular manners, among the tribes. The son began to address and to call on all the friends of his father, that is to say, all his agents for bribery; and when this was noticed and perceived, the Roman people took care with the most earnest goodwill that I should not be deprived of my honour through the money of that man, whose riches had not been able to make me violate my good faith. After that I was released from that great anxiety about my canvass, I began, with a mind much more unoccupied and much more at ease, to think of nothing and to do nothing except what related to this trial. I find, O judges, these plans formed and begun to be put in execution by them, to protract the matter, whatever steps it might be necessary to take in order to do so, so that the cause might be pleaded before Marcus Metellus as praetor. That by doing so they would have these advantages; firstly, that Marcus Metellus was most friendly to them; secondly, that not only would Hortensius be consul, but Quintus Metellus also: and listen while I show you how great a friend he is to them. For he gave him a token of his goodwill of such a sort, that he seemed to be giving it as a return for the suffrages of the tribes which he had

scoured to him. Did you think that I would say nothing of such serious matters as these? and that, at a crisis of such danger to the republic and my own character, I would consult anything rather than my duty and my dignity? The other consul elect sent for the Sicilians; some came, because Lucius Metellus was praetor in Sicily. To them he speaks in this manner: that he is the consul; that one of his brothers has Sicily for his province; that the other is to be judge in all prosecutions for extortion; and that care had been taken in many ways that there should be no possibility of Verres being injured.

[10]

I ask you, Metellus, what is corrupting the course of justice, if this is not,—to seek to frighten witnesses, and especially Sicilians, timid and oppressed men, not only by your own private influence, but by their fear of the consul, and by the power of two praetors? What would you do for an innocent man or for a relation, when for the sake of a most guilty man, entirely unconnected with you, you depart from your duty and your dignity, and allow what he is constantly saying to appear true to any one who is not acquainted with you? For they said that Verres said, that you had not been made consul by destiny, as the rest of your family had been, but by his assistance. Two consuls, therefore, and the judge are to be such because of his will. We shall not only, says he, avoid having a man too scrupulous in investigating, too subservient to the opinion of the people, Marcus Glabrio, but we shall have this advantage also:—Marcus Caesonius is the judge, the colleague of our accuser a man of tried and proved experience in the decision of actions. It will never do for us to have such a man as that on the bench, which we are endeavouring to corrupt by some means or other; for before, when he was one of the Judges on the tribunal of which Junius was president, he was not only very indignant at that shameful transaction, but he even betrayed and denounced it. After the first of January we shall not have this man for our judge,—we shall not have Quintus Manlius and Quintus Cornificius, two most severe and upright judges, for judges, because they will then be tribunes of the people. Publius Sulpicius, a solemn and upright judge, must enter on his magistracy on the fifth of November. Marcus Crepereius, of that renowned equestrian family and of that incorruptible character; Lucius Cassius, of a family renowned for its

severity in all things, and especially as judges; Cnaeus Tremellius, a man of the greatest scrupulousness and diligence;—these three men of ancient strictness of principle are all military tribunes elect. After the first of January they will not be able to act as judges. And besides this, we elect by lot a successor in the room of Marcus Metellus, since he is to preside over this very trial. And so after the first of January, the praetor, and almost the whole bench of judges being changed, we shall elude the terrible threats of the prosecutor, and the great expectations entertained of this trial, and manage it according to our own will and pleasure. Today is the fifth of August. You began to assemble at the ninth hour. This day they do not even count. There are ten days between this and the votive games which Cnaeus Pompeius is going to celebrate. These games will take up fifteen days; then immediately the Roman games will follow. And so, when nearly forty days have intervened, then at length they think they shall have to answer what has been said by us; and they think that, what with speeches, and what with excuses, they will easily be able to protract the cause till the period of the games of Victory. With these the plebeian games are connected, after which there will be either no day at all, or very few for pleading in. And so, when the accusation has got stale and cold, the matter will come all fresh before Marcus Metellus as praetor. And if I had distrusted his good faith, I should not have retained him as a judge. But now I have such an opinion of him, that I would rather this matter was brought to a close while he is judge than while he is praetor; and I would rather entrust to him his own tablet while he is on his oath, than the tablets of others when he is restrained by no such obligation.

[11]

Now, O judges, I consult you as to what you think I ought to do. For you will, in truth, without speaking, give me that advice which I understand that I must inevitably adopt. If I occupy the time which I legitimately might in speaking, I shall reap the fruit of my labour, industry, and diligence; and by this prosecution I shall make it manifest that no one in the memory of man appears ever to have come before a court of justice better prepared, more vigilant, or with his cause better got up. But while I am getting this credit for my industry, there is great danger lest the criminal may escape. What, then, is there which can be done? I think it is neither obscure

nor hidden. I will reserve for another time that fruit of praise which may be derived from a long uninterrupted speech. At present I must support this accusation by documentary evidence, by witnesses, by letters of private individuals and of public bodies, and by various other kinds of proof. The whole of this contest is between you and me, O Hortensius. I will speak openly. If I thought that you were contending with me in the matter of speaking, and of getting rid of the charges I bring against your client in this cause, I, too, would devote much pains to mounting an elaborate accusation, and to dilating on my charges. Now, since you have determined to contend against me with artifice, not so much in obedience to the promptings of your own nature, as from consulting his occasions and his cause, it is necessary for me to oppose conduct of that sort with prudence. Your plan is, to begin to answer me after two sets of games have been celebrated; mine is to have the adjournment over before the first series. And the result will be, that that plan of yours will be thought crafty, but this determination of mine necessary.

[12]

But as for what I had begun to say,—namely, that the contest is between you and me, this is it,—I, when I had undertaken this cause at the request of the Sicilians, and had thought it a very honourable and glorious thing for me that they were willing to make experiment of my integrity and diligence, who already knew by experience my innocence and temperance: then, when I had undertaken this business, I proposed to myself some greater action also by which the Roman people should be able to see my goodwill towards the republic. For that seemed to me to be by no means worthy of my industry and efforts, for that man to be brought to trial by me who had been already condemned by the judgment of all men, unless that intolerable influence of yours, and that grasping nature which you have displayed for some years in many trials, was interposed also in the case of that desperate man. But no, since all this dominion and sovereignty of yours over the courts of justice delights you so much, and since there are some men who are neither ashamed of their licentiousness and their infamy, nor weary of it, and who, as if on purpose, seem to wish to encounter hatred and unpopularity from the Roman people, I profess that I have undertaken this,—a great burden perhaps, and one dangerous to

myself, but still worthy of my applying myself to it with all the vigour of my age, and all diligence. And since the whole order of the senate is weighed down by the discredit brought on it by the wickedness and audacity of a few, and is overwhelmed by the infamy of the tribunals, I profess myself an enemy to this race of men, an accuser worthy of their hatred, a persevering, a bitter adversary. I arrogate this to myself, I claim this for myself, and I will carry out this enmity in my magistracy, and from that post in which the Roman people has willed that from the next first of January I shall act in concert with it in matters concerning the republic, and concerning wicked men. I promise the Roman people that this shall be the most honourable and the fairest employment of my aedileship. I warn, I forewarn, I give notice beforehand to those men who are wont either to put money down, to undertake for others, to receive money, or to promise money, or to act as agents in bribery, or as go-betweens in corrupting the seat of judgment, and who have promised their influence or their impudence in aid of such a business, in this trial to keep their hands and inclinations from this nefarious wickedness.

[13]

Hortensius will then be consul with the chief command and authority, but I shall be aedile—that is, I shall be a little more than a private individual; and yet this business, which I promise that I am going to advocate, is of such a nature, so pleasing and agreeable to the Roman people, that the consul himself will appear in this cause, if that be possible, even less than a private individual in comparison of me. All those things shall not only be mentioned, but even, where certain matters have been explained, shall be fully discussed, which for the last ten years, ever since the office of the judge has been transferred to the senate, has been nefariously and wickedly done in the decision of judicial matters. The Roman people shall know from me why it is that when the equestrian body supplied the judges for nearly fifty years together, not even the slightest suspicion ever arose of bribes having been accepted for the purpose of influencing a decision; why it is, I say, when the judicial authority was transferred to the senatorial body, and the power of the Roman people over every one of us was taken away, Quintus Calidius, when he was condemned, said that a man of praetorian rank could not honestly be condemned at a less price than three hundred

thousand sesterces; why it is that when Publius Septimius, a senator, was condemned for extortion, when Quintus Hortensius was praetor, damages were assessed against him, including money which he had received as judge to decide causes which came before him; why it is, that in the case of Caius Herennius, and in that of Caius Popillius, senators, both of whom were convicted of peculation—why it is, that in the case of Marcus Atilius, who was convicted of treason—this was made plain,—that they had all received money for the purpose of influencing their judicial decisions; why it is, that senators have been found who, when Caius Verres, as praetor of the city, gave out the lots, voted against the criminal whom they were condemning without having inquired into his case; why it is, that a senator was found who, when he was judge, took money in one and the same trial both from the defendant to distribute among the judges, and from the accuser to condemn the defendant. But how shall I adequately complain of that stain, that disgrace, that calamity of the whole senatorial order,—that this thing actually happened in the city while the senatorial order furnished the judges, that the votes of men on their oaths were marked by coloured tablets? I pledge myself that I will urge all these things with diligence and with strictness.

[14]

And what do you suppose will be my thoughts, if I find in this very trial any violation of the laws committed in any similar manner? especially when I can prove by many witnesses that Caius Verres often said in Sicily, in the hearing of many persons, "that he had a powerful friend, in confidence in whom he was plundering the province; and that he was not seeking money for himself alone, but that he had so distributed the three years of his Sicilian praetorship, that he should say he did exceedingly well, if he appropriated the gains of one year to the augmentation of his own property, those of the second year to his patrons and defenders, and reserved the whole of the third year, the most productive and gainful of all, for the judges." From which it came into my mind to say that which, when I had said lately before Marcus Glabrio at the time of striking the list of judges, I perceived the Roman people greatly moved by; that I thought that foreign nations would send ambassadors to the Roman people to procure the abrogation of the law, and of all trials, about extortion; for if there were no trials, they think that each man

would only plunder them of as much as he would think sufficient for himself and his children; but now, because there are trials of that sort, every one carries off as much as it will take to satisfy himself, his patrons, his advocates, the praetor, and the judges; and that this is an enormous sum; that they may be able to satisfy the cupidity of one most avaricious man, but are quite unable to incur the expense of his most guilty victory over the laws. O trials worthy of being recorded! O splendid reputation of our order! when the allies of the Roman people are unwilling that trials for extortion should take place, which were instituted by our ancestors for the sake of the allies. Would that man ever have had a favourable hope of his own safety, if he had not conceived in his mind a bad opinion of you? on which account, he ought, if possible, to be still more hated by you than he is by the Roman people, because he considers you like himself in avarice and wickedness and perjury.

[15]

And I beg you, in the name of the immortal gods, O judges, think of and guard against this; I warn you, I give notice to you, of what I am well assured, that this most seasonable opportunity has been given to you by the favour of the gods, for the purpose of delivering your whole order from hatred, from unpopularity, from infamy, and from disgrace. There is no severity believed to exist ill the tribunals, nor any scruples with regard to religion; in short, there are not believed to be any tribunals at all. Therefore we are despised and scorned by the Roman people; we are branded with a heavy and now a long standing infamy. Nor, in fact, is there any other reason for which the Roman people has with so much earnestness sought the restoration of the tribunician power: but when it was demanding that in words, it seemed to be asking for that, but in reality it was asking for tribunes which it could trust. And this did not escape the notice of Quintus Catulus, a most sagacious and honourable man, who, when Cnaeus Pompeius, a most gallant and illustrious man, made a motion about the tribunitian power, and when he was asked his opinion, begin his speech in this manner, speaking with the greatest authority, "that the conscript fathers presided over the courts of justice badly and wickedly; but if in deciding judicial trials they had been willing to satisfy the expectations of the Roman people, men would not so greatly regret the tribunitian power?" Lastly, when Cnaeus Pompeius himself,

when first he delivered an address to the people as consul elect, mentioned (what seemed above all things to be watched for) that he would restore the power of the tribunes, a great shout was raised at his words, and a grateful murmur pervaded the assembly. And when he had said also in the same assembly "that the provinces were depopulated and tyrannised over, that the courts of justice were become base and wicked, and that he desired to provide for and to remedy that evil," the Roman people then signified their good will, not with a shout, but with a universal uproar.

[16]

But now men are on the watch towers; they observe how every one of you behaves himself in respecting religion and in preserving the laws. They see that, ever since the passing of the law for restoring the power of the tribunes, only one senator, and he too a very insignificant one, has been condemned. And though they do not blame this, yet they have nothing which they can very much commend. For there is no credit in being upright in a case where there is no one who is either able or who endeavours to corrupt one. This is a trial in which you will be deciding about the defendant, the Roman people about you;—by the example of what happens to this man it will be determined whether, when senators are the judges, a very guilty and a very rich man can be condemned. Moreover, he is a criminal of such a sort, that there is absolutely nothing whatever in him except the greatest crimes, and excessive riches; so that if he be acquitted, no other opinion can be formed of the matter except that which is the most discreditable possible. Such numerous and enormous vices as his will not be considered to have been canceled by influence, by family connection, by some things which may have been done well, or even by the minor vices of flattery and subservience. In short, I will conduct the cause in this manner; I will bring forward things of such a sort, so well known, so proved by evidence, so important, and so undeniable, that no one shall venture to use his influence to obtain from you the acquittal of that man; for I have a sure path and method by which I can investigate and become acquainted with all their endeavours. The matter will be so managed by me that not only the ears but even the eyes of the Roman people shall seem to be present at all their counsels. You have in your power to remove and to eradicate the disgrace and infamy which has now for many years

attached to your order. It is evident to all men, that since these tribunals have been established which we now have, there has never been a bench of judges of the same splendour and dignity as this. If anything is done wrongly in this case, all men will think not that other more capable judges should be appointed of the same order of men, which is not possible; but that another order must be sought for, from which to select the judges for the future.

[17]

On which account, in the first place, I beg this of the immortal gods, which I seem to myself to have hopes of too, that in this trial no one may be found to be wicked except him who has long since been found to be such; secondly, if there are many wicked men, I promise this to you, O judges, I promise this to the Roman people, that my life shall fail rather than my vigour and perseverance in prosecuting their iniquity. But that iniquity, which, if it should be committed, I promise to prosecute severely, with however much trouble and danger to myself, and whatever enmities I may bring on myself by so doing, you, O Marcus Glabrio, can guard against ever taking place by your wisdom, and authority, and diligence. Do you undertake the cause of the tribunals. Do you undertake the cause of impartiality, of integrity, of good faith and of religion. Do you undertake the cause of the senate; that, being proved worthy by its conduct in this trial, it may come into favour and popularity with the Roman people. Think who you are, and in what a situation you are placed; what you ought to give to the Roman people, what you ought to repay to your ancestors. Let the recollection of the Acilian law passed by your father occur to your mind, owing to which law the Roman people has had this advantage of most admirable decisions and very strict judges in cases of extortion. High authorities surround you which will not suffer you to forget your family credit; which will remind you day and night that your father was a most brave man, your grandfather a most wise one, and your father-in-law a most worthy man. Wherefore, if you have inherited the vigour and energy of your father Glabrio in resisting audacious men; if you have inherited the prudence of your grandfather Scaevola in foreseeing intrigues which are prepared against your fame and that of your fellow-judges; if you have any share of the constancy of your father-in-law Scaurus, so that no one can move you from your genuine and deliberate opinion, the

Roman people will understand that with an upright and honourable praetor, and a carefully selected bench of judges, abundance of wealth has more influence in bringing a criminal into suspicion, than in contributing to his safety.

