

# CICERO

## DE OFFICIIS

### III



MARCUS TULLIUS CICERO

# DE OFFICIIS

ON DUTY

(Book III)

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Marcus Tullius Cicero  
(106BCE-43BCE)

*This gifted statesman emerged as an articulate defender of traditional cultural values during the turbulent twilight of the Roman Republic. Cicero survived his ambitious contemporary, Julius Caesar, and witnessed the unravelling of a distressed social order at the dawn of that last great civil war—the one that would end in empire.*

*Written during his enforced political exile, Cicero first dedicated his timeless treatise on ethics to the moral instruction of his son and namesake, Marcus Tullius Cicero, minor. A text from the Stoic philosopher, Panaetius, provides the point of departure, which he explores through a breathtaking range of examples and case-studies, all drawn from ancient philosophy, mythology, history, literature, and even family gossip, to illustrate his essen-*

*tial arguments.*

*A man of his time, Cicero embodied a mature and fertile intellectual heritage, one that was firmly founded in the dynamic methods of Classical Greek ethical reasoning. He understood that philosophy should be practiced, not just theorized; and it outlines predictable pathways along which a virtuous livelihood reveals itself.*

*His complex humanity shines through each word of this gentle guidance. Perhaps that explains its persistent pre-eminence in the libraries of lovers of wisdom. It's Cicero's universal eloquence though, that warrants his acclaim as an essential humanistic voice—one that will continue to be heard as long as readers hunger for excellence in language and thought...*

*...and thus it's been for over two thousand years.*

*P. D. Smith 2017*

BOOK III  
THE CONFLICT BETWEEN  
THE RIGHT AND THE EXPEDIENT

I. 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 imita-

tion 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. 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?

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. 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 ac-



tivity 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.

II. 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. These precepts must be laid to heart by all who look forward to a career of honor, 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 honors, 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 come 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. 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 ap-

pearance 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. 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. 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 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. 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."

III. 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. 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. 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. 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. 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.

IV. 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. 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. 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. 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. 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. 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 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.

V. 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. 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 Na-

ture's laws do forbid us to increase our means, wealth, and resources by despoiling others. 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. 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 neighbor for his own profit is more contrary to Nature than death, pain, and the like.] 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 de-

nied 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. 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.

VI. 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. 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. 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 up-

root 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; a for this virtue is the sovereign mistress and queen of all the virtues. 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?" 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. And therefore Nature's law itself, which protects and conserves human interests, will surely deter-

mine 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 of which I am so fond of dwelling. 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.

VII. 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 is no other alternative that seems probable at all. 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 conscien-

tiously), 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.

VIII. 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 every-

thing 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. 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. 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.

IX. 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 wrongly any more than if he did not have it; for good men aim to secure not secrecy but the right. 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 im-

possible. 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.

X. Many cases oftentimes arise to per-



plex 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 be-

cause 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: 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. And yet we are not required to sacrifice our own interest 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 neigh-

bour'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." 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 honor, 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. But when he comes to pronounce the verdict under oath, he should remember that he has Jupiter as his witness - that is, as I understand it, his own conscience, than which Jupiter 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 appear to the juror with this formula - "to do what he can consistently with his sacred honor." This form of appeal is in keeping with what I said a moment ago would be morally right for a

judge to concede to friend. For supposing that we were bound to everything that our friends desired, such relations would have to be accounted not friendships but conspiracies. 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 executing 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 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. 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.

XI. 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. 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; nev-

er a trace of faint-heartedness, never a mention of making terms. The influence of moral right is so potent, at it eclipses the specious appearance of expediency. 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. 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 insistence 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.

XII. 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. But, as I said above, cases often arise in which expediency may seem to clash with moral rectitude; and so we should examine 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. In deciding cases of this kind Diogenes of Babylonia, 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 of-

ferred it for sale; I sell at a price no higher than my competitors - perhaps even lower, when the market is overstocked. Who is wronged?" "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 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." "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."

XIII. 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. 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 dishonorable. "Yes," says Antipater, "it is; for to allow a purchaser to be hasty in closing a deal and through mistake worse than refusing to set a man on his way: it is deliberately leading a man astray." "Can you say," answers Dio-

genes, "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 there 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'?" 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. 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?

XIV. 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 knight, 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, in-

formed 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 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. "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." Canius was furious; but what could he do? For not yet had my colleague and friend, Gaius Aquilius, introduced the established form to apply to criminal fraud. When asked what he meant by "criminal

fraud," as specified in these forms, he could 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.

XV. 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 Praetorian 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. 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 "bene-

fit." 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 gratitude. Be that as it may, if both pretence and concealment constitute "criminal fraud," there are few transactions into which "criminal fraud" does not enter; or, if he only is a good

man who helps 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.

XVI. 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 juriconsults: 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. 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." 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 Gracidianus. 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, leading 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. What is the purpose of these illustrations? To let you see that our forefathers did not counte-

nance sharp practice.

XVII. 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? 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: "That I be not de-

ceived 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 the counter-claims were admissible in most cases. 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. 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!

XVIII. 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. 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. 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, wrongdoing, and crime.

XIX. 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. 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." 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 irreproach-

able 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 peas-

ants that the proverb, already trite with age, originated: when they praise a man's honor 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? Do you not see that in the light of this proverb no excuse is availilble 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.

XX. "But stay," someone will object, "when the prize is very great, there is ex-

cuse 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. Even our kinsman Gra-

tidianus 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 method 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 honor; 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. 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 over-reach 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! 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 honor 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?

