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*Elements of the
Philosophy of Right*

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SECTION I

Property

The person must give himself an external *sphere of freedom* in order to have being as Idea.¹ The person is the infinite will, the will which has being in and for itself, in this first and as yet wholly abstract determination. Consequently, this sphere distinct from the will, which may constitute the sphere of its freedom, is likewise determined as *immediately different* and *separable* from it.

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

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

The word ‘*thing*’ [*Sache*], like the word ‘objective’, has two opposite meanings.¹ On the one hand, when we say ‘*that’s the thing*’, or ‘*the thing*, not the person, is what matters’, it signifies what is *substantial*. On the other hand, when contrasted with the person (as distinct from the particular subject), the thing is the *opposite of the substantial*: it is that which, by definition

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

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

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

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

sciences, talents, etc. are of course attributes of the free spirit, and are internal rather than external to it; but the spirit is equally capable, through expressing them, of giving them an external existence [*Dasein*] and *disposing* of them (see below), so that they come under the definition [*Bestimmung*] of *things*. Thus, they are not primarily immediate in character, but become so only through the mediation of the spirit, which reduces its inner attributes to immediacy and externality. – In accordance with the unjust [*unrechtlichen*] and unethical determination of Roman law, children were, from the father's point of view, *things*. The father was consequently in legal possession of his children, although he also stood in the ethical relation of love to them (which must, of course, have been greatly weakened by the wrong referred to above). Thus, there was in this case a union – albeit a totally unjust one – of the two determinations of being a thing and not being a thing. – Abstract right is concerned only with the person as such, and hence also with the particular, which belongs to the existence [*Dasein*] and sphere of the person's freedom. But it is concerned with the particular only in so far as it is separable and immediately different from the person – whether this separation constitutes its essential determination, or whether it receives it only by means of the subjective will. Thus, intellectual accomplishments, sciences, etc. are relevant here only in their character as legal possessions; that possession of body and spirit which is acquired through education, study, habituation, etc. and which constitutes an *inner property* of the spirit will not be dealt with here. But the *transition* of such intellectual property into externality, in which it falls within the definition [*Bestimmung*] of legal and rightful property, will be discussed only when we come to the *disposal* of property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~thing back into itself — alienation; — positive, negative, and infinite judgements of the will upon the thing.¹~~

A. Taking Possession

§ 54

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

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

§ 55

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

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

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

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

§ 56

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

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

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

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

§ 57

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

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

acquiescence, etc.), as well as the justification of the *master's status* as simple lordship in general, and all *historical* views on the right of slavery and lordship, depend on regarding the human being simply as a *natural being* [*Naturwesen*] whose *existence* [*Existenz*] (of which the arbitrary will is also a part) is not in conformity with his concept. Conversely, the claim that slavery is absolutely contrary to right is firmly tied to the *concept* of the human being as spirit, as something free *in itself*, and is one-sided inasmuch as it regards the human being as *by nature* free, or (and this amounts to the same thing) takes the concept as such in its immediacy, not the Idea, as the truth. This *antinomy*, like all antinomies, is based on formal thinking, which fixes upon and asserts the two moments of an Idea in separation from each other, so that both are lacking in truth and do not conform to the Idea.¹ The free spirit consists precisely in not having its being as mere concept or *in itself* (see § 21), but in overcoming [*aufheben*] this formal phase of its being and hence also its immediate natural existence, and in giving itself an existence which is purely its own and free. That side of the antinomy which asserts the concept of freedom thus has the advantage that it contains the absolute *starting point* – though only the starting point – on the way to truth, whereas the other side, which goes no further than conceptless existence, does not contain the point of view of rationality and right at all. The point of view of the free will, with which right and the science of right begin, is already beyond that false [*unwahren*] point of view whereby the human being exists as a natural being and as a concept which has being only in itself, and is therefore capable of enslavement. This earlier and false appearance² [*Erscheinung*] is associated with the spirit which has not yet gone beyond the point of view of its consciousness; the dialectic of the concept and of the as yet only immediate consciousness of freedom gives rise at this stage to the *struggle for recognition* and the relationship of *lordship* and *servitude* (see *Phenomenology of Spirit*, pp. 115ff. and *Encyclopaedia of the Philosophical Sciences*, §§ 325ff.).³ But that the objective spirit, the content of right, should no longer be apprehended merely in its subjective concept, and consequently that the ineligibility of the human being in and for