[18]

I am resolved not to permit the praetor or the judges to be hanged in this cause. I will not permit the matter to be delayed till the lictors of the consuls can go and summon the Sicilians, whom the servants of the consuls elect did not influence before, when by an unprecedented course of proceeding they sent for them all; I will not permit those miserable men, formerly the allies and friends of the Roman people, now their slaves and suppliants, to lose not only their rights and fortunes by their tyranny, but to be deprived of even the power of bewailing their condition; I will not, I say, when the cause has been summed up by me, permit them after a delay of forty days has intervened, then at last to reply to me when my accusation has already fallen into oblivion through lapse of time; I will not permit the decision to be given when this crowd collected from all Italy has departed from Rome, which has assembled from all quarters at the same time on account of the comitia, of the games, and of the census. The reward of the credit gained by your decision, or the danger arising from the unpopularity which will accrue to you if you decide unjustly, I think ought to belong to you; the labour and anxiety to me; the knowledge of what is done and the recollection of what has been said by every one, to all. I will adopt this course, not an unprecedented one, but one that has been adopted before, by those who are now the chief men of our state,—the course, I mean, of at once producing the witnesses. What you will find novel, O judges, is this, that I will so marshal my witnesses as to unfold the whole of my accusation; that when I have established it by examining my witnesses, by arguments, and by my speech, then I shall show the agreement of the evidence with my accusation: so that there shall be no difference between the established mode of prosecuting, and this new one, except that, according to the established mode, when everything has been said which is to be said, then the witnesses are produced; here they shall be produced as each count is brought forward; so that the other side shall have the same opportunity of examining them, of arguing and making speeches or of attacking their evidence. If there be any

one who prefers an uninterrupted speech and the old mode of conducting a prosecution without any break, he shall have it in some other trial. But for this time let him understand that what we do is done by us on compulsion, (for we only do it with the design of opposing the artifice of the opposite party by our prudence.) This will be the first part of the prosecution. We say that Caius Verres has not only done many licentious acts, many cruel ones, towards Roman citizens, and towards some of the allies, many wicked acts against both gods and men; but especially that he has taken away forty million sesterces out of Sicily contrary to the laws. We will make this so plain to you by witnesses, by private documents, and by public records that you shall decide that, even if we had abundant space and leisure days for making a long speech without any inconvenience, still there was no need at all of a long speech in this matter.

SECOND PHILIPPIC AGAINST ANTONY

TRANSLATED BY C. D. YONGE

TO what destiny of mine, O conscript fathers, shall I say that it is owing, that none for the last twenty years has been an enemy to the republic without at the same time declaring war against me? Nor is there any necessity for naming any particular person; you yourselves recollect instances in proof of my statement. They have all hitherto suffered severer punishments than I could have wished for them; but I marvel that you, O Antonius, do not fear the end of those men whose conduct you are imitating. And in others I was less surprised at this. None of those men of former times was a voluntary enemy to me; all of them were attacked by me for the sake of the republic. But you, who have never been injured by me, not even by a word, in order to appear more audacious than Catiline, more frantic than Clodius, have of your own accord attacked me with abuse, and have considered that your alienation from me would be a recommendation of you to impious citizens.

[1]

What am I to think?—that I have been despised? I see nothing either in my life, or in my influence in the city, or in my exploits, or even in the moderate abilities with which I am endowed, which Antonius can despise. Did he think that it was easiest to disparage me in the senate?—a body which has borne its testimony in favor of many most illustrious citizens that they governed the republic well, but in favor of me alone, of all men, that I preserved it. Or did he wish to contend with me in a rivalry of eloquence? This, indeed, is an act of generosity; for what could be a more fertile or richer subject for me, than to have to speak in defense of myself, and against Antonius? This, in fact, is the truth. He thought it impossible to prove to the satisfaction of those men who resembled himself, that he was an enemy to his country, if he was not also an enemy to me. And before I make him any reply on the other topics of his speech, I will say a few words respecting the friendship formerly subsisting between us, which he has accused me of violating—for that I consider a most serious charge.

[2]

He has complained that I pleaded once against his interest. Was I not to plead against one with whom I was quite unconnected, in behalf of an intimate acquaintance, of a dear friend? Was I not to plead against interest acquired not by hopes of virtue, but by the disgrace of youth? Was I not to plead against an injustice which that man procured to be done by the obsequiousness of a most iniquitous interposer of his veto, not by any law regulating the privileges of the pretor? But I imagine that this was mentioned by you, in order that you might recommend yourself to the citizens, if they all recollected that you were the son-in-law of a freedman, and that your children were the grandsons of Quintus Fabius, a freedman.

[3]

But you had entirely devoted yourself to my principles (for this is what you said); you had been in the habit of coming to my house. In truth, if you had done so, you would more have consulted your own character and your reputation for chastity. But you did not do so, nor, if you had wished it, would Caius Curio have ever suffered you to do so.

[4]

But I availed myself of your friendly assistance. Of what assistance? Altho the instance which you cite I have myself at all times openly admitted. I preferred confessing that I was under obligations to you, to letting myself appear to any foolish person not sufficiently grateful. However, what was the kindness that you did me? not killing me at Brundisium? Would you then have slain the man whom the conqueror himself, who conferred on you, as you used to boast, the chief rank among all his robbers, had desired to be safe, and had enjoined to go to Italy? Grant that you could have slain him, is not this, O conscript fathers, such a kindness as is done by banditti, who are contented with being able to boast that they have granted their lives to all those men whose lives they have not taken? and if that were really a kindness, then those who slew that man by whom they themselves had been saved, and whom you yourself are in the habit of styling most illustrious men, would never have acquired such immortal glory. But what sort of kindness is it, to have abstained from committing nefarious wickedness? It is a case in which it ought not to appear so delightful to me not to have been killed by you, as miserable, that it should have been in your power to do such a thing with impunity. However, grant that it was a kindness, since no greater kindness could be received from a robber; still in what point can you call me ungrateful? Ought I not to complain of the ruin of the republic, lest I should appear ungrateful toward you?

[5]

But he also read letters which he said that I had sent to him, like a man devoid of humanity and ignorant of the common usages of life. For who ever, who was even but slightly acquainted with the habits of polite men, produced in an assembly and openly read letters which had been sent to him by a friend, just because some quarrel had arisen between them? Is not this destroying all companionship in life, destroying the means by which absent friends converse together? How many jests are frequently put in letters, which, if they were produced in public, would appear stupid! How many serious opinions, which, for all that, ought not to be published! Let this be a proof of your utter ignorance of courtesy. Now mark, also, his incredible folly. What have you to oppose to

me, O you eloquent man, as you seem at least to Mustela Tamisus, and to Tiro Numisius? And while these men are standing at this very time in the sight of the senate with drawn swords, I, too, will think you an eloquent man if you will show how you would defend them if they were charged with being assassins. However, what answer would you make if I were to deny that I ever sent those letters to you? By what evidence could you convict me? By my handwriting? Of handwriting indeed you have a lucrative knowledge. 2 How can you prove it in that manner? for the letters are written by an amanuensis. By this time I envy your teacher, who for all that payment which I shall mention presently, has taught you to know nothing.

[6]

You have said that Publius Clodius was slain by my contrivance. What would men have thought if he had been slain at the time when you pursued him in the forum with a drawn sword, in the sight of all the Roman people; and when you would have settled his business if he had not thrown himself up the stairs of a bookseller's shop, and shutting them against you, checked your attack by that means? And I confess that at that time I favored you, but even you yourself do not say that I had advised your attempt. But as for Milo, it was not possible even for me to favor his action; for he had finished the business before any one could suspect that he was going to do it. Oh, but I advised it! I suppose Milo was a man of such a disposition that he was not able to do a service to the republic if he had not some one to advise him to do it. But I rejoiced at it! Well, suppose I did; was I to be the only sorrowful person in the city, when every one else was in such delight? Altho that inquiry into the death of Publius Clodius was not instituted with any great wisdom. For what was the reason for having a new law to inquire into the conduct of the man who had slain him, when there was a form of inquiry already established by the laws? However, an inquiry was instituted. And have you now been found, so many years afterward, to say a thing which, at the time that the affair was under discussion, no one ventured to say against me? But as to the assertion that you have dared to make, and that at great length, too, that it was by my means that Pompeius was alienated from his friendship with Cæsar, and that on that account it was my fault that the civil war was originated; in that you have not erred so

much in the main facts, as (and that is of the greatest importance) in the times.

[7]

When Marcus Bibulus, a most illustrious citizen, was consul, I omitted nothing which I could possibly do or attempt to draw off Pompeius from his union with Cæsar. In which, however, Cæsar was more fortunate than I, for he himself drew off Pompeius from his intimacy with me. But afterward, when Pompeius joined Cæsar with all his heart, what could have been my object in attempting to separate them then? It would have been the part of a fool to hope to do so, and of an impudent man to advise it. However, two occasions did arise, on which I gave Pompeius advice against Cæsar. You are at liberty to find fault with my conduct on those occasions if you can. One was when I advised him not to continue Cæsar's government for five years more. The other, when I advised him not to permit him to be considered as a candidate for the consulship when he was absent. And if I had been able to prevail on him in either of these particulars, we should never have fallen into our present miseries.

[8]

Moreover, I also, when Pompeius had now devoted to the service of Cæsar all his own power, and all the power of the Roman people, and had begun when it was too late to perceive all those things which I had foreseen long before, and when I saw that a nefarious war was about to be waged against our country, I never ceased to be the adviser of peace, and concord, and some arrangement. And that language of mine was well known to many people,—“I wish, O Cnæus Pompeius, that you had either never joined in a confederacy with Caius Cæsar, or else that you had never broken it off. The one conduct would have become your dignity, and the other would have been suited to your prudence.” This, O Marcus Antonius, was at all times my advice both respecting Pompeius and concerning the republic. And if it had prevailed, the republic would still be standing, and you would have perished through your own crimes, and indigence, and infamy.

[9]

But these are all old stories now. This charge, however, is quite a modern one: that Cæsar was slain by my contrivance. I am afraid, O conscript fathers, lest I should appear to you to have brought up a sham accuser against myself (which is a most disgraceful thing to do); a man not only to distinguish me by the praises which are my due, but to load me also with those which do not belong to me. For who ever heard my name mentioned as an accomplice in that most glorious action? and whose name has been concealed who was in the number of that gallant band? Concealed, do I say? Whose name was there which was not at once made public? I should sooner say that some men had boasted in order to appear to have been concerned in that conspiracy, tho they had in reality known nothing of it, than that any one who had been an accomplice in it could have wished to be concealed.

[10]

Moreover, how likely it is, that among such a number of men, some obscure, some young men who had not the wit to conceal any one, my name could possibly have escaped notice? Indeed, if leaders were wanted for the purpose of delivering the country, what need was there of my instigating the Bruti, one of whom saw every day in his house the image of Lucius Brutus, and the other saw also the image of Ahala? Were these the men to seek counsel from the ancestors of others rather than from their own? and out of doors rather than at home? What! Caius Cassius, a man of that family which could not endure, I will not say the domination, but even the power of any individual,—he, I suppose, was in need of me to instigate him? a man who, even without the assistance of these other most illustrious men, would have accomplished this same deed in Cilicia, at the mouth of the river Cydnus, if Cæsar had brought his ships to that bank of the river which he had intended, and not to the opposite one. Was Cnæus Domitius spurred on to seek to recover his dignity, not by the death of his father, a most illustrious man, nor by the death of his uncle, nor by the deprivation of his own dignity, but by my advice and authority? Did I persuade Caius Trebonius, a man whom I should not have ventured even to advise? On which account the republic owes him even a larger debt of gratitude, because he preferred the liberty of the Roman people to the friendship of one man, and because he preferred overthrowing arbitrary power to sharing it. Was I the

instigator whom Lucius Tillius Cimber followed? a man whom I admired for having performed that action, rather than ever expected that he would perform it; and I admired him on this account, that he was unmindful of the personal kindnesses which he had received, but mindful of his country. What shall I say of the two Servilii? Shall I call them Cascas, or Ahalas? And do you think that those men were instigated by my authority rather than by their affection for the republic? It would take a long time to go through all the rest; and it is a glorious thing for the republic that they were so numerous, and a most honorable thing also for themselves.

[11]

But recollect, I pray you, how that clever man convicted me of being an accomplice in the business. When Cæsar was slain, says he, Marcus Brutus immediately lifted up on high his bloody dagger, and called on Cicero by name, and congratulated him on liberty being recovered. Why on me above all men? Because I knew of it beforehand? Consider rather whether this was not his reason for calling on me, that, when he had performed an action very like those which I myself had done, he called me above all men to witness that he had been an imitator of my exploits. But you, O stupidest of all men, do not you perceive, that if it is a crime to have wished that Cæsar should be slain—which you accuse me of having wished—it is a crime also to have rejoiced at his death? For what is the difference between a man who has advised an action, and one who has approved of it? or what does it signify whether I wished it to be done, or rejoice that it has been done? Is there any one then, except you yourself and those men who wished him to become a king, who was unwilling that that deed should be done, or who disapproved of it after it was done? All men, therefore, are guilty as far as this goes. In truth, all good men, as far as it depended on them, bore a part in the slaying of Cæsar. Some did not know how to contrive it, some had not courage for it, some had no opportunity,—every one had the inclination.

[12]

Shall we then examine your conduct from the time when you were a boy? I think so. Let us begin at the beginning. Do you recollect that, while you were still clad in the *pretexta*, you became a bankrupt? That was the fault of your father, you will say. I admit

that. In truth, such a defense is full of filial affection. But it is peculiarly suited to your own audacity, that you sat among the fourteen rows of the knights, tho by the Roscian law there was a place appointed for bankrupts, even if any one had become such by the fault of fortune and not by his own. You assumed the manly gown, which you soon made a womanly one; at first a public prostitute, with a regular price for your wickedness, and that not a low one. But very soon Curio stepped in, who carried you off from your public trade, and, as if he had bestowed a matron's robe upon you, settled you in a steady and durable wedlock. No boy bought for the gratification of passion was ever so wholly in the power of his master as you were in Curio's. How often has his father turned you out of his house? How often has he placed guards to prevent you from entering? while you, with night for your accomplice, lust for your encourager, and wages for your compeller, were let down through the roof. That house could no longer endure your wickedness.

[13]

Do you not know I am speaking of matters with which I am thoroughly acquainted? Remember that time when Curio, the father, lay weeping in his bed; his son throwing himself at my feet with tears recommended to me you; he entreated me to defend you against his own father, if he demanded six millions of sesterces of you; for that he had been bail for you to that amount. And he himself, burning with love, declared positively that because he was unable to bear the misery of being separated from you, he should go into banishment. And at that time what misery of that most flourishing family did I allay, or rather did I remove! persuaded the father to pay the son's debts; to release the young man, endowed as he was with great promise of courage and ability, by the sacrifice of part of his family estate; and to use his privileges and authority as a father to prohibit him not only from all intimacy with, but from every opportunity of meeting you. When you recollected that all this was done by me, would you have dared to provoke me by abuse if you had not been trusting to those swords which we behold.

[14]

But let us say no more of your profligacy and debauchery. There are things which it is not possible for me to mention with honor;

but you are all the more free for that, inasmuch as you have not scrupled to be an actor in scenes which a modest enemy can not bring himself to mention.

[15]

Mark now, O conscript fathers, the rest of his life, which I will touch upon rapidly. For my inclination hastens to arrive at those things which he did in the time of the civil war, amid the greatest miseries of the republic, and at those things which he does every day. And I beg of you, tho they are far better known to you than they are to me, still to listen attentively, as you are doing, to my relation of them. For in such cases as this, it is not the mere knowledge of such actions that ought to excite the mind, but the recollection of them also. And we must at once go into the middle of them, lest otherwise we should be too long in coming to the end.

[16]

He was very intimate with Clodius at the time of his tribuneship—he, who now enumerates the kindnesses which he did me. He was the firebrand to handle all conflagrations; and even in his house he attempted something. He himself well knows what I allude to. From thence he made a journey to Alexandria, in defiance of the authority of the senate, and against the interests of the republic, and in spite of religious obstacles; but he had Gabinius for his leader, with whom whatever he did was sure to be right. What were the circumstances of his return from thence? What sort of return was it? He went from Egypt to the farthest extremity of Gaul before he returned home. And what was his home? For at that time every man had possession of his own house; and you had no house anywhere, O Antonius. House, do you say? What place was there in the whole world where you could set your foot on anything that belonged to you, except Mienum, which you farmed with your partners, as if it had been Sisapo?

[17]

You came from Gaul to stand for the questorship. Dare to say that you went to your own father before you came to me. I had already received Cæsar's letters, begging me to allow myself to accept of your excuses; and, therefore, I did not allow you even to

mention thanks. After that, I was treated with respect by you, and you received attentions from me in your canvass for the questorship. And it was at that time, indeed, that you endeavored to slay Publius Clodius in the forum, with the approbation of the Roman people; and tho you made the attempt of your own accord, and not at my instigation, still you clearly alleged that you did not think, unless you slew him, that you could possibly make amends to me for all the injuries which you had done me. And this makes me wonder why you should say that Milo did that deed at my instigation; when I never once exhorted you to do it, who of your own accord attempted to do me the same service. Altho, if you had persisted in it, I should have preferred allowing the action to be set down entirely to your own love of glory rather than to my influence.

[18]

It was you, you, I say, O Marcus Antonius, who gave Caius Cæsar, desirous as he already was to throw everything into confusion, the principal pretext for waging war against his country. For what other pretense did he allege? What cause did he give for his own most frantic resolution and action, except that the power of interposition by the veto had been disregarded, the privileges of the tribunes taken away, and Antonius's rights abridged by the senate? I say nothing of how false, how trivial these pretenses were; especially when there could not possibly be any reasonable cause whatever to justify any one in taking up arms against his country. But I have nothing to do with Cæsar. You must unquestionably allow, that the cause of that ruinous war existed in your person.