XXI. 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:

*If wrong may e'er be right, for a throne's sake*

*Were wrong most right:-be Jove in all else feared!*

Our tyrant deserved his death for having made an exception of the one thing that was the blackest crime of all. 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 mur-

ders - 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. 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? 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.

XXII. 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. 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 honor - 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. Philip-



pus 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 honor is higher than the Senate's. "But," someone will say, "the revenues were increased and therefore was expedient." How long will people venture to say that a thing that is not morally right can be expedient? 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.

XXIII. 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 price?" 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."

"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." "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." 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 he seller is bound by the civil law to de-

clare or have the slave returned to him, but also the fact that he is untruthful, or disposed to ramble. or steal, or get drunk?" The one thinks such faults should be declared, the other does not. "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.

XXIV. 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. 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.

XXV. 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 sun-god 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 be-



fore he came back to the ground he was consumed by a stroke of lightning. How much better had it been, if in this the 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. 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. 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.

XXVI. 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. 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.*

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.

XXVII. 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. "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?

XXVIII. 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. "What significance, then," someone will say, "do we attach to an oath? It is not that we fear the wrath of Providence, is it? Not at all; it is the universally accepted view of all philosophers that fate is never angry, never hurtful. This is the doctrine not only of those who teach that Jupiter is Himself free from troubling cares and that He imposes no trouble upon others, but also of those who believe that Providence 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?*

*Atreus: None have I given; 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." 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.

XXIX. "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 Jove 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 Jove'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." "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! 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. 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 word nor any oath mutually binding. For swearing to what is false is not neces-

sarily 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 *fetial* code 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.

XXX. 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 honorable



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. "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 Judement 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.

XXXI. But of all that is thus praiseworthy in the conduct of Regulus, this one feature above all others calls for our admira-

tion: 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. 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, explain-

ing 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.

XXXII. 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. But the most significant part of the story is this: the eight thousand pris-

oners 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. 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 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, dishonorable, and immoral.

XXXIII. We have still left our fourth division comprising propriety, moderation, temperance, self-restraint, 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. 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 role? 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

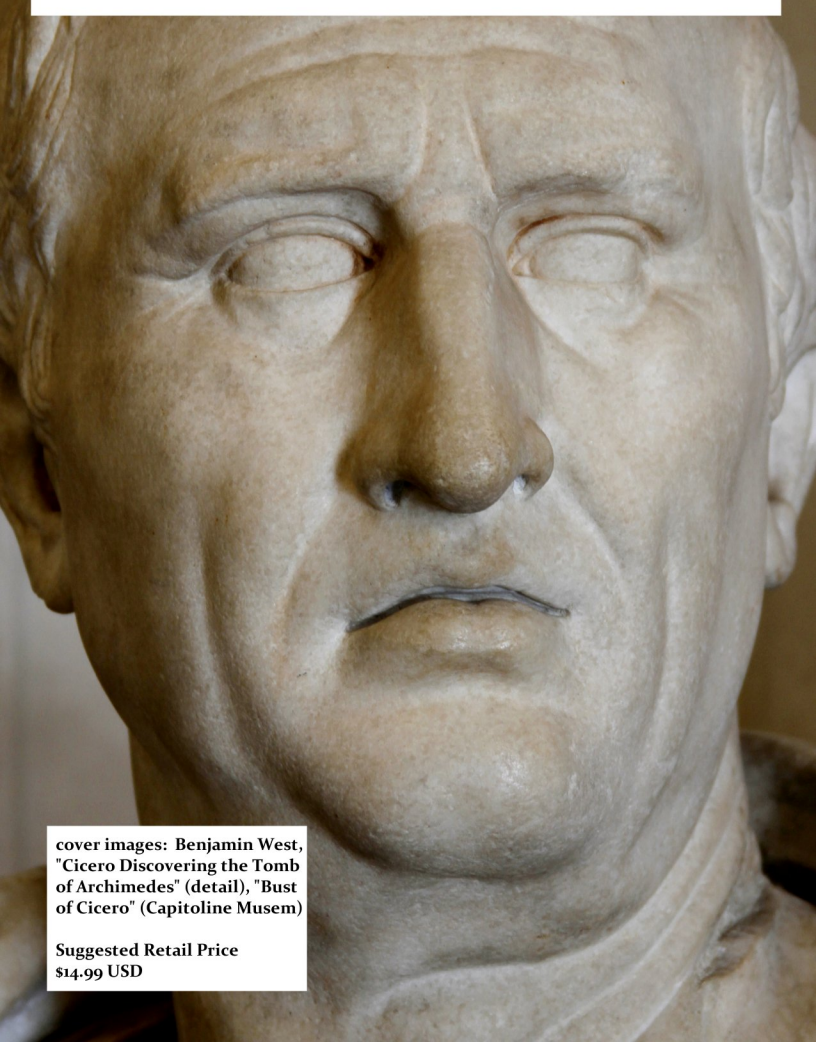
handmaids of pleasure. And yet when it comes to these three cardinal virtues, those philosophers shift and turn as best they can, and not without cleverness. They admit wisdom into their system as the knowledge that provides pleasures and banishes pain; they clear the way for fortitude also in some way 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. 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. We have, then, fully discussed the problem how a question is to be decided, if ever that which seems to be ex-

pediency 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. 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.

**"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."**



cover images: Benjamin West, "Cicero Discovering the Tomb of Archimedes" (detail), "Bust of Cicero" (Capitoline Museum)

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