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

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

§ 58

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

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

B. Use of the Thing [*Sache*]

§ 59

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

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

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

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

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

§ 60

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

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

§ 61

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

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

§ 62

~~Only my entitlement to a partial or temporary use of something or to partial or temporary possession of it (a possession in the shape of the partial or temporary possibility of using it) is therefore to be distinguished from the ownership of the thing [*Sache*] itself. If the whole extent of the use of a thing were mine, but the abstract ownership were supposed to be someone else's, the thing as mine would be wholly penetrated by my will (see the previous paragraph and § 52), while it would at the same time contain something impenetrable by me, i.e. the will, in fact the empty will, of someone else. As positive will, I would thus be at the same time objective and not objective to myself in the thing – a relation of absolute contradiction. Ownership is therefore essentially free and complete ownership.¹~~

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

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

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

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

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

Addition (H). The qualitative disappears here in the form of the quantitative. For if I speak of 'need', this is a term which can encompass the most diverse things [*Dinge*], and it is their common quality which makes them commensurable.¹ Thus, the progression of thought here is from the specific quality of the thing [*Sache*] to a stage at which this determinate quality is indifferent, i.e. that of quantity. A similar situation arises in mathematics. If, for example, I define a circle, an ellipse, or a parabola, it can be seen that they are specifically different. Nevertheless, the distinction between these different curves is defined purely quantitatively, that is, in such a way that the only relevant factor is a quantitative distinction which relates to their coefficients alone, to their purely empirical dimensions. In the case of property, the quantitative determination which emerges from the qualitative is *value*. Here, the qualitative supplies the quantum for the quantity, and is, as such, both preserved and superseded. If one considers the concept of value, the thing [*Sache*] itself is regarded merely as a sign, and it counts not as itself but as what it is worth. A bill of exchange, for example, does not represent its quality as paper, but is merely a sign representing another universal, namely value. The value of a thing can vary greatly in relation [*Beziehung*] to need; but if one wishes to express not the specific nature of its value but its value in the abstract, this is expressed as *money*. Money can represent anything [*alle Dinge*], but since it does not depict the need itself but is only a sign in place of it, it is itself governed in turn by the specific value which it merely expresses in the abstract. It is indeed possible to be the owner of a thing [*Sache*] without at the same time being the owner of its value. A family which cannot sell or mortgage its estate is not the proprietor of its value. But since this form of property is out of keeping with the concept of property, such limitations [of ownership] (feudal tenancies and entails) are now for the most part disappearing.

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

C. The Alienation^a of Property

§ 65

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

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

§ 66

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

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

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

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

~~*Addition (II)*. It is certainly the case that the individual [*einzelne*] person is a subordinate entity who must dedicate himself to the ethical whole. Consequently, if the state demands his life, the individual [*Individuum*] must surrender it. But may a human being take his own life? One may regard suicide in the first instance as an act of bravery, albeit an inferior bravery of tailors and maidservants. On the other hand, it can also be seen as a misfortune, since it is the product of inner derangement. But the main question is: have I a right to commit suicide? The answer will be that, as *this* individual, I am not master of my life, for the comprehensive totality of activity, i.e. life, is not something external to personality, which is itself immediately *this*. Thus, it is a contradiction to speak of a person's right over his life, for this would mean that a person had a right over himself. But he has no such right, for he does not stand above himself and cannot pass judgement on himself. When Hercules burned himself to death or Brutus fell on his sword, this was a hero's behaviour in relation to his own personality; but if it is a question of a simple right to kill oneself, such a right may be denied even to heroes.¹~~

TRANSITION FROM PROPERTY TO CONTRACT

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

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

Abstract Right

ing, etc. – as that they should possess property (see Remarks to § 45). As far as their own consciousness is concerned, it is need in general – benevolence, utility, etc. – which leads them to make contracts; but implicitly [*an sich*], they are led by reason, that is, by the Idea of the real existence of free personality ('real' in the sense of 'present only within the will'). Contract presupposes that the contracting parties *recognize* each other as persons and owners of property; and since it is a relationship of objective spirit, the moment of recognition is already contained and presupposed within it (cf. § 35 and Remarks to § 57).¹