[19]

O miserable man, if you are aware, more miserable still if you are not aware, that this is recorded in writings, is handed down to men's recollection, that our very latest posterity in the most distant ages will never forget this fact, that the consuls were expelled from Italy, and with them Cnæus Pompeius, who was the glory and light of the empire of the Roman people; that all the men of consular rank, whose health would allow them to share in that disaster and that flight, and the pretors, and men of pretorian rank, and the tribunes of the people, and a great part of the senate, and all the flower of the youth of the city, and, in a word, the republic itself

was driven out and expelled from its abode. As, then, there is in seeds the cause which produces trees and plants, so of this most lamentable war you were the seed. Do you, O conscript fathers, grieve that these armies of the Roman people have been slain? It is Antonius who slew them. Do you regret your most illustrious citizens? It is Antonius, again, who has deprived you of them. The authority of this order is overthrown; it is Antonius who has overthrown it. Everything, in short, which we have seen since that time (and what misfortune is there that we have not seen?) we shall, if we argue rightly, attribute wholly to Antonius. As Helen was to the Trojans, so has that man been to this republic—the cause of war, the cause of mischief, the cause of ruin. The rest of his tribuneship was like the beginning. He did everything which the senate had labored to prevent, as being impossible to be done consistently with the safety of the republic. And see, now, how gratuitously wicked he was in accomplishing his wickedness.

[20]

Then in this same tribuneship, when Cæsar while on his way into Spain had given him Italy to trample on, what journeys did he make in every direction! how did he visit the municipal towns! I know that I am only speaking of matters which have been discussed in every one's conversation, and that the things which I am saying and am going to say are better known to every one who was in Italy at that time, than to me, who was not. Still I mention the particulars of his conduct, altho my speech can not possibly come up to your own personal knowledge. When was such wickedness ever heard of as existing upon earth? or such shamelessness? or such open infamy?

[21]

The tribune of the people was borne along in a chariot, lictors crowned with laurels preceded him, among whom, on an open litter, was carried an actress; whom honorable men, citizens of the different municipalities, coming out from their towns under compulsion to meet him, saluted not by the name by which she was well known on the stage, but by that of Volumnia. 3 A car followed full of pimps; then a lot of debauched companions; and then his mother, utterly neglected, followed the mistress of her profligate son, as if she had been her daughter-in-law. Oh, the disastrous

fecundity of that miserable woman! With the marks of such wickedness as this did that fellow stamp every municipality, and prefecture, and colony, and, in short, the whole of Italy.

[22]

When victorious, you returned with the legions from Thessaly to Brundisium. There you did not put me to death. It was a great kindness! for I confess that you could have done it. But there was no one of those men who were with you at that time, who did not think that I ought to be spared. For so great is men's affection for their country, that I was sacred even in the eyes of your legions, because they recollected that the country had been saved by me. However, grant that you did give me what you did not take away from me, and that I have my life as a present from you, since it was not taken from me by you; was it possible for me, after all your insults, to regard that kindness of yours as I regarded it at first, especially after you saw that you must hear this reply from me?

[23]

You came to Brundisium, to the bosom and embraces of your actress. What is the matter? Am I speaking falsely? How miserable is it not to be able to deny a fact which it is disgraceful to confess! If you had no shame before the municipal towns, had you none even before your veteran army? For what soldier was there who did not see her at Brundisium? who was there who did not know that she had come so many days' journey to congratulate you? who was there who did not grieve that he was so late in finding out how worthless a man he had been following?

[24]

Again, you made a tour through Italy, with that same actress for your companion. Cruel and miserable was the way in which you led your soldiers into the towns; shameful was the pillage in every city, of gold and silver, and above all, of wine. And besides all this, while Cæsar knew nothing about it, as he was at Alexandria, Antonius, by the kindness of Cæsar's friends, was appointed his master of the horse. Then he thought that he could live with Hippias by virtue of his office, and that he might give horses which were the property of the state to Sergius the buffoon. At that time he had selected for

himself to live in, not the house which he now dishonors, but that of Marcus Piso. Why need I mention his decrees, his robberies, the possessions of inheritances which were given him, and those, too, which were seized by him? Want compelled him; he did not know where to turn. That great inheritance from Lucius Rubrius, and that other from Lucius Turselius, had not yet come to him. He had not yet succeeded as an unexpected heir to the place of Cnæus Pompeius, and of many others who were absent. He was forced to live like a robber, having nothing beyond what he could plunder from others.

[25]

However, we will say nothing of these things, which are acts of a more hardy sort of villainy. Let us speak rather of his meaner descriptions of worthlessness. You, with those jaws of yours, and those sides of yours, and that strength of body suited to a gladiator, drank such quantities of wine at the marriage of Hippias, that you were forced to vomit the next day in the sight of the Roman people. O action disgraceful not merely to see, but even to hear of. If this had happened to you at supper amid those vast drinking cups of yours, who would not have thought it scandalous? But in an assembly of the Roman people, a man holding a public office, a master of the horse, to whom it would have been disgraceful even to belch, vomiting filled his own bosom and the whole tribunal with fragments of what he had been eating reeking with wine. But he himself confesses this among his other disgraceful acts. Let us proceed to his more splendid offenses.

[26]

Cæsar came back from Alexandria, fortunate, as he seemed at least to himself; but in my opinion no one can be fortunate who is unfortunate for the republic. The spear was set up in front of the temple of Jupiter Stator, and the property of Cnæus Pompeius Magnus—(miserable that I am, for even now that my tears have ceased to flow, my grief remains deeply implanted in my heart)—the property, I say, of Cnæus Pompeius the Great was submitted to the pitiless voice of the auctioneer. On that one occasion the state forgot its slavery, and groaned aloud; and tho men's minds were enslaved, as everything was kept under by fear, still the groans of the Roman people were free. While all men were waiting to see who

would be so impious, who would be so mad, who would be so declared an enemy to gods and to men as to dare to mix himself up with that wicked auction, no one was found except Antonius, even tho there were plenty of men collected round that spear 4 who would have dared anything else. One man alone was found to dare to do that which the audacity of every one else had shrunk from and shuddered at. Were you, then, seized with such stupidity—or, I should rather say, with such insanity—as not to see that if you, being of the rank in which you were born, acted as a broker at all, and above all as a broker in the case of Pompeius's property, you would be execrated and hated by the Roman people, and that all gods and all men must at once become and forever continue hostile to you? But with what violence did that glutton immediately proceed to take possession of the property of that man, to whose valor it had been owing that the Roman people had been more terrible to foreign nations, while his justice had made it dearer to them.

[27]

When, therefore, this fellow had begun to wallow in the treasures of that great man, he began to exult like a buffoon in a play, who has lately been a beggar, and has become suddenly rich. But, as some poet or other says,—

“Ill-gotten gain comes quickly to end.”

[28]

It is an incredible thing, and almost a miracle, how he in a few, not months, but days, squandered all that vast wealth. There was an immense quantity of wine, an excessive abundance of very valuable plate, much precious apparel, great quantities of splendid furniture, and other magnificent things in many places, such as one was likely to see belonging to a man who was not indeed luxurious, but who was very wealthy. Of all this in a few days, there was nothing left. What Charybdis was ever so voracious? Charybdis, do I say? Charybdis, if she existed at all, was only one animal. The ocean, I swear most solemnly, appears scarcely capable of having swallowed up such numbers of things so widely scattered, and distributed in such different places, with such rapidity. Nothing was shut up,

nothing sealed up, no list was made of anything. Whole storehouses were abandoned to the most worthless of men. Actors seized on this, actresses on that; the house was crowded with gamblers, and full of drunken men; people were drinking all day, and that, too, in many places; there were added to all this expense (for this fellow was not invariably fortunate) heavy gambling losses. You might see in the cellars of the slaves couches covered with the most richly embroidered counterpanes of Cnæus Pompeius. Wonder not, then, that all these things were so soon consumed. Such profligacy as that could have devoured not only the patrimony of one individual, however ample it might have been (as indeed his was), but whole cities and kingdoms.

[29]

And then his houses and gardens! Oh, the cruel audacity! Did you dare to enter into that house? Did you dare to cross that most sacred threshold? and to show your most profligate countenance to the household gods who protect that abode? A house which for a long time no one could behold, no one could pass by without tears! Are you not ashamed to dwell so long in that house? one in which, stupid and ignorant as you are, still you can see nothing which is not painful to you.

[30]

When you behold those beaks of ships in the vestibule, and those warlike trophies, do you fancy that you are entering into a house which belongs to you? It is impossible. Altho you are devoid of all sense and all feeling—as in truth you are—still you are acquainted with yourself, and with your trophies, and with your friends. Nor do I believe that you, either waking or sleeping, can ever act with quiet sense. It is impossible but that. were you ever so drunk and frantic—as in truth you are—when the recollection of the appearance of that illustrious man comes across you, you should be roused from sleep by your fears, and often stirred up to madness if awake. I pity even the walls and the roof. For what had that house ever beheld except what was modest, except what proceeded from the purest principles and from the most virtuous practise. For that man was, O conscript fathers, as you yourselves know, not only illustrious abroad, but also admirable at home; and not more praiseworthy for his exploits in foreign countries, than for his

domestic arrangements. Now in his house every bedchamber is a brothel, and every dining-room a cookshop. Altho he denies this—do not, do not make inquiries: he is become economical. He desired that mistress of his to take possession of whatever belonged to her, according to the laws of the Twelve Tables. He has taken his keys from her, and turned her out of doors. What a well-trying citizen! of what proved virtue is he! the most honorable passage in whose life is the one when he divorced himself from this actress.

[31]

Tho you yourself took no personal share in it, partly through timidity, partly through profligacy, you had tasted, or rather had sucked in, the blood of fellow citizens: you had been in the battle of Pharsalia as a leader; you had slain Lucius Domitius, a most illustrious and highborn man; you had pursued and put to death in the most barbarous manner many men who had escaped from the battle, and whom Cæsar would perhaps have saved, as he did some others.

[32]

And, after having performed these exploits, what was the reason why you did not follow Cæsar into Africa—especially when so large a portion of the war was still remaining? And accordingly, what place did you obtain about Cæsar's person after his return from Africa? What was your rank? He whose questor you had been when general, whose master of the horse when he was dictator, to whom you had been the chief cause of war, the chief instigator of cruelty, the sharer of his plunder, his son, as you yourself said, by inheritance, proceeded against you for the money which you owed for the house and gardens, and for the other property which you had bought at that sale. At first you answered fiercely enough; and that I may not appear prejudiced against you in every particular, you used a tolerably just and reasonable argument. "What, does Caius Cæsar demand money of me? Why should he do so, any more than I should claim it of him? Was he victorious without my assistance? No; and he never could have been. It was I who supplied him with a pretext for civil war; it was I who proposed mischievous laws; it was I who took up arms against the consuls and generals of the Roman people, against the senate and people of Rome, against the gods of the country. against its altars and hearths, against the

country itself. Has he conquered for himself alone? Why should not those men whose common work the achievement is, have the booty also in common?" You were only claiming your right, but what had that to do with it? He was the more powerful of the two.

[33]

Oh, how splendid was that eloquence of yours, when you haranged the people stark naked! What could be more foul than this? more shameful than this? more deserving of every sort of punishment? Are you waiting for me to prick you more? This that I am saying must tear you and bring blood enough if you have any feeling at all. I am afraid that I may be detracting from the glory of some most eminent men. Still my indignation shall find a voice. What can be more scandalous than for that man to live who placed a diadem on a man's head when every one confesses that that man was deservedly slain who rejected it? And, moreover, he caused it to be recorded in the annals, under the head of Lupercalia, "That Marcus Antonius, the consul, by command of the people, had offered the kingdom to Caius Cæsar, perpetual dictator; and that Cæsar had refused to accept it." I now am not much surprised at your seeking to disturb the general tranquillity; at your hating not only the city but the light of day; and at your living with a pack of abandoned robbers, disregarding the day, and yet regarding nothing beyond the day. For where can you be safe in peace? What place can there be for you where laws and courts of justice have sway, both of which you, as far as in you lay, destroyed by the substitution of kingly power? Was it for this that Lucius Tarquinius was driven out; that Spurius Cassius, and Spurius Mælius, and Marcus Manlius were slain; that many years afterward a king might be established at Rome by Marcus Antonius, tho the bare idea was impiety? However, let us return to the auspices.

[34]

Oh, what a splendid progress of yours was that in the months of April and May, when you attempted even to lead a colony to Capua! How you made your escape from thence, or rather how you barely made your escape, we all know. And now you are still threatening that city. I wish you would try, and we should not then be forced to say "barely." However, what a splendid progress of yours that was! Why need I mention your preparations for banquets, why your

frantic hard drinking? Those things are only an injury, to yourself; these are injuries to us. We thought that a great blow was inflicted on the republic when the Campanian district was released from the payment of taxes, in order to be given to the soldiery, but you have divided it among your partners in drunkenness and gambling. I tell you, O conscript fathers, that a lot of buffoons and actresses have been settled in the district of Campania. Why should I now complain of what has been done in the district of Leontini? Altho formerly these lands of Campania and Leontini were considered part of the patrimony of the Roman people, and were productive of great revenue, and very fertile. You gave your physician three thousand acres; what would you have done if he had cured you? and two thousand to your master of oratory; what would you have done if he had been able to make you eloquent?

[35]

In public transactions nothing is more authoritative than law; in private affairs the most valid of all deeds is a will. Of the laws, some he abolished without giving the least notice; others he gave notice of bills to abolish. Wills he annulled; tho they have been at all times held sacred even in the case of the very meanest of the citizens. As for the statues and pictures which Cæsar bequeathed to the people, together with his gardens, those he carried away, some to the house which belonged to Pompeius, and some to Scipio's villa.

[36]

And are you then diligent in doing honor to Cæsar's memory? Do you love him even now that he is dead? What greater honor had he obtained than that of having a holy cushion, an image, a temple, and a priest? As then Jupiter, and Mars, and Quirinus have priests, so Marcus Antonius is the priest of the god Julius. Why then do you delay? why are you not inaugurated? Choose a day. select some one to inaugurate you; we are colleags; no one will refuse, O you detestable man, whether you are the priest of a tyrant, or of a dead man! I ask you, then, whether you are ignorant what day this is? Are you ignorant that yesterday was the fourth day of the Roman games in the Circus? and that you yourself submitted a motion to the people, that a fifth day should be added besides, in honor of Cæsar? Why are we not all clad in the pretexta? Why are we permitting the honor which by your law was appointed for Cæsar to be deserted?

Had you no objection to so holy a day being polluted by the addition of supplications, while you did not choose it to be so by the addition of ceremonies connected with a sacred cushion? Either take away religion in every case, or preserve it in every case.

[37]

Recollect then, O Marcus Antonius, that day on which you abolished the dictatorship. Set before you the joy of the senate and people of Rome; compare it with this infamous market held by you and by your friends, and then you will understand how great is the difference between praise and profit. But in truth, just as some people, through some disease which has blunted the senses, have no conception of the niceness of food, so men who are lustful, avaricious, and criminal, have no taste for true glory. But if praise can not allure you to act rightly, still can not even fear turn you away from the most shameful actions? You are not afraid of the courts of justice. If it is because you are innocent, I praise you; if because you trust in your power of overbearing them by violence, are you ignorant of what that man has to fear, who on such an account as that does not fear the courts of justice?

[38]

But if you are not afraid of brave men and illustrious citizens, because they are prevented from attacking you by your armed retinue, still, believe me, your own fellows will not long endure you. And what a life is it, day and night to be fearing danger from one's own people! Unless, indeed, you have men who are bound to you by greater kindnesses than some of those men by whom he was slain were bound to Cæsar; or unless there are points in which you can be compared with him.

[39]

In that man were combined genius, method, memory, literature, prudence, deliberation, and industry. He had performed exploits in war which, tho' calamitous for the republic, were nevertheless mighty deeds. Having for many years aimed at being a king, he had with great labor, and much personal danger, accomplished what he intended. He had conciliated the ignorant multitude by presents, by monuments, by largesses of food, and by banquets; he had bound his own party to him by rewards, his adversaries by the appearance

of clemency. Why need I say much on such a subject? He had already brought a free city, partly by fear, partly by patience, into a habit of slavery.

[40]

With him I can, indeed, compare you as to your desire to reign; but in all other respects you are in no degree to be compared to him. But from the many evils which by him have been burnt into the republic, there is still this good: that the Roman people has now learnt how much to believe every one, to whom to trust itself, and against whom to guard. Do you never think on these things? And do you not understand that it is enough for brave men to have learnt how noble a thing it is as to the act, how grateful it is as to the benefit done, how glorious as to the fame acquired, to slay a tyrant? When men could not bear him, do you think they will bear you? Believe me, the time will come when men will race with one another to do this deed, and when no one will wait for the tardy arrival of an opportunity.

[41]

Consider, I beg you, Marcus Antonius, do some time or other consider the republic: think of the family of which you are born, not of the men with whom you are living. Be reconciled to the republic. However, do you decide on your conduct. As to mine, I myself will declare what that shall be. I defended the republic as a young man; I will not abandon it now that I am old. I scorned the sword of Catiline; I will not quail before yours. No; I will rather cheerfully expose my own person, if the liberty of the city can be restored by my death.

ON DUTIES

TRANSLATED BY WALTER MILLER

[1]

1. Cato, who was of about the same years, Marcus, my son, as that Publius Scipio who first bore the surname of Africanus, has given us the statement that Scipio used to say that he was never less idle than when he had nothing to do and never less lonely than when he was alone. An admirable sentiment, in truth, and becoming to a great and wise man. It shows that even in his leisure hours his thoughts were occupied with public business and that he used to commune with himself when alone; and so not only was he never unoccupied, but he sometimes had no need for company. The two conditions, then, that prompt others to idleness—leisure and solitude—only spurred him on. I wish I could say the same of myself and say it truly. But if by imitation I cannot attain to such excellence of character, in aspiration, at all events, I approach it as nearly as I can; for as I am kept by force of armed treason away from practical politics and from my practice at the bar, I am now leading a life of leisure. For that reason I have left the city and, wandering in the country from place to place, I am often alone.

[2]

But I should not compare this leisure of mine with that of Africanus, nor this solitude with his. For he, to find leisure from his splendid services to his country, used to take a vacation now and then and to retreat from the assemblies and the throngs of men into solitude, as into a haven of rest. But my leisure is forced upon me by want of public business, not prompted by any desire for repose. For now that the senate has been abolished and the courts have been closed, what is there, in keeping with my self-respect, that I can do either in the senate chamber or in the forum?

[3]

So, although I once lived amid throngs of people and in the greatest publicity, I am now shunning the sight of the miscreants with whom the world abounds and withdrawing from the public eye as far as I may, and I am often alone. But I have learned from philosophers that among evils one ought not only to choose the least, but also to extract even from these any element of good that they may contain. For that reason, I am turning my leisure to account—though it is not such repose as the man should be entitled to who once brought the state repose from civil strife—and

I am not letting this solitude, which necessity and not my will imposes on me, find me idle.

[4]

And yet, in my judgment, Africanus earned the higher praise. For no literary monuments of his genius have been published, we have no work produced in his leisure hours, no product of his solitude. From this fact we may safely infer that, because of the activity of his mind and the study of those problems to which he used to direct his thought, he was never unoccupied, never lonely. But I have not strength of mind enough by means of silent meditation to forget my solitude; and so I have turned all my attention and endeavour to this kind of literary work. I have, accordingly, written more in this short time since the downfall of the republic than I did in the course of many years, while the republic stood.

[5]

2. But, my dear Cicero, while the whole field of philosophy is fertile and productive and no portion of it barren and waste, still no part is richer or more fruitful than that which deals with moral duties; for from these are derived the rules for leading a consistent and moral life. And therefore, although you are, as I trust, diligently studying and profiting by these precepts under the direction of our friend Cratippus, the foremost philosopher of the present age, I still think it well that your ears should be dinned with such precepts from every side and that, if it could be, they should hear nothing else.

[6]

These precepts must be laid to heart by all who look forward to a career of honour, and I am inclined to think that no one needs them more than you. For you will have to fulfil the eager anticipation that you will imitate my industry, the confident expectation that you will emulate my course of political honours, and the hope that you will, perhaps, rival my name and fame. You have, besides, incurred a heavy responsibility on account of Athens and Cratippus: for, since you have gone to them for the purchase, as it were, of a store of liberal culture, it would be a great discredit to you to return empty-handed, thereby disgracing the high reputation of the city and of your master. Therefore, put forth the best mental effort of which you are capable; work as hard as you

can (if learning is work rather than pleasure); do your very best to succeed; and do not, when I have put all the necessary means at your disposal, allow it to be said that you have failed to do your part.

But enough of this. For I have written again and again for your encouragement. Let us now return to the remaining section of our subject as outlined.

[7]

Panaetius, then, has given us what is unquestionably the most thorough discussion of moral duties that we have, and I have followed him in the main—but with slight modifications. He classifies under three general heads the ethical problems which people are accustomed to consider and weigh: first, the question whether the matter in hand is morally right or morally wrong; second, whether it is expedient or inexpedient; third, how a decision ought to be reached, in case that which has the appearance of being morally right clashes with that which seems to be expedient. He has treated the first two heads at length in three books; but, while he has stated that he meant to discuss the third head in its proper turn, he has never fulfilled his promise.

[8]

And I wonder the more at this, because Posidonius, a pupil of his, records that Panaetius was still alive thirty years after he published those three books. And I am surprised that Posidonius has but briefly touched upon this subject in certain memoirs of his, and especially, as he states that there is no other topic in the whole range of philosophy so essentially important as this.

[9]

Now, I cannot possibly accept the view of those who say that that point was not overlooked but purposely omitted by Panaetius, and that it was not one that ever needed discussion, because there never can be such a thing as a conflict between expediency and moral rectitude. But with regard to this assertion, the one point may admit of doubt—whether that question which is third in Panaetius's classification ought to have been included or omitted altogether; but the other point is not open to debate—that it was included in

Panaetius's plan but left unwritten. For, if a writer has finished two divisions of a threefold subject, the third must necessarily remain for him to do. Besides, he promises at the close of the third book that he will discuss this division also in its proper turn.

[10]

We have also in Posidonius a competent witness to the fact. He writes in one of his letters that Publius Rutilius Rufus, who also was a pupil of Panaetius's, used to say that "as no painter had been found to complete that part of the Venus of Cos which Apelles had left unfinished (for the beauty of her face made hopeless any attempt adequately to represent the rest of the figure), so no one, because of the surpassing excellence of what Panaetius did complete, would venture to supply what he had left undone."

[11]

3. In regard to Panaetius's real intentions, therefore, no doubt can be entertained. But whether he was or was not justified in adding this third division to the inquiry about duty may, perhaps, be a matter for debate. For whether moral goodness is the only good, as the Stoics believe, or whether, as your Peripatetics think, moral goodness is in so far the highest good that everything else gathered together into the opposing scale would have scarcely the slightest weight, it is beyond question that expediency can never conflict with moral rectitude. And so, we have heard, Socrates used to pronounce a curse upon those who first drew a conceptual distinction between things naturally inseparable. With this doctrine the Stoics are in agreement in so far as they maintain that if anything is morally right, it is expedient, and if anything is not morally right, it is not expedient.

[12]

But if Panaetius were the sort of man to say that virtue is worth cultivating only because it is productive of advantage, as do certain philosophers who measure the desirableness of things by the standard of pleasure or of absence of pain, he might argue that expediency sometimes clashes with moral rectitude. But since he is a man who judges that the morally right is the only good, and that those things which come in conflict with it have only the appearance of expediency and cannot make life any better by their

presence nor any worse by their absence, it follows that he ought not to have raised a question involving the weighing of what seems expedient against what is morally right.

[13]

Furthermore, when the Stoics speak of the supreme good as “living conformably to Nature,” they mean, as I take it, something like this: that we are always to be in accord with virtue, and from all other things that may be in harmony with Nature to choose only such as are not incompatible with virtue. This being so, some people are of the opinion that it was not right to introduce this counterbalancing of right and expediency and that no practical instruction should have been given on this question at all.

And yet moral goodness, in the true and proper sense of the term, is the exclusive possession of the wise and can never be separated from virtue; but those who have not perfect wisdom cannot possibly have perfect moral goodness, but only a semblance of it.

[14]

And indeed these duties under discussion in these books the Stoics call “mean duties”; they are a common possession and have wide application; and many people attain to the knowledge of them through natural goodness of heart and through advancement in learning. But that duty which those same Stoics call “right” is perfect and absolute and “satisfies all the numbers,” as that same school says, and is attainable by none except the wise man.

[15]

On the other hand, when some act is performed in which we see “mean” duties manifested, that is generally regarded as fully perfect, for the reason that the common crowd does not, as a rule, comprehend how far it falls short of real perfection; but, as far as their comprehension does go, they think there is no deficiency. This same thing ordinarily occurs in the estimation of poems, paintings, and a great many other works of art: ordinary people enjoy and praise things that do not deserve praise. The reason for this, I suppose, is that those productions have some point of excellence which catches the fancy of the uneducated, because these have not the ability to discover the points of weakness in any particular piece

of work before them. And so, when they are instructed by experts, they readily abandon their former opinion.

4. The performance of the duties, then, which I am discussing in these books, is called by the Stoics a sort of second-grade moral goodness, not the peculiar property of their wise men, but shared by them with all mankind.

[16]

Accordingly, such duties appeal to all men who have a natural disposition to virtue. And when the two Decii or the two Scipios are mentioned as “brave men” or Fabricius [or Aristides] is called “the just,” it is not at all that the former are quoted as perfect models of courage or the latter as a perfect model of justice, as if we had in one of them the ideal “wise man.” For no one of them was wise in the sense in which we wish to have “wise” understood; neither were Marcus Cato and Gaius Laelius wise, though they were so considered and were surnamed “the wise.” Not even the famous Seven were “wise.” But because of their constant observance of “mean” duties they bore a certain semblance and likeness to wise men.

[17]

For these reasons it is unlawful either to weigh true morality against conflicting expediency, or common morality, which is cultivated by those who wish to be considered good men, against what is profitable; but we every-day people must observe and live up to that moral right which comes within the range of our comprehension as jealously as the truly wise men have to observe and live up to that which is morally right in the technical and true sense of the word. For otherwise we cannot maintain such progress as we have made in the direction of virtue.

So much for those who have won a reputation for being good men by their careful observance of duty.

[18]

Those, on the other hand, who measure everything by a standard of profits and personal advantage and refuse to have these outweighed by considerations of moral rectitude are accustomed, in considering any question, to weigh the morally right against what

they think the expedient; good men are not. And so I believe that when Panaetius stated that people were accustomed to hesitate to do such weighing, he meant precisely what he said—merely that “such was their custom,” not that such was their duty. And he gave it no approval; for it is most immoral to think more highly of the apparently expedient than of the morally right, or even to set these over against each other and to hesitate to choose between them.

What, then, is it that may sometimes give room for a doubt and seem to call for consideration? It is, I believe, when a question arises as to the character of an action under consideration.

[19]

For it often happens, owing to exceptional circumstances, that what is accustomed under ordinary circumstances to be considered morally wrong is found not to be morally wrong. For the sake of illustration, let us assume some particular case that admits of wider application: what more atrocious crime can there be than to kill a fellow-man, and especially an intimate friend? But if anyone kills a tyrant—be he never so intimate a friend—he has not laden his soul with guilt, has he? The Roman People, at all events, are not of that opinion; for of all glorious deeds they hold such an one to be the most noble. Has expediency, then, prevailed over moral rectitude? Not at all; moral rectitude has gone hand in hand with expediency.

Some general rule, therefore, should be laid down to enable us to decide without error, whenever what we call the expedient seems to clash with what we feel to be morally right; and, if we follow that rule in comparing courses of conduct, we shall never swerve from the path of duty.

[20]

That rule, moreover, shall be in perfect harmony with the Stoics' system and doctrines. It is their teachings that I am following in these books, and for this reason: the older Academicians and your Peripatetics (who were once the same as the Academicians) give what is morally right the preference over what seems expedient; and yet the discussion of these problems, if conducted by those who consider whatever is morally right also expedient and nothing expedient that is not at the same time morally right, will be more illuminating than if conducted by those who think that something

not expedient may be morally right and that something not morally right may be expedient. But our New Academy allows us wide liberty, so that it is within my right to defend any theory that presents itself to me as most probable. But to return to my rule.

[21]

5. Well then, for a man to take something from his neighbour and to profit by his neighbour's loss is more contrary to Nature than is death or poverty or pain or anything else that can affect either our person or our property. For, in the first place, injustice is fatal to social life and fellowship between man and man. For, if we are so disposed that each, to gain some personal profit, will defraud or injure his neighbour, then those bonds of human society, which are most in accord with Nature's laws, must of necessity be broken.

[22]

Suppose, by way of comparison, that each one of our bodily members should conceive this idea and imagine that it could be strong and well if it should draw off to itself the health and strength of its neighbouring member, the whole body would necessarily be enfeebled and die; so, if each one of us should seize upon the property of his neighbours and take from each whatever he could appropriate to his own use, the bonds of human society must inevitably be annihilated. For, without any conflict with Nature's laws, it is granted that everybody may prefer to secure for himself rather than for his neighbour what is essential for the conduct of life; but Nature's laws do forbid us to increase our means, wealth, and resources by despoiling others.

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But this principle is established not by Nature's laws alone (that is, by the common rules of equity), but also by the statutes of particular communities, in accordance with which in individual states the public interests are maintained. In all these it is with one accord ordained that no man shall be allowed for the sake of his own advantage to injure his neighbour. For it is to this that the laws have regard; this is their intent, that the bonds of union between citizens should not be impaired; and any attempt to destroy these bonds is repressed by the penalty of death, exile, imprisonment, or fine.

Again, this principle follows much more effectually directly from the Reason which is in Nature, which is the law of gods and men. If anyone will hearken to that voice (and all will hearken to it who wish to live in accord with Nature's laws), he will never be guilty of coveting anything that is his neighbour's or of appropriating to himself what he has taken from his neighbour.

[24]

Then, too, loftiness and greatness of spirit, and courtesy, justice, and generosity are much more in harmony with Nature than are selfish pleasure, riches, and life itself; but it requires a great and lofty spirit to despise these latter and count them as naught, when one weighs them over against the common weal. [But for anyone to rob his neighbour for his own profit is more contrary to Nature than death, pain, and the like.]

[25]

In like manner it is more in accord with Nature to emulate the great Hercules and undergo the greatest toil and trouble for the sake of aiding or saving the world, if possible, than to live in seclusion, not only free from all care, but revelling in pleasures and abounding in wealth, while excelling others also in beauty and strength. Thus Hercules denied himself and underwent toil and tribulation for the world, and, out of gratitude for his services, popular belief has given him a place in the council of the gods.

The better and more noble, therefore, the character with which a man is endowed, the more does he prefer the life of service to the life of pleasure. Whence it follows that man, if he is obedient to Nature, cannot do harm to his fellow-man.

[26]

Finally, if a man wrongs his neighbour to gain some advantage for himself, he must either imagine that he is not acting in defiance of Nature or he must believe that death, poverty, pain, or even the loss of children, kinsmen, or friends, is more to be shunned than an act of injustice against another. If he thinks he is not violating the laws of Nature, when he wrongs his fellow-men, how is one to argue with the individual who takes away from man all that makes him man? But if he believes that, while such a course should be avoided,

the other alternatives are much worse—namely, death, poverty, pain—he is mistaken in thinking that any ills affecting either his person or his property are more serious than those affecting his soul.

6. This, then, ought to be the chief end of all men, to make the interest of each individual and of the whole body politic identical. For, if the individual appropriates to selfish ends what should be devoted to the common good, all human fellowship will be destroyed.

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And further, if Nature ordains that one man shall desire to promote the interests of a fellow-man, whoever he may be, just because he is a fellow-man, then it follows, in accordance with that same Nature, that there are interests that all men have in common. And, if this is true, we are all subject to one and the same law of Nature; and, if this also is true, we are certainly forbidden by Nature's law to wrong our neighbour. Now the first assumption is true; therefore the conclusion is likewise true.

[28]

For that is an absurd position which is taken by some people, who say that they will not rob a parent or a brother for their own gain, but that their relation to the rest of their fellow-citizens is quite another thing. Such people contend in essence that they are bound to their fellow-citizens by no mutual obligations, social ties, or common interests. This attitude demolishes the whole structure of civil society.

Others again who say that regard should be had for the rights of fellow-citizens, but not of foreigners, would destroy the universal brotherhood of mankind; and, when this is annihilated, kindness, generosity, goodness, and justice must utterly perish; and those who work all this destruction must be considered as wickedly rebelling against the immortal gods. For they uproot the fellowship which the gods have established between human beings, and the closest bond of this fellowship is the conviction that it is more repugnant to Nature for man to rob a fellow-man for his own gain than to endure all possible loss, whether to his property or to his person . . . or even to his very soul—so far as these losses are not concerned

with justice; for this virtue is the sovereign mistress and queen of all the virtues.