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

~~personality of their own in relation to one another but must take place [between people] from separate families and personalities of different origin. Marriage between *blood relations* is therefore at variance with the concept of marriage as an ethical act of freedom rather than an association based on immediate natural existence [*Natürlichkeit*] and its drives, and hence it is also at variance with genuine natural feeling [*Empfindung*].~~

~~If marriage itself is regarded as an arbitrary contract and as grounded not in *natural law* but merely in the natural sexual drive, and if external reasons for monogamy have been derived even from the physical relation between numbers of men and women, and obscure feelings have been cited as the only reason for prohibiting marriage between blood relations, such arguments are based on the common notion [*Vorstellung*] of a state of nature and of the naturalness of right, and on the absence of the concept of rationality and freedom.~~

~~*Addition (H)*. In the first place, marriage between blood relations runs counter even to the feeling [*Gefühl*] of shame, but this revulsion is justified by the concept of the thing [*Sache*]. In other words, what is already united cannot then be united only by means of marriage. As far as the purely natural relationship is concerned, it is well known that reproduction within a family of animals produces more feeble offspring, for what is to be united must first be separate; the power of procreation, like that of the spirit, increases with the magnitude of oppositions out of which it reconstitutes itself. Familiarity, acquaintance, and the habit of shared activity should not be present before marriage: they should be discovered only within it, and the value of this discovery is all the greater the richer it is and the more components it has.~~

§ 169

The family, as a person, has its external reality in *property*; and only in the latter, in the shape of *resources*, does its substantial personality have its existence [*Dasein*].

B. The Family's Resources

§ 170

Not only does the family have property; as a *universal* and *enduring* person, it also incurs the need for possessions which are determined as *permanent* and *secure*, i.e. it needs *resources*. Abstract property contains the arbitrary moment of the particular need of the *single individual* [*des bloß Einzelnen*]; this is here transformed, along with the selfishness of desire, into care and acquisition for a *communal purpose*, i.e. into an *ethical* quality.

The introduction of permanent property appears, in conjunction with the institution of marriage, in the legends of the founding of states, or at least of civilized [*gesittet*] social life. But the precise nature of these resources and the true method of consolidating them become apparent within the sphere of civil society.

The family as a legal [*rechtliche*] person in relation to others must be represented by the husband as its head. In addition, he is primarily responsible for external acquisition and for caring for the family's needs, as well as for the control and administration of the family's resources. These are common property, so that no member of the family has particular property, although each has a right to what is held in common. This right and the control of the resources by the head of the family may, however, come into collision, because the ethical disposition of the family is still immediate (see § 158) and exposed to particularization and contingency.

When a marriage takes place, a *new family* is constituted, and this is *self-sufficient* for itself in relation to the *kinship groups* or houses from which it originated; its links with the latter are based on the natural blood relationship, but the new family is based on ethical love. The property of an individual is therefore also essentially connected with

his marital relationship, and only more distantly connected with his kinship group or house.

Marriage settlements which place a restriction on the common ownership by the partners of their goods, and measures which ensure that the wife will continue to receive legal support, etc., are significant inasmuch as they provide for the dissolution of the marriage in the event of natural death, divorce, etc., and attempt to guarantee that, in such an eventuality, the share of the various members of the family in the common property will be preserved.

Addition (H). Many legal codes relate to the family in the wider sense and regard it as the essential bond, whereas the other bond which unites each specific family appears less important in comparison. Thus, in older Roman law, the wife in the less binding variety of marriage had a closer relationship to her own kinsfolk than to her children and husband,¹ and in the era of feudal law, the maintenance of the *splendor familiae* made it necessary to count only the male members of the family as belonging to it and to regard the family in its entirety as the most important factor, whereas the newly constituted family disappeared from view. Nevertheless, every new family is more essential than the wider context of blood relationships, and marriage partners and children form the proper nucleus in opposition to what can also be described in a certain sense as the family. The financial circumstances [*Vermögensverhältnis*] of individuals must therefore have a more essential connection with their marriage than with the wider circle of their blood relations.

~~C. The Upbringing of Children and the Dissolution of the Family~~

~~The unity of marriage, which in substance is merely inwardness and disposition but in existence [*als existierend*] is divided between the two subjects, itself becomes in the children an existence [*eine Existenz*] which has being for itself, and an object [*Gegenstand*] which they [i.e. the parents] love as their love and their substantial existence [*Dasein*]. From the point of view of nature, the presupposition of persons existing immediately as parents here becomes the result, a process~~