[29]

But, perhaps, someone may say: "Well, then, suppose a wise man were starving to death, might he not take the bread of some perfectly useless member of society?" [Not at all; for my life is not more precious to me than that temper of soul which would keep me from doing wrong to anybody for my own advantage.] "Or again; supposing a righteous man were in a position to rob the cruel and inhuman tyrant Phalaris of clothing, might he not do it to keep himself from freezing to death?"

[30]

These cases are very easy to decide. For, if merely for one's own benefit one were to take something away from a man, though he were a perfectly worthless fellow, it would be an act of meanness and contrary to Nature's law. But suppose one would be able, by remaining alive, to render signal service to the state and to human society—if from that motive one should take something from another, it would not be a matter for censure. But, if such is not the case, each one must bear his own burden of distress rather than rob a neighbour of his rights. We are not to say, therefore, that sickness or want or any evil of that sort is more repugnant to Nature than to covet and to appropriate what is one's neighbour's; but we do maintain that disregard of the common interests is repugnant to Nature; for it is unjust.

[31]

And therefore Nature's law itself, which protects and conserves human interests, will surely determine that a man who is wise, good, and brave, should in emergency have the necessities of life transferred to him from a person who is idle and worthless; for the good man's death would be a heavy loss to the common weal; only let him beware that self-esteem and self-love do not find in such a transfer of possessions a pretext for wrong-doing. But, thus guided in his decision, the good man will always perform his duty, promoting the general interests of human society on which I am so fond of dwelling.

[32] As for the case of Phalaris, a decision is quite simple: we have no ties of fellowship with a tyrant, but rather the bitterest feud; and it is not opposed to Nature to rob, if one can, a man whom it is morally right to kill;—nay, all that pestilent and abominable race should be exterminated from human society. And this may be done by proper measures; for, as certain members are amputated, if they show signs themselves of being bloodless and virtually lifeless and thus jeopardize the health of the other parts of the body, so those fierce and savage monsters in human form should be cut off from what may be called the common body of humanity.

Of this sort are all those problems in which we have to determine what moral duty is, as it varies with varying circumstances.

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7. It is subjects of this sort that I believe Panaetius would have followed up, had not some accident or business interfered with his design. For the elucidation of these very questions there are in his former books rules in plenty, from which one can learn what should be avoided because of its immorality and what does not have to be avoided for the reason that it is not immoral at all.

We are now putting the capstone, as it were, upon our structure, which is unfinished, to be sure, but still almost completed; and, as mathematicians make a practice of not demonstrating every proposition, but require that certain axioms be assumed as true, in order more easily to explain their meaning, so, my dear Cicero, I ask you to assume with me, if you can, that nothing is worth the seeking for its own sake except what is morally right. But if Cratippus does not permit this assumption, you will still grant this at least—that what is morally right is the object most worth the seeking for its own sake. Either alternative is sufficient for my purposes; first the one and then the other seems to me the more probable; and, besides these, there no other alternative that seems probable at all.

[34]

In the first place, I must undertake the defence of Panaetius on this point; for he has said, not that the truly expedient could under certain circumstances clash with the morally right (for he could not have said that conscientiously), but only that what *seemed* expedient

could do so. For he often bears witness to the fact that nothing is really expedient that is not at the same time morally right, and nothing morally right that is not at the same time expedient; and he says that no greater curse has ever assailed human life than the doctrine of those who have separated these two conceptions. And so he introduced an apparent, not a real, conflict between them, not to the end that we should under certain circumstances give the expedient preference over the moral, but that, in case they ever should get in each other's way, we might decide between them without uncertainty. This part, therefore, which was passed over by Panaetius, I will carry to completion without any auxiliaries, but fighting my own battle, as the saying is. For, of all that has been worked out on this line since the time of Panaetius, nothing that has come into my hands is at all satisfactory to me.

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8. Now when we meet with expediency in some specious form or other, we cannot help being influenced by it. But if upon closer inspection one sees that there is some immorality connected with what presents the appearance of expediency, then one is not necessarily to sacrifice expediency but to recognize that there can be no expediency where there is immorality. But if there is nothing so repugnant to Nature as immorality (for Nature demands right and harmony and consistency and abhors their opposites), and if nothing is so thoroughly in accord with Nature as expediency, then surely expediency and immorality cannot coexist in one and the same object.

Again: if we are born for moral rectitude and if that is either the only thing worth seeking, as Zeno thought, or at least to be esteemed as infinitely outweighing everything else, as Aristotle holds, then it necessarily follows that the morally right is either the sole good or the supreme good. Now, that which is good is certainly expedient; consequently, that which is morally right is also expedient.

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Thus it is the error of men who are not strictly upright to seize upon something that seems to be expedient and straightway to dissociate that from the question of moral right. To this error the

assassin's dagger, the poisoned cup, the forged wills owe their origin; this gives rise to theft, embezzlement of public funds, exploitation and plundering of provincials and citizens; this engenders also the lust for excessive wealth, for despotic power, and finally for making oneself king even in the midst of a free people; and anything more atrocious or repulsive than such a passion cannot be conceived. For with a false perspective they see the material rewards but not the punishment—I do not mean the penalty of the law, which they often escape, but the heaviest penalty of all, their own demoralization.

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Away, then, with questioners of this sort (for their whole tribe is wicked and ungodly), who stop to consider whether to pursue the course which they see is morally right or to stain their hands with what they know is crime. For there is guilt in their very deliberation, even though they never reach the performance of the deed itself. Those actions, therefore, should not be considered at all, the mere consideration of which is itself morally wrong.

Furthermore, in any such consideration we must banish any vain hope and thought that our action may be covered up and kept secret. For if we have only made some real progress in the study of philosophy, we ought to be quite convinced that, even though we may escape the eyes of gods and men, we must still do nothing that savours of greed or of injustice, of lust or of intemperance.

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9. By way of illustrating this truth Plato introduces the familiar story of Gyges: Once upon a time the earth opened in consequence of heavy rains; Gyges went down into the chasm and saw, so the story goes, a horse of bronze; in its side was a door. On opening this door he saw the body of a dead man of enormous size with a gold ring upon his finger. He removed this and put it on his own hand and then repaired to an assembly of the shepherds, for he was a shepherd of the king. As often as he turned the bezel of the ring inwards toward the palm of his hand, he became invisible to everyone, while he himself saw everything; but as often as he turned it back to its proper position, he became visible again. And so, with the advantage which the ring gave him, he debauched the

queen, and with her assistance he murdered his royal master and removed all those who he thought stood in his way, without anyone's being able to detect him in his crimes. Thus, by virtue of the ring, he shortly rose to be king of Lydia.

Now, suppose a wise man had just such a ring, he would not imagine that he was free to do wrong any more than if he did not have it; for good men aim to secure not secrecy but the right.

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And yet on this point certain philosophers, who are not at all vicious but who are not very discerning, declare that the story related by Plato is fictitious and imaginary. As if he affirmed that it was actually true or even possible! But the force of the illustration of the ring is this: if nobody were to know or even to suspect the truth, when you do anything to gain riches or power or sovereignty or sensual gratification—if your act should be hidden for ever from the knowledge of gods and men, would you do it? The condition, they say, is impossible. Of course it is. But my question is, if that were possible which they declare to be impossible, what, pray, would one do? They press their point with right boorish obstinacy: they assert that it is impossible and insist upon it; they refuse to see the meaning of my words, “if possible.” For when we ask what they would do, if they could escape detection, we are not asking whether they can escape detection; but we put them as it were upon the rack: should they answer that, if impunity were assured, they would do what was most to their selfish interest, that would be a confession that they are criminally minded; should they say that they would not do so, they would be granting that all things in and of themselves immoral should be avoided.

But let us now return to our theme.

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10. Many cases oftentimes arise to perplex our minds with a specious appearance of expediency: the question raised in these cases is not whether moral rectitude is to be sacrificed to some considerable advantage (for that would of course be wrong), but whether the apparent advantage can be secured without moral wrong. When Brutus deposed his colleague Collatinus from the consular office, his treatment of him might have been thought

unjust; for Collatinus had been his associate, and had helped him with word and deed in driving out the royal family. But when the leading men of the state had determined that all the kindred of Superbus and the very name of the Tarquins and every reminder of the monarchy should be obliterated, then the course that was expedient—namely, to serve the country's interests—was so pre-eminently right, that it was even Collatinus's own duty to acquiesce in its justice. And so expediency gained the day because of its moral rightness; for without moral rectitude there could have been no possible expediency.

Not so in the case of the king who founded the city:

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It was the specious appearance of expediency that actuated him; and when he decided that it was more expedient for him to reign alone than to share the throne with another, he slew his brother. He threw to the winds his brotherly affection and his human feelings, to secure what seemed to him—but was not—expedient; and yet in defence of his deed he offered the excuse about his wall—a specious show of moral rectitude, neither reasonable nor adequate at all. He committed a crime, therefore, with due respect to him let me say so, be he Quirinus or Romulus.

[42]

And yet we are not required to sacrifice our own interests and surrender to others what we need for ourselves, but each one should consider his own interests, as far as he may without injury to his neighbour's. "When a man enters the foot-race," says Chrysippus with his usual aptness, "it is his duty to put forth all his strength and strive with all his might to win; but he ought never with his foot to trip, or with his hand to foul a competitor. Thus in the stadium of life, it is not unfair for anyone to seek to obtain what is needful for his own advantage, but he has no right to wrest it from his neighbour."

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It is in the case of friendships, however, that men's conceptions of duty are most confused; for it is a breach of duty either to fail to do for a friend what one rightly can do, or to do for him what is not

right. But for our guidance in all such cases we have a rule that is short and easy to master: apparent advantages—political preferment, riches, sensual pleasures, and the like—should never be preferred to the obligations of friendship. But an upright man will never for a friend's sake do anything in violation of his country's interests or his oath or his sacred honour, not even if he sits as judge in a friend's case; for he lays aside the role of friend when he assumes that of judge. Only so far will he make concessions to friendship, that he will prefer his friend's side to be the juster one and that he will set the time for presenting his case, as far as the laws will allow, to suit his friend's convenience.

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But when he comes to pronounce the verdict under oath, he should remember that he has God as his witness—that is, as I understand it, his own conscience, than which God himself has bestowed upon man nothing more divine. From this point of view it is a fine custom that we have inherited from our forefathers (if we were only true to it now), to appeal to the juror with this formula—“to do what he can consistently with his sacred honour.” This form of appeal is in keeping with what I said a moment ago would be morally right for a judge to concede to a friend. For supposing that we were bound to do everything that our friends desired, such relations would have to be accounted not friendships but conspiracies.

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But I am speaking here of ordinary friendships; for among men who are ideally wise and perfect such situations cannot arise.

They say that Damon and Phintias, of the Pythagorean school, enjoyed such ideally perfect friendship, that when the tyrant Dionysius had appointed a day for the execution of one of them, and the one who had been condemned to death requested a few days' respite for the purpose of putting his loved ones in the care of friends, the other became surety for his appearance, with the understanding that if his friend did not return, he himself should be put to death. And when the friend returned on the day appointed, the tyrant in admiration for their faithfulness begged that they would enrol him as a third partner in their friendship.

[46]

Well then, when we are weighing what seems to be expedient in friendship against what is morally right, let apparent expediency be disregarded and moral rectitude prevail; and when in friendship requests are submitted that are not morally right, let conscience and scrupulous regard for the right take precedence of the obligations of friendship. In this way we shall arrive at a proper choice between conflicting duties—the subject of this part of our investigation.

11. Through a specious appearance of expediency wrong is very often committed in transactions between state and state, as by our own country in the destruction of Corinth. A more cruel wrong was perpetrated by the Athenians in decreeing that the Aeginetans, whose strength lay in their navy, should have their thumbs cut off. This seemed to be expedient; for Aegina was too grave a menace, as it was close to the Piraeus. But no cruelty can be expedient; for cruelty is most abhorrent to human nature, whose lead we ought to follow.

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They, too, do wrong who would debar foreigners from enjoying the advantages of their city and would exclude them from its borders, as was done by Pennus in the time of our fathers, and in recent times by Papius. It may not be right, of course, for one who is not a citizen to exercise the rights and privileges of citizenship; and the law on this point was secured by two of our wisest consuls, Crassus and Scaevola. Still, to debar foreigners from enjoying the advantages of the city is altogether contrary to the laws of humanity.

There are splendid examples in history where the apparent expediency of the state has been set at naught out of regard for moral rectitude. Our own country has many instances to offer throughout her history, and especially in the Second Punic War when news came of the disaster at Cannae, Rome displayed a loftier courage than ever she did in success; never a trace of faint-heartedness, never a mention of making terms. The influence of moral right is so potent, that it eclipses the specious appearance of expediency.

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When the Athenians could in no way stem the tide of the Persian invasion and determined to abandon their city, bestow their wives and children in safety at Troezen, embark upon their ships, and fight on the sea for the freedom of Greece, a man named Cyrsilus proposed that they should stay at home and open the gates of their city to Xerxes. They stoned him to death for it. And yet he was working for what he thought was expediency; but it was not—not at all, for it clashed with moral rectitude.

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After the victorious close of that war with Persia, Themistocles announced in the Assembly that he had a plan for the welfare of the state, but that it was not politic to let it be generally known. He requested the people to appoint someone with whom he might discuss it. They appointed Aristides. Themistocles confided to him that the Spartan fleet, which had been hauled up on shore at Gytheum, could be secretly set on fire; this done, the Spartan power would inevitably be crushed. When Aristides heard the plan, he came into the Assembly amid the eager expectation of all and reported that the plan proposed by Themistocles was in the highest degree expedient, but anything but morally right. The result was that the Athenians concluded that what was not morally right was likewise not expedient, and at the instance of Aristides they rejected the whole proposition without even listening to it. Their attitude was better than ours; for we let pirates go scot free, while we make our allies pay tribute.

12. Let it be set down as an established principle, then, that what is morally wrong can never be expedient—not even when one secures by means of it that which one thinks expedient; for the mere act of thinking a course expedient, when it is morally wrong, is demoralizing.

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But, as I said above, cases often arise in which expediency may seem to clash with moral rectitude; and so we should examine in carefully and see whether their conflict is inevitable or whether they may be reconciled. The following are problems of this sort: suppose, for example, a time of dearth and famine at Rhodes, with provisions at fabulous prices; and suppose that an honest man has

imported a large cargo of grain from Alexandria and that to his certain knowledge also several other importers have set sail from Alexandria, and that on the voyage he has sighted their vessels laden with grain and bound for Rhodes; is he to report the fact to the Rhodians or is he to keep his own counsel and sell his own stock at the highest market price? I am assuming the case of a virtuous, upright man, and I am raising the question how a man would think and reason who would not conceal the facts from the Rhodians if he thought that it was immoral to do so, but who might be in doubt whether such silence would really be immoral.

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In deciding cases of this kind Diogenes of Baby-lonia, a great and highly esteemed Stoic, consistently holds one view; his pupil Antipater, a most profound scholar, holds another. According to Antipater all the facts should be disclosed, that the buyer may not be uninformed of any detail that the seller knows; according to Diogenes the seller should declare any defects in his wares, in so far as such a course is prescribed by the common law of the land; but for the rest, since he has goods to sell, he may try to sell them to the best possible advantage, provided he is guilty of no misrepresentation.

“I have imported my stock,” Diogenes's merchant will say; “I have offered it for sale; I sell at a price no higher than my competitors—perhaps even lower, when the market is overstocked. Who is wronged?”

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“What say you?” comes Antipater's argument on the other side; “it is your duty to consider the interests of your fellow-men and to serve society; you were brought into the world under these conditions and have these inborn principles which you are in duty bound to obey and follow, that your interest shall be the interest of the community and conversely that the interest of the community shall be your interest as well; will you, in view of all these facts, conceal from your fellow-men what relief in plenteous supplies is close at hand for them?”

“It is one thing to conceal,” Diogenes will perhaps reply; “not to reveal is quite a different thing. At this present moment I am not

concealing from you, even if I am not revealing to you, the nature of the gods or the highest good; and to know these secrets would be of more advantage to you than to know that the price of wheat was down. But I am under no obligation to tell you everything that it may be to your interest to be told.”

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“Yea,” Antipater will say, “but you are, as you must admit, if you will only bethink you of the bonds of fellowship forged by Nature and existing between man and man.”

“I do not forget them,” the other will reply; “but do you mean to say that those bonds of fellowship are such that there is no such thing as private property? If that is the case, we should not sell anything at all, but freely give everything away.”

13. In this whole discussion, you see, no one says, “However wrong morally this or that may be, still, since it is expedient, I will do it”; but the one side asserts that a given act is expedient, without being morally wrong, while the other insists that the act should not be done, because it is morally wrong.

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Suppose again that an honest man is offering a house for sale on account of certain undesirable features of which he himself is aware but which nobody else knows; suppose it is unsanitary, but has the reputation of being healthful; suppose it is not generally known that vermin are to be found in all the bedrooms; suppose, finally, that it is built of unsound timber and likely to collapse, but that no one knows about it except the owner; if the vendor does not tell the purchaser these facts but sells him the house for far more than he could reasonably have expected to get for it, I ask whether his transaction is unjust or dishonourable.

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“Yes,” says Antipater, “it is; for to allow a purchaser to be hasty in closing a deal and through mistaken judgment to incur a very serious loss, if this is not refusing ' to set a man right when he has lost his way' (a crime which at Athens is prohibited on pain of public execration), what is? It is even worse than refusing to set a man on his way: it is deliberately leading a man astray.”

“Can you say,” answers Diogenes, “that he compelled you to purchase, when he did not even advise it? He advertised for sale what he did not like; you bought what you did like. If people are not considered guilty of swindling when they place upon their placards FOR SALE: A FINE VILLA, WELL BUILT, even when it is neither good nor properly built, still less guilty are they who say nothing in praise of their house. For where the purchaser may exercise his own judgment, what fraud can there be on the part of the vendor? But if, again, not all that is expressly stated has to be made good, do you think a man is bound to make good what has not been said? What, pray, would be more stupid than for a vendor to recount all the faults in the article he is offering for sale? And what would be so absurd as for an auctioneer to cry, at the owner's bidding, 'Here is an unsanitary house for sale!?'”

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In this way, then, in certain doubtful cases moral rectitude is defended on the one side, while on the other side the case of expediency is so presented as to make it appear not only morally right to do what seems expedient, but even morally wrong not to do it. This is the contradiction that seems often to arise between the expedient and the morally right. But I must give my decision in these two cases; for I did not propound them merely to raise the questions, but to offer a solution.

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I think, then, that it was the duty of that grain-dealer not to keep back the facts from the Rhodians, and of this vendor of the house to deal in the same way with his purchaser, The fact is that merely holding one's peace about a thing does not constitute concealment, but concealment consists in trying for your own profit to keep others from finding out something that you know, when it is for their interest to know it. And who fails to discern what manner of concealment that is and what sort of person would be guilty of it? At all events he would be no candid or sincere or straightforward or upright or honest man, but rather one who is shifty, sly, artful, shrewd, underhand, cunning, one grown old in fraud and subtlety. Is it not inexpedient to subject oneself to all these terms of reproach and many more besides?

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14. If, then, they are to be blamed who suppress the truth, what are we to think of those who actually state what is false? Gaius Canius, a Roman a man of considerable wit and literary culture, once went to Syracuse for a vacation, as he himself used to say, and not for business. He gave out that he had a mind to purchase a little country seat, where he could invite his friends and enjoy himself, uninterrupted by troublesome visitors. When this fact was spread abroad, one Pythius, a banker of Syracuse, informed him that he had such an estate; that it was not for sale, however, but Canius might make himself at home there, if he pleased; and at the same time he invited him to the estate to dinner next day. Canius accepted. Then Pythius, who, as might be expected of a moneylender, could command favours of all classes, called the fishermen together and asked them to do their fishing the next day out in front of his villa, and told them what he wished them to do. Canius came to dinner at the appointed hour; Pythius had a sumptuous banquet prepared; there was a whole fleet of boats before their eyes; each fisherman brought in in turn the catch that he had made; and the fishes were deposited at the feet of Pythius.

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“Pray, Pythius,” said Canius thereupon, “what does this mean?—all these fish?—all these boats?”

“No wonder,” answered Pythius; “this is where all the fish in Syracuse are; here is where the fresh water comes from; the fishermen cannot get along without this estate.”

Inflamed with desire for it, Canius insisted upon Pythius's selling it to him. At first he demurred. To make a long story short, Canius gained his point. The man was rich, and, in his desire to own the country seat, he paid for it all that Pythius asked; and he bought the entire equipment, too. Pythius entered the amount upon his ledger and completed the transfer. The next day Canius invited his friends; he came early himself. Not so much as a thole-pin was in sight. He asked his next-door neighbour whether it was a fishermen's holiday, for not a sign of them did he see.

“Not so far as I know,” said he; “but none are in the habit of fishing here. And so I could not make out what was the matter yesterday.”

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Canius was furious; but what could he do? For not yet had my colleague and friend, Gaius Aquilius, introduced the established forms to apply to criminal fraud. When asked what he meant by “criminal fraud,” as specified in these forms, he would reply:

“Pretending one thing and practising another”—a very felicitous definition, as one might expect from an expert in making them. Pythius, therefore, and all others who do one thing while they pretend another are faithless, dishonest, and unprincipled scoundrels. No act of theirs can be expedient, when what they do is tainted with so many vices.

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15. But if Aquilius's definition is correct, pretence and concealment should be done away with in all departments of our daily life. Then an honest man will not be guilty of either pretence or concealment in order to buy or to sell to better advantage. Besides, your “criminal fraud” had previously been prohibited by the statutes: the penalty in the matter of trusteeships, for example, is fixed by the Twelve Tables; for the defrauding of minors, by the Plaetorian law. The same prohibition is effective, without statutory enactment, in equity cases, in which it is added that the decision shall be “as good faith requires.” In all other cases in equity, moreover, the following phrases are most noteworthy: in a case calling for arbitration in the matter of a wife's dowry: what is “the fairer is the better”; in a suit for the restoration of a trust: “honest dealing, as between honest parties.” Pray, then, can there be any element of fraud in what is adjusted for the “better and fairer”? Or can anything fraudulent or unprincipled be done, when “honest dealing between honest parties” is stipulated? But “criminal fraud,” as Aquilius says, consists in false pretence. We must, therefore, keep misrepresentation entirely out of business transactions: the seller will not engage a bogus bidder to run prices up nor the buyer one to bid low against himself to keep them down; and each, if they

come to naming a price, will state once for all what he will give or take.

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Why, when Quintus Scaevola, the son of Publius Scaevola, asked that the price of a farm that he desired to purchase be definitely named and the vendor named it, he replied that he considered it worth more, and paid him 100,000 sesterces over and above what he asked. No one could say that this was not the act of an honest man; but people do say that it was not the act of a worldly-wise man, any more than if he had sold for a smaller amount than he could have commanded. Here, then, is that mischievous idea—the world accounting some men upright, others wise; and it is this fact that gives Ennius occasion to say:

“In vain is the wise man wise, who cannot benefit himself.”

And Ennius is quite right, if only he and I were agreed upon the meaning of “benefit.”

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Now I observe that Hecaton of Rhodes, a pupil of Panaetius, says in his books on “Moral Duty” dedicated to Quintus Tubero that “it is a wise man's duty to take care of his private interests, at the same time doing nothing contrary to the civil customs, laws, and institutions. But that depends on our purpose in seeking prosperity; for we do not aim to be rich for ourselves alone but for our children, relatives, friends, and, above all, for our country. For the private fortunes of individuals are the wealth of the state.” Hecaton could not for a moment approve of Scaevola's act, which I cited a moment ago; for he openly avows that he will abstain from doing for his own profit only what the law expressly forbids. Such a man deserves no great praise nor gratitude.

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Be that as it may, if both pretence and concealment constitute “criminal fraud,” there are very few transactions into which “criminal fraud” does not enter; or, if he only is a good man who help all he can, and harms no one, it will certainly be no easy matter for us to find the good man as thus defined.

To conclude, then, it is never expedient to do wrong, because wrong is always immoral; and it is always expedient to be good, because goodness is always moral.

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16. In the laws pertaining to the sale of real property it is stipulated in our civil code that when a transfer of any real estate is made, all its defects shall be declared as far as they are known to the vendor. According to the laws of the Twelve Tables it used to be sufficient that such faults as had been expressly declared should be made good and that for any flaws which the vendor expressly denied, when questioned, he should be assessed double damages. A like penalty for failure to make such declaration also has now been secured by our jurisconsults: they have decided that any defect in a piece of real estate, if known to the vendor but not expressly stated, must be made good by him.

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For example, the augurs were proposing to take observations from the citadel and they ordered Tiberius Claudius Centumalus, who owned a house upon the Caelian Hill, to pull down such parts of the building as obstructed the augurs' view by reason of their height. Claudius at once advertised his block for sale, and Publius Calpurnius Lanarius bought it. The same notice was served also upon him. And so, when Calpurnius had pulled down those parts of the building and discovered that Claudius had advertised it for sale only after the augurs had ordered them to be pulled down, he summoned the former owner before a court of equity to decide "what indemnity the owner was under obligation 'in good faith' to pay and deliver to him." The verdict was pronounced by Marcus Cato, the father of our Cato (for as other men receive a distinguishing name from their fathers, so he who bestowed upon the world so bright a luminary must have his distinguishing name from his son); he, as I was saying, was presiding judge and pronounced the verdict that "since the augurs' mandate was known to the vendor at the time of making the transfer and since he had not made it known, he was bound to make good the purchaser's loss."

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With this verdict he established the principle that it was essential to good faith that any defect known to the vendor must be made known to the purchaser. If his decision was right, our grain-dealer and the vendor of the unsanitary house did not do right to suppress the facts in those cases. But the civil code cannot be made to include all cases where facts are thus suppressed; but those cases which it does include are summarily dealt with. Marcus Marius Gratidianus, a kinsman of ours, sold back to Gaius Sergius Orata the house which he himself had bought a few years before from that same Orata. It was subject to an encumbrance, but Marius had said nothing about this fact in stating the terms of sale. The case was carried to the courts. Crassus was counsel for Orata; Antonius was retained by Gratidianus. Crassus pleaded the letter of the law that "the vendor was bound to make good the defect, for he had not declared it, although he was aware of it"; Antonius laid stress upon the equity of the case, pleading that, "inasmuch as the defect in question had not been unknown to Sergius (for it was the same house that he had sold to Marius), no declaration of it was needed, and in purchasing it back he had not been imposed upon, for he knew to what legal liability his purchase was subject."

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What is the purpose of these illustrations? To let you see that our forefathers did not countenance sharp practice.

17. Now the law disposes of sharp practices in one way, philosophers in another: the law deals with them as far as it can lay its strong arm upon them; philosophers, as far as they can be apprehended by reason and conscience. Now reason demands that nothing be done with unfairness, with false pretence, or with misrepresentation. Is it not deception, then, to set snares, even if one does not mean to start the game or to drive it into them? Why, wild creatures often fall into snares undriven and unpursued. Could one in the same way advertise a house for sale, post up a notice "To be sold," like a snare, and have somebody run into it unsuspecting?

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Owing to the low ebb of public sentiment, such a method of procedure, I find, is neither by custom accounted morally wrong nor forbidden either by statute or by civil law; nevertheless it is

forbidden by the moral law. For there is a bond of fellowship—although I have often made this statement, I must still repeat it again and again—which has the very widest application, uniting all men together and each to each. This bond of union is closer between those who belong to the same nation, and more intimate still between those who are citizens of the same city-state. It is for this reason that our forefathers chose to understand one thing by the universal law and another by the civil law. The civil law is not necessarily also the universal law; but the universal law ought to be also the civil law. But we possess no substantial, life-like image of true Law and genuine Justice; a mere outline sketch is all that we enjoy. I only wish that we were true even to this; for, even as it is, it is drawn from the excellent models which Nature and Truth afford. For how weighty are the words:

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“That I be not deceived and defrauded through you and my confidence in you”! How precious are these: “As between honest people there ought to be honest dealing, and no deception”! But who are “honest people,” and what is “honest dealing” —these are serious questions.

It was Quintus Scaevola, the pontifex maximus, who used to attach the greatest importance to all questions of arbitration to which the formula was appended “as good faith requires”; and he held that the expression “good faith” had a very extensive application, for it was employed in trusteeships and partnerships, in trusts and commissions, in buying and selling, in hiring and letting—in a word, in all the transactions on which the social relations of daily life depend; in these, he said, it required a judge of great ability to decide the extent of each individual's obligation to the other, especially when counter-claims were admissible in most cases.

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Away, then, with sharp practice and trickery, which desires, of course, to pass for wisdom, but is far from it and totally unlike it. For the function of wisdom is to discriminate between good and evil; whereas, inasmuch as all things morally wrong are evil, trickery prefers the evil to the good.

It is not only in the case of real estate transfers that the civil law, based upon a natural feeling for the right, punishes trickery and deception, but also in the sale of slaves every form of deception on the vendor's part is disallowed. For by the aediles' ruling the vendor is answerable for any deficiency in the slave he sells, for he is supposed to know if his slave is sound, or if he is a runaway, or a thief. The case of those who have just come into the possession of slaves by inheritance is different.

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From this we come to realize that since Nature is the source of right, it is not in accord with Nature that anyone should take advantage of his neighbour's ignorance. And no greater curse in life can be found than knavery that wears the mask of wisdom. Thence come those countless cases in which the expedient seems to conflict with the right. For how few will be found who can refrain from wrong-doing, if assured of the power to keep it an absolute secret and to run no risk of punishment!

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18. Let us put our principle to the test, if you please, and see if it holds good in those instances in which, perhaps, the world in general finds no wrong; for in this connection we do not need to discuss cut-throats, poisoners, forgers of wills, thieves, and embezzlers of public moneys, who should be repressed not by lectures and discussions of philosophers, but by chains and prison walls; but let us study here the conduct of those who have the reputation of being honest men.

Certain individuals brought from Greece to Rome a forged will, purporting to be that of the wealthy Lucius Minucius Basilus. The more easily to procure validity for it, they made joint-heirs with themselves two of the most influential men of the day, Marcus Crassus and Quintus Hortensius. Although these men suspected that the will was a forgery, still, as they were conscious of no personal guilt in the matter, they did not spurn the miserable boon procured through the crime of others. What shall we say, then? Is this excuse competent to acquit them of guilt? I cannot think so, although I loved the one while he lived, and do not hate the other now that he is dead.

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Be that as it may, Basilus had in fact desired that his nephew Marcus Satrius should bear his name and inherit his property. (I refer to the Satrius who is the present patron of Picenum and the Sabine country—and oh, what a shameful stigma it is upon the times!) And therefore it was not right that two of the leading citizens of Rome should take the estate and Satrius succeed to nothing except his uncle's name. For if he does wrong who does not ward off and repel injury when he can—as I explained in the course of the First Book—what is to be thought of the man who not only does not try to prevent wrong, but actually aids and abets it? For my part, I do not believe that even genuine legacies are moral, if they are sought after by designing flatteries and by attentions hypocritical rather than sincere.

And yet in such cases there are times when one course is likely to appear expedient and another morally right.

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The appearance is deceptive; for our standard is the same for expediency and for moral rectitude. And the man who does not accept the truth of this will be capable of any sort of dishonesty, any sort of crime. For if he reasons, “That is, to be sure, the right course, but this course brings advantage,” he will not hesitate in his mistaken judgment to divorce two conceptions that Nature has made one; and that spirit opens the door to all sorts of dishonesty, wrong-doing, and crime.

19. Suppose, then, that a good man had such power that at a snap of his fingers his name could steal into rich men's wills, he would not avail himself of that power—no, not even though he could be perfectly sure that no one would ever suspect it. Suppose, on the other hand, that one were to offer a Marcus Crassus the power, by the mere snapping of his fingers, to get himself named as heir, when he was not really an heir, he would, I warrant you, dance in the forum. But the righteous man, the one whom we feel to be a good man, would never rob anyone of anything to enrich himself. If anybody is astonished at this doctrine, let him confess that he does not know what a good man is.

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If, on the other hand, anyone should desire to unfold the idea of a good man which lies wrapped up in his own mind, he would then at once make it clear to himself that a good man is one who helps all whom he can and harms nobody, unless provoked by wrong. What shall we say, then? Would he not be doing harm who by a kind of magic spell should succeed in displacing the real heirs to an estate and pushing himself into their place? "Well," someone may say, "is he not to do what is expedient, what is advantageous to himself?" Nay, verily; he should rather be brought to realize that nothing that is unjust is either advantageous or expedient; if he does not learn this lesson, it will never be possible for him to be a "good man."

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When I was a boy, I used to hear my father tell that Gaius Fimbria, an ex-consul, was judge in a case of Marcus Lutatius Pinthia, a Roman knight of irreproachable character. On that occasion Pinthia had laid a wager to be forfeited "if he did not prove in court that he was a good man." Fimbria declared that he would never render a decision in such a case, for fear that he might either rob a reputable man of his good name, if he decided against him, or be thought to have pronounced someone a good man, when such a character is, as he said, established by the performance of countless duties and the possession of praiseworthy qualities without number.

To this type of good man, then, known not only to a Socrates but even to a Fimbria, nothing can possibly seem expedient that is not morally right. Such a man, therefore, will never venture to think — to say nothing of doing—anything that he would not dare openly to proclaim. Is it not a shame that philosophers should be in doubt about moral questions on which even peasants have no doubts at all? For it is with peasants that the proverb, already trite with age, originated: when they praise a man's honour and honesty, they say, "He is a man with whom you can safely play at odd and even in the dark." What is the point of the proverb but this—that what is not proper brings no advantage, even if you can gain your end without anyone's being able to convict you of wrong?

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Do you not see that in the light of this proverb no excuse is available either for the Gyges of the story or for the man who I

assumed a moment ago could with a snap of his fingers sweep together everybody's inheritance at once? For as the morally wrong cannot by any possibility be made morally right, however successfully it may be covered up, so what is not morally right cannot be made expedient, for Nature refuses and resists.

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20. "But stay," someone will object, "when the prize is very great, there is excuse for doing wrong."

Gaius Marius had been left in obscurity for more than six whole years after his praetorship and had scarcely the remotest hope of gaining the consulship. It looked as if he would never even be a candidate for that office. He was now a lieutenant under Quintus Metellus, who sent him on a furlough to Rome. There before the Roman People he accused his own general, an eminent man and one of our first citizens, of purposely protracting the war and declared that if they would make him consul, he would within a short time deliver Jugurtha alive or dead into the hands of the Roman People. And so he was elected consul, it is true, but he was a traitor to his own good faith and to justice; for by a false charge he subjected to popular disfavour an exemplary and highly respected citizen, and that too, although he was his lieutenant and under leave of absence from him.

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Even our kinsman Gratidianus failed on one occasion to perform what would be a good man's duty: in his praetorship the tribunes of the people summoned the college of praetors to council, in order to adopt by joint resolution a standard of value for our currency; for at that time the value of money was so fluctuating that no one could tell how much he was worth. In joint session they drafted an ordinance, defining the penalty and the methods of procedure in cases of violation of the ordinance, and agreed that they should all appear together upon the rostra in the afternoon to publish it. And while all the rest withdrew, some in one direction, some in another, Marius (Gratidianus) went straight from the council-chamber to the rostra and published individually what had been drawn up by all together. And that coup, if you care to know, brought him vast honour; in every street statues of him were erected; before these

incense and candles burned. In a word, no one ever enjoyed greater popularity with the masses.

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It is such cases as these that sometimes perplex us in our consideration, when the point in which justice is violated does not seem so very significant, but the consequences of such slight transgression seem exceedingly important. For example, it was not so very wrong morally, in the eyes of Marius, to overreach his colleagues and the tribunes in turning to himself alone all the credit with the people; but to secure by that means his election to the consulship, which was then the goal of his ambition, seemed very greatly to his interest. But for all cases we have one rule, with which I desire you to be perfectly familiar: that which seems expedient must not be morally wrong; or, if it is morally wrong, it must not seem expedient. What follows? Can we account either the great Marius or our Marius Gratidianus a good man? Work out your own ideas and sift your thoughts so as to see what conception and idea of a good man they contain. Pray, tell me, does it coincide with the character of your good man to lie for his own profit, to slander, to overreach, to deceive? Nay, verily; anything but that!

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Is there, then, any object of such value or any advantage so worth the winning that, to gain it, one should sacrifice the name of a “good man” and the lustre of his reputation? What is there that your so-called expediency can bring to you that will compensate for what it can take away, if it steals from you the name of a “good man” and causes you to lose your sense of honour and justice? For what difference does it make whether a man is actually transformed into a beast or whether, keeping the outward appearance of a man, he has the savage nature of a beast within?

21. Again, when people disregard everything that is morally right and true, if only they may secure power thereby, are they not pursuing the same course as he who wished to have as a father-in-law the man by whose effrontery he might gain power for himself? He thought it advantageous to secure supreme power while the odium of it fell upon another; and he failed to see how unjust to his country this was, and how wrong morally. But the

father-in-law himself used to have continually upon his lips the Greek verses from the Phoenissae, which I will reproduce as well as I can—awkwardly, it may be, but still so that the meaning can be understood: Our tyrant deserved his death for having made an exception of the one thing that was the blackest crime of all.

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Why do we gather instances of petty crime—legacies criminally obtained and fraudulent buying and selling? Behold, here you have a man who was ambitious to be king of the Roman People and master of the whole world; and he achieved it! The man who maintains that such an ambition is morally right is a madman; for he justifies the destruction of law and liberty and thinks their hideous and detestable suppression glorious. But if anyone agrees that it is not morally right to be kind in a state that once was free and that ought to be free now, and yet imagines that it is advantageous for him who can reach that position, with what remonstrance or rather with what appeal should I try to tear him away from so strange a delusion? For, oh ye immortal gods! can the most horrible and hideous of all murders—that of fatherland—bring advantage to anybody, even though he who has committed such a crime receives from his enslaved fellow-citizens the title of “Father of his Country”? Expediency, therefore, must be measured by the standard of moral rectitude, and in such a way, too, that these two words shall seem in sound only to be different but in real meaning to be one and the same.

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What greater advantage one could have, according to the standard of popular opinion, than to be a king, I do not know; when, however, I begin to bring the question back to the standard of truth, then I find nothing more disadvantageous for one who has risen to that height by injustice. For can occasions for worry, anxiety, fear by day and by night, and a life all beset with plots and perils be of advantage to anybody?

“Thrones have many foes and friends untrue, but few devoted friends,”

says Accius. But of what sort of throne was he speaking? Why, one that was held by right, handed down from Tantalus and Pelops.

Aye, but how many more foes, think you, had that king who with the Roman People's army brought the Roman People themselves into subjection and compelled a state that not only had been free but had been mistress of the world to be his slave?

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What stains do you think he had upon his conscience, what scars upon his heart? But whose life can be advantageous to himself, if that life is his on the condition that the man who takes it shall be held in undying gratitude and glory? But if these things which seem so very advantageous are not advantageous because they are full of shame and moral wrong, we ought to be quite convinced that nothing can be expedient that is not morally right.

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22. And yet this very question has been decided on many occasions before and since; but in the war with Pyrrhus the decision rendered by Gaius Fabricius, in his second consulship, and by our senate was particularly striking. Without provocation King Pyrrhus had declared war upon the Roman People; the struggle was against a generous and powerful prince, and the supremacy of power was the prize; a deserter came over from him to the camp of Fabricius and promised, if Fabricius would assure him of a reward, to return to the camp of Pyrrhus as secretly as he had come, administer poison to the king, and bring about his death. Fabricius saw to it that this fellow was taken back to Pyrrhus; and his action was commended by the senate. And yet, if the mere show of expediency and the popular conception of it are all we want, this one deserter would have put an end to that wasting war and to a formidable foe of our supremacy; but it would have been a lasting shame and disgrace to us to have overcome not by valour but by crime the man with whom we had a contest for glory.

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Which course, then, was more expedient for Fabricius, who was to our city what Aristides was to Athens, or for our senate, who never divorced expediency from honour—to contend against the enemy with the sword or with poison? If supremacy is to be sought for the sake of glory, crime should be excluded, for there can be no glory in

crime; but if it is power for its own sake that is sought, whatever the price, it cannot be expedient if it is linked with shame.

That well-known measure, therefore, introduced by Philippus, the son of Quintus, was not expedient. With the authority of the senate, Lucius Sulla had exempted from taxation certain states upon receipt of a lump sum of money from them. Philippus proposed that they should again be reduced to the condition of tributary states, without repayment on our part of the money that they had paid for their exemption. And the senate accepted his proposal. Shame upon our government! The pirates' sense of honour is higher than the senate's. "But," someone will say, "the revenues were increased, and therefore it was expedient." How long will people venture to say that a thing that is not morally right can be expedient?

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Furthermore, can hatred and shame be expedient for any government? For government ought to be founded upon fair fame and the loyalty of allies.

On this point I often disagreed even with my friend Cato; it seemed to me that he was too rigorous in his watchful care over the claims of the treasury and the revenues; he refused everything that the farmers of the revenue asked for and much that the allies desired; whereas, as I insisted, it was our duty to be generous to the allies and to treat the publicans as we were accustomed individually to treat our tenants—and all the more, because harmony between the orders was essential to the welfare of the republic. Curio, too, was wrong, when he pleaded that the demands of the people beyond the Po were just, but never failed to add, "Let expediency prevail." He ought rather to have proved that the claims were not just, because they were not expedient for the republic, than to have admitted that they were just, when, as he maintained, they were not expedient.

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23. The sixth book of Hecaton's "Moral Duties" is full of questions like the following: "Is it consistent with a good man's duty to let his slaves go hungry when provisions are at famine prices?"

Hecaton gives the argument on both sides of the question; but still in the end it is by the standard of expediency, as he conceives it,

rather than by one of human feeling, that he decides the question of duty.

Then he raises this question: supposing a man had to throw part of his cargo overboard in a storm, should he prefer to sacrifice a high-priced horse or a cheap and worthless slave? In this case regard for his property interest inclines him one way, human feeling the other.

“Suppose that a foolish man has seized hold of a plank from a sinking ship, shall a wise man wrest it away from him if he can?”

“No,” says Hecaton; “for that would be unjust.”

“But how about the owner of the ship? Shall he take the plank away because it belongs to him?”

“Not at all; no more than he would be willing when far out at sea to throw a passenger overboard on the ground that the ship was his. For until they reach the place for which the ship is chartered, she belongs to the passengers, not to the owner.”

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“Again; suppose there were two to be saved from the sinking ship—both of them wise men—and only one small plank, should both seize it to save themselves? Or should one give place to the other?”

“Why of course, one should give place to the other, but that other must be the one whose life is more valuable either for his own sake or for that of his country.”

“But what if these considerations are of equal weight in both?”

“Then there will be no contest, but one will give place to the other, as if the point were decided by lot or at a game of odd and even.”

“Again, suppose a father were robbing temples or making underground passages to the treasury, should a son inform the officers of it?”

“Nay; that were a crime; rather should he defend his father, in case he were indicted.”

“Well, then, are not the claims of country paramount to all other duties?”

“Aye, verily; but it is to our country's interest to have citizens who are loyal to their parents.”

“But once more—if the father attempts to make himself king, or to betray his country, shall the son hold his peace?”

“Nay, verily; he will plead with his father not to do so. If that accomplishes nothing, he will take him to task; he will even threaten; and in the end, if things point to the destruction of the state, he will sacrifice his father to the safety of his country.”

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Again, he raises the question: “If a wise man should inadvertently accept counterfeit money for good, will he offer it as genuine in payment of a debt after he discovers his mistake?” Diogenes says, “Yes”; Antipater, “No,” and I agree with him.

If a man knowingly offers for sale wine that is spoiling, ought he to tell his customers? Diogenes thinks that it is not required; Antipater holds that an honest man would do so. These are like so many points of the law disputed among the Stoics. “In selling a slave, should his faults be declared—not those only which the seller is bound by the civil law to declare or have the slave returned to him, but also the fact that he is untruthful, or disposed to gamble, or steal, or get drunk?” The one thinks such facts should be declared, the other does not.

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“If a man thinks that he is selling brass, when he is actually selling gold, should an upright man inform him that his stuff is gold, or go on buying for one shilling what is worth a thousand?”

It is clear enough by this time what my views are on these questions, and what are the grounds of dispute between the above-named philosophers.

24. The question arises also whether agreements and promises must always be kept, “when,” in the language of the praetors' edicts, “they have not been secured through force or criminal fraud.”

If one man gives another a remedy for the dropsy, with the stipulation that, if he is cured by it, he shall never make use of it again; suppose the patient's health is restored by the use of it, but

some years later he contracts the same disease once more; and suppose he cannot secure from the man with whom he made the agreement permission to use the remedy again, what should he do? That is the question. Since the man is unfeeling in refusing the request, and since no harm could be done to him by his friend's using the remedy, the sick man is justified in doing what he can for his own life and health.

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Again: suppose that a millionaire is making some wise man his heir and leaving him in his will a hundred million sesterces; and suppose that he has asked the wise man, before he enters upon his inheritance, to dance publicly in broad daylight in the forum; and suppose that the wise man has given his promise to do so, because the rich man would not leave him his fortune on any other condition; should he keep his promise or not? I wish he had made no such promise; that, I think, would have been in keeping with his dignity. But, seeing that he has made it, it will be morally better for him, if he believes it morally wrong to dance in the forum, to break his promise and refuse to accept his inheritance rather than to keep his promise and accept it —unless, perhaps, he contributes the money to the state to meet some grave crisis. In that case, to promote thereby the interests of one's country, it would not be morally wrong even to dance, if you please, in the forum.

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25. No more binding are those promises which are inexpedient for the persons themselves to whom they have been given. To go back to the realm of story, the sungod promised his son Phaethon to do for him whatever he should wish. His wish was to be allowed to ride in his father's chariot. It was granted. And before he came back to the ground he was consumed by a stroke of lightning. How much better had it been, if in his case the father's promise had not been kept. And what of that promise, the fulfilment of which Theseus required from Neptune? When Neptune offered him three wishes, he wished for the death of his son Hippolytus, because the father was suspicious of the son's relations with his step-mother. And when this wish was granted, Theseus was overwhelmed with grief.

[95] And once more; when Agamemnon had vowed to Diana the most beautiful creature born that year within his realm, he was brought to sacrifice Iphigenia; for in that year nothing was born more beautiful than she. He ought to have broken his vow rather than commit so horrible a crime.

Promises are, therefore, sometimes not to be kept; and trusts are not always to be restored. Suppose that a person leaves his sword with you when he is in his right mind, and demands it back in a fit of insanity; it would be criminal to restore it to him; it would be your duty not to do so. Again, suppose that a man who has entrusted money to you proposes to make war upon your common country, should you restore the trust? I believe you should not; for you would be acting against the state, which ought to be the dearest thing in the world to you. Thus there are many things which in and of themselves seem morally right, but which under certain circumstances prove to be not morally right: to keep a promise, to abide by an agreement, to restore a trust may, with a change of expediency, cease to be morally right.

With this I think I have said enough about those actions which masquerade as expedient under the guise of prudence, while they are really contrary to justice.

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Since, however, in Book One we derived moral duties from the four sources of moral rectitude, let us continue the same fourfold division here in pointing out how hostile to virtue are those courses of conduct which seem to be, but really are not, expedient. We have discussed wisdom, which cunning seeks to counterfeit, and likewise justice, which is always expedient. There remain for our discussion two divisions of moral rectitude, the one of which is discernible in the greatness and pre-eminence of a superior soul, the other, in the shaping and regulation of it by temperance and self-control.

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26. Ulysses thought his ruse expedient, as the tragic poets, at least, have represented him. In Homer, our most reliable authority, no such suspicion is cast upon him; but the tragedies charge him with trying to escape a soldier's service by feigning madness. The trick was not morally right, but, someone may perhaps say, "It was

expedient for him to keep his throne and live at ease in Ithaca with parents, wife, and son. Do you think that there is any glory in facing daily toil and danger that can be compared with a life of such tranquillity?"

Nay; I think that tranquillity at such a price is to be despised and rejected; for if it is not morally right, neither is it expedient.

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For what do you think would have been said of Ulysses, if he had persisted in that pretended madness, seeing that, notwithstanding his deeds of heroism in the war, he was nevertheless upbraided by Ajax thus:

“Twas he himself who first proposed the oath; ye all
Do know; yet he alone of all his vow did break;
He feigned persistently that he was mad, that thus
He might not have to join the host. And had not then
Palamedes, shrewd and wise, his tricky impudence
Unmasked, he had evaded e'en for aye his vow.”

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Nay, for him it had been better to battle not only with the enemy but also with the waves, as he did, than to desert Greece when she was united for waging the war against the barbarians.

But let us leave illustrations both from story and from foreign lands and turn to real events in our own history. Marcus Atilius Regulus in his second consulship was taken prisoner in Africa by the stratagem of Xanthippus, a Spartan general serving under the command of Hannibal's father Hamilcar. He was sent to the senate on parole, sworn to return to Carthage himself, if certain noble prisoners of war were not restored to the Carthaginians. When he came to Rome, he could not fail to see the specious appearance of expediency, but he decided that it was unreal, as the outcome proves. His apparent interest was to remain in his own country, to stay at home with his wife and children, and to retain his rank and dignity as an ex-consul, regarding the defeat which he had suffered as a misfortune that might come to anyone in the game of war. Who says that this was not expedient? Who, think you? Greatness of soul and courage say that it was not.

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27. Can you ask for more competent authorities? The denial comes from those virtues, for it is characteristic of them to await nothing with fear, to rise superior to all the vicissitudes of earthly life, and to count nothing intolerable that can befall a human being. What, then, did he do? He came into the senate and stated his mission; but he refused to give his own vote on the question; for, he held, he was not a member of the senate so long as he was bound by the oath sworn to his enemies. And more than that, he said—"What a foolish fellow," someone will say, "to oppose his own best interests" —he said that it was not expedient that the prisoners should be returned; for they were young men and gallant officers, while he was already bowed with age. And when his counsel prevailed, the prisoners were retained and he himself returned to Carthage; affection for his country and his family failed to hold him back. And even then he was not ignorant of the fact that he was going to a most cruel enemy and to exquisite torture; still, he thought his oath must be sacredly kept. And so even then, when he was being slowly put to death by enforced wakefulness, he enjoyed a happier lot than if he had remained at home an aged prisoner of war, a man of consular rank forsworn.

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"But," you will say, "it was foolish of him not only not to advocate the exchange of prisoners but even to plead against such action."

How was it foolish? Was it so, even if his policy was for the good of the state? Nay; can what is inexpedient for the state be expedient for any individual citizen?

28. People overturn the fundamental principles established by Nature, when they divorce expediency from moral rectitude. For we all seek to obtain what is to us expedient; we are irresistibly drawn toward it, and we cannot possibly be otherwise. For who is there that would turn his back upon what is to him expedient? Or rather, who is there that does not exert himself to the utmost to secure it? But because we cannot discover it anywhere except in good report, propriety, and moral rectitude, we look upon these three for that reason as the first and the highest objects of endeavour, while what

we term expediency we account not so much an ornament to our dignity as a necessary incident to living.

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“What significance, then,” someone will say, “do we attach to an oath? It is not that we fear the wrath of Jove, is it? Not at all; it is the universally accepted view of all philosophers that God is never angry, never hurtful. This is the doctrine not only of those who teach that God is Himself free from troubling cares and that He imposes no trouble upon others, but also of those who believe that God is ever working and ever directing His world. Furthermore, suppose Jupiter had been wroth, what greater injury could He have inflicted upon Regulus than Regulus brought upon himself? Religious scruple, therefore, had no such preponderance as to outweigh so great expediency.”

“Or was he afraid that his act would be morally wrong? As to that, first of all, the proverb says, 'Of evils choose the least.' Did that moral wrong, then, really involve as great an evil as did that awful torture? And secondly, there are the lines of Accius: *Thyestes*. 'Hast thou broke thy faith?'

Atrous. 'None have I giv'n; none give I ever to the faithless.'

Although this sentiment is put into the mouth of a wicked king, still it is illuminating in its correctness.”

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Their third argument is this: just as we maintain that some things seem expedient but are not, so they maintain, some things seem morally right but, are not. “For example,” they contend, “in this very case it seems morally right for Regulus to have returned to torture for the sake of being true to his oath. But it proves not to be morally right, because what an enemy extorted by force ought not to have been binding.”

As their concluding argument, they add: whatever is highly expedient may prove to be morally right, even if it did not seem so in advance.

These are in substance the arguments raised against the conduct of Regulus. Let us consider them each in turn.

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29. “He need not have been afraid that Jupiter in anger would inflict injury upon him; he is not wont to be angry or hurtful.”

This argument, at all events, has no more weight against Regulus's conduct than it has against the keeping of any other oath. But in taking an oath it is our duty to consider not what one may have to fear in case of violation but wherein its obligation lies: an oath is an assurance backed by religious sanctity; and a solemn promise given, as before God as one's witness, is to be sacredly kept. For the question no longer concerns the wrath of the gods (for there is no such thing) but the obligations of justice and good faith. For, as Ennius says so admirably:

“Gracious Good Faith, on wings upborne;
thou oath in Jupiter's great name!”

Whoever, therefore, violates his oath violates Good Faith; and, as we find it stated in Cato's speech, our forefathers chose that she should dwell upon the Capitol “neighbour to Jupiter Supreme and Best.”

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“But,” objection was further made, “even if Jupiter had been angry, he could not have inflicted greater injury upon Regulus than Regulus brought upon himself.”

Quite true, if there is no evil except pain. But philosophers of the highest authority assure us that pain is not only not the supreme evil but no evil at all. And pray do not disparage Regulus, as no unimportant witness—nay, I am rather inclined to think he was the very best witness—to the truth of their doctrine. For what more competent witness do we ask for than one of the foremost citizens of Rome, who voluntarily faced torture for the sake of being true to his moral duty?

Again, they say, “Of evils choose the least”—that is, shall one “choose moral wrong rather than misfortune,” or is there any evil greater than moral wrong? For if physical deformity excites a certain amount of aversion, how offensive ought the deformity and hideousness of a demoralized soul to seem!

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Therefore, those who discuss these problems with more rigour make bold to say that moral wrong is the only evil, while those who treat them with more laxity do not hesitate to call it the supreme evil.

Once more, they quote the sentiment:

“None have I given, none give I ever to the faithless.”

It was proper for the poet to say that, because, when he was working out his Atreus, he had to make the words fit the character. But if they mean to adopt it as a principle, that a pledge given to the faithless is no pledge, let them look to it that it be not a mere loophole for perjury that they seek.

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Furthermore, we have laws regulating warfare, and fidelity to an oath must often be observed in dealings with an enemy: for an oath sworn with the clear understanding in one's own mind that it should be performed must be kept; but if there is no such understanding, it does not count as perjury if one does not perform the vow. For example, suppose that one does not deliver the amount agreed upon with pirates as the price of one's life, that would be accounted no deception—not even if one should fail to deliver the ransom after having sworn to do so; for a pirate is not included in the number of lawful enemies, but is the common foe of all the world; and with him there ought not to be any pledged word nor any oath mutually binding.

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For swearing to what is false is not necessarily perjury, but to take an oath “upon your conscience,” as it is expressed in our legal formulas, and then fail to perform it, that is perjury. For Euripides aptly says:

“My tongue has sworn; the mind I have has sworn no oath.”

But Regulus had no right to confound by perjury the terms and covenants of war made with an enemy. For the war was being carried on with a legitimate, declared enemy; and to regulate our dealings with such an enemy, we have our whole fetialcode as well as many other laws that are binding in common between nations.

Were this not the case, the senate would never have delivered up illustrious men of ours in chains to the enemy.

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30. And yet that very thing happened. Titus Veturius and Spurius Postumius in their second consulship lost the battle at the Caudine Forks, and our legions were sent under the yoke. And because they made peace with the Samnites, those generals were delivered up to them, for they had made the peace without the approval of the people and senate. And Tiberius Numicius and Quintus Maelius, tribunes of the people, were delivered up at the same time, because it was with their sanction that the peace had been concluded. This was done in order that the peace with the Samnites might be annulled. And Postumius, the very man whose delivery was in question, was the proposer and advocate of the said delivery.

Many years later, Gaius Mancinus had a similar experience: he advocated the bill, introduced in accordance with a decree of the senate by Lucius Furius and Sextus Atilius, that he should be delivered up to the Numantines, with whom he had made a treaty without authorization from the senate; and when the bill was passed, he was delivered up to the enemy. His action was more honourable than Quintus Pompey's; Pompey's situation was identical with his, and yet at his own entreaty the bill was rejected. In this latter case, apparent expediency prevailed over moral rectitude; in the former cases, the false semblance of expediency was overbalanced by the weight of moral rectitude.

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“But,” they argued against Regulus, “an oath extorted by force ought not to have been binding.” As if force could be brought to bear upon a brave man!

“Why, then, did he make the journey to the senate, especially when he intended to plead against the surrender of the prisoners of war?”

Therein you are criticizing what is the noblest feature of his conduct. For he was not content to stand upon his own judgment but took up the case, in order that the judgment might be that of the senate; and had it not been for the weight of his pleading, the prisoners would certainly have been restored to the Carthaginians;

and in that case, Regulus would have remained safe at home in his country. But because he thought this not expedient for his country, he believed that it was therefore morally right for him to declare his conviction and to suffer for it.

When they argued also that what is highly expedient may prove to be morally right, they ought rather to say not that it “may prove to be” but that it actually is morally right. For nothing can be expedient which is not at the same time morally right; neither can a thing be morally right just because it is expedient, but it is expedient because it is morally right.

From the many splendid examples in history, therefore, we could not easily point to one either more praiseworthy or more heroic than the conduct of Regulus.

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31. But of all that is thus praiseworthy in the conduct of Regulus, this one feature above all others calls for our admiration: it was he who offered the motion that the prisoners of war be retained. For the fact of his returning may seem admirable to us nowadays, but in those times he could not have done otherwise. That merit, therefore, belongs to the age, not to the man. For our ancestors were of the opinion that no bond was more effective in guaranteeing good faith than an oath. That is clearly proved by the laws of the Twelve Tables, by the “sacred” laws, by the treaties in which good faith is pledged even to the enemy, by the investigations made by the censors and the penalties imposed by them; for there were no cases in which they used to render more rigorous decisions than in cases of violation of an oath.

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Marcus Pomponius, a tribune of the people, brought an indictment against Lucius Manlius, Aulus's son, for having extended the term of his dictatorship a few days beyond its expiration. He further charged him with having banished his own son Titus (afterward surnamed Torquatus) from all companionship with his fellow-men, and with requiring him to live in the country. When the son, who was then a young man, heard that his father was in trouble on his account, he hastened to Rome— so the story goes—and at daybreak presented himself at the house of Pomponius. The visitor

was announced to Pomponius. Inasmuch as he thought that the son in his anger meant to bring him some new evidence to use against the father, he arose from his bed, asked all who were present to leave the room, and sent word to the young man to come in. Upon entering, he at once drew a sword and swore that he would kill the tribune on the spot, if he did not swear an oath to withdraw the suit against his father. Constrained by the terror of the situation, Pomponius gave his oath. He reported the matter to the people, explaining why he was obliged to drop the prosecution, and withdrew his suit against Manlius. Such was the regard for the sanctity of an oath in those days.

And that lad was the Titus Manlius who in the battle on the Anio killed the Gaul by whom he had been challenged to single combat, pulled off his torque and thus won his surname. And in his third consulship he routed the Latins and put them to flight in the battle on the Vesperis. He was one of the greatest of the great, and one who, while more than generous toward his father, could yet be bitterly severe toward his son.

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32. Now, as Regulus deserves praise for being true to his oath, so those ten whom Hannibal sent to the senate on parole after the battle of Cannae deserve censure, if it is true that they did not return; for they were sworn to return to the camp which had fallen into the hands of the Carthaginians, if they did not succeed in negotiating an exchange of prisoners. Historians are not in agreement in regard to the facts. Polybius, one of the very best authorities, states that of the ten eminent nobles who were sent at that time, nine returned when their mission failed at the hands of the senate. But one of the ten, who, a little while after leaving the camp, had gone back on the pretext that he had forgotten something or other, remained behind at Rome; he explained that by his return to the camp he was released from the obligation of his oath. He was wrong; for deceit does not remove the guilt of perjury—it merely aggravates it. His cunning that impudently tried to masquerade as prudence was, therefore, only folly. And so the senate ordered that the cunning scoundrel should be taken back to Hannibal in chains.

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But the most significant part of the story is this: the eight thousand prisoners in Hannibal's hands were not men that he had taken in the battle or that had escaped in the peril of their lives, but men that the consuls Paulus and Varro had left behind in camp. Though these might have been ransomed by a small sum of money, the senate voted not to redeem them, in order that our soldiers might have the lesson planted in their hearts that they must either conquer or die. When Hannibal heard this news, according to that same writer, he lost heart completely, because the senate and the people of Rome displayed courage so lofty in a time of disaster. Thus apparent expediency is outweighed when placed in the balance against moral rectitude.

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Gaius Acilius, on the other hand, the author of a history of Rome in Greek, says that there were several who played the same trick of returning to the camp to release themselves thus from the obligation of their oath, and that they were branded by the censors with every mark of disgrace.

Let this be the conclusion of this topic. For it must be perfectly apparent that acts that are done with a cowardly, craven, abject, broken spirit, as the act of Regulus would have been if he had supported in regard to the prisoners a measure that seemed to be advantageous for him personally, but disadvantageous for the state, or if he had consented to remain at home—that such acts are not expedient, because they are shameful, dishonourable, and immoral.

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33. We have still left our fourth division, comprising propriety, moderation, temperance, selfrestraint, self-control.

Can anything be expedient, then, which is contrary to such a chorus of virtues? And yet the Cyrenaics, adherents of the school of Aristippus, and the philosophers who bear the name of Anniceris find all good to consist in pleasure and consider virtue praiseworthy only because it is productive of pleasure. Now that these schools are out of date, Epicurus has come into vogue—an advocate and supporter of practically the same doctrine. Against such a philosophy we must fight it out “with horse and foot,” as the saying

is, if our purpose is to defend and maintain our standard of moral rectitude.

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For if, as we find it in the writings of Metrodorus, not only expediency but happiness in life depends wholly upon a sound physical constitution and the reasonable expectation that it will always remain sound, then that expediency—and, what is more, the highest expediency, as they estimate it—will assuredly clash with moral rectitude. For, first of all, what position will wisdom occupy in that system? The position of collector of pleasures from every possible source? What a sorry state of servitude for a virtue—to be pandering to sensual pleasure! And what will be the function of wisdom? To make skilful choice between sensual pleasures? Granted that there may be nothing more pleasant, what can be conceived more degrading for wisdom than such a rôle?

Then again, if anyone hold that pain is the supreme evil, what place in his philosophy has fortitude, which is but indifference to toil and pain? For, however many passages there are in which Epicurus speaks right manfully of pain, we must nevertheless consider not what he says, but what it is consistent for a man to say who has defined the good in terms of pleasure and evil in terms of pain.

And further, if I should listen to him, I should find that in many passages he has a great deal to say about temperance and self-control; but “the water will not run,” as they say. For how can he commend self-control and yet posit pleasure as the supreme good? For self-control is the foe of the passions, and the passions are the handmaids of pleasure.

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And yet when it comes to these three cardinal virtues, those philosophers shift and turn as best they can, and not without cleverness. They admit wisdom into their system as the knowledge that provides pleasures and banishes pain; they clear the way for fortitude also in some way to fit in with their doctrines, when they teach that it is a rational means for looking with indifference upon death and for enduring pain. They bring even temperance in—not very easily, to be sure, but still as best they can; for they hold that the height of pleasure is found in the absence of pain. Justice totters

or rather, I should say, lies already prostrate; so also with all those virtues which are discernible in social life and the fellowship of human society. For neither goodness nor generosity nor courtesy can exist, any more than friendship can, if they are not sought of and for themselves, but are cultivated only for the sake of sensual pleasure or personal advantage.

Let us now recapitulate briefly.

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As I have shown that such expediency as is opposed to moral rectitude is no expediency, so I maintain that any and all sensual pleasure is opposed to moral rectitude. And therefore Calliphon and Dinomachus, in my judgment, deserve the greater condemnation; they imagined that they should settle the controversy by coupling pleasure with moral rectitude; as well yoke a man with a beast! But moral rectitude does not accept such a union; she abhors it, spurns it. Why, the supreme good, which ought to be simple, cannot be a compound and mixture of absolutely contradictory qualities. But this theory I have discussed more fully in another connection; for the subject is a large one. Now for the matter before us.

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We have, then, fully discussed the problem how a question is to be decided, if ever that which seems to be expediency clashes with moral rectitude. But if, on the other hand, the assertion is made that pleasure admits of a show of expediency also, there can still be no possible union between it and moral rectitude. For, to make the most generous admission we can in favour of pleasure, we will grant that it may contribute something that possibly gives some spice to life, but certainly nothing that is really expedient.

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Herewith, my son Marcus, you have a present from your father—a generous one, in my humble opinion; but its value will depend upon the spirit in which you receive it. And yet you must welcome these three books as fellow-guests, so to speak, along with your notes on Cratippus's lectures. But as you would sometimes give ear to me also, if I had come to Athens (and I should be there now, if my

country had not called me back with accents unmistakable, when I was half-way there), so you will please devote as much time as you can to these volumes, for in them my voice will travel to you; and you can devote to them as much time as you will. And when I see that you take delight in this branch of philosophy, I shall then talk further with you—at an early date, I hope, face to face—but as long as you are abroad, I shall converse with you thus at a distance.

Farewell, my dear Cicero, and be assured that, while you are the object of my deepest affection, you will be dearer to me still, if you find pleasure in such counsel and instruction.

