THE FIFTH BOOK

OF THE

NICOMACHEAN ETHICS

OF

ARISTOTLE.
ΠΕΡΙ ΔΙΚΑΙΟΣΤΗΝΗΣ.

THE FIFTH BOOK
OF THE
NICOMACHEAN ETHICS
OF
ARISTOTLE.

EDITED FOR THE SYNDICS OF THE UNIVERSITY PRESS

BY

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Cambridge:
AT THE UNIVERSITY PRESS.

LONDON: CAMBRIDGE WAREHOUSE, 17, PATERNOSTER ROW
CAMBRIDGE: DEIGHTON, BELL, AND CO.
1879

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PREFACE.

The text of this edition of what, in deference to tradition, I have called on the title-page the Fifth Book of the Nicomachean Ethics, is founded upon a new collation of eight MSS. I cannot pretend that my researches in this direction have yielded much that is important. They have indeed enabled me to correct a few oversights in Bekker's text and critical notes, but they have thrown little light, if any, upon the difficulties of the treatise, and have convinced me that Bekker lost little by confining his attention to the four MSS. KᵇLᵇMᵇOᵇ. I have however printed the results of my collation, in the hope that others may thereby be spared the repetition of an ungrateful labour.

Thinking, as many others have done, that the several parts of the Fifth Book do not stand in their proper order, I have with some hesitation adopted what seems to me a more intelligible arrangement than that of the received text. The chapter "On Dislocations in the Text", which forms a part of the Introduction, is based upon an article which I contributed to the Journal of Philology in 1875.
In the translation or paraphrase which stands opposite the text, my chief aim has been to show how I understand the drift and the several arguments of the original. Hence, wherever a Greek phrase seemed to be clearer than an English equivalent would have been, I have not scrupled to retain it in my version: and in general I have sacrificed neatness of expression to precision and perspicuity.

The necessity of justifying my interpretations has caused my notes to become in some parts, and especially in chapters 5, 8, and 9, disproportionately long. The substance of the commentary on chapter 5 appeared in 1872 in the *Journal of Philology*.

I believe that I have in all cases acknowledged my debts to previous commentators. But I should be ungrateful indeed if I did not make particular mention of my obligations to Sir Alexander Grant. It was in the pages of his edition that I first became acquainted with the Ethics, and however much I may differ from him in detail, I can never forget the help which, both as learner and as teacher, I have derived from his fresh and instructive work.

Professor Ramsauer's new edition did not reach me until my commentary was already in the press. As it was then too late to make use of his researches, I deferred the perusal of his work until my own little book should be out of my hands.

Finally it is my pleasant duty to offer my thanks to the Syndics of the University Press for their liberality in undertaking the publication of this book; to the authorities of the Bibliothèque Nationale at Paris, the Library of the Vatican, the Library of
St Mark at Venice, the Laurentian and Riccardian Libraries at Florence, the British Museum, and New College, Oxford, for their courtesy in allowing me to consult MSS. in their collections; and to my friends the Rev. W. M. Gunson, Fellow of Christ’s College, Cambridge, Mr S. H. Butcher, Fellow of University College, Oxford, and Mr G. G. Greenwood of this College, with whom I have discussed many of the difficulties which beset this part of the Ethics.

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November 9, 1878.
INTRODUCTION.

I. On the Manuscripts.

In the critical notes to this edition I have recorded the readings of eight of the nine MSS. of the Ethics to which Bekker has assigned distinguishing letters. They are the following:

Q. Marcianus cc: "in folio membranaceus, foliorum 594, saeculi xv." Zanetti. Cf. Susemihl, Politics p. xxiv. This MS. (written by Joannes Rhosus in 1457) in general agrees exactly with Mb. There are however occasional differences, sometimes one and sometimes the other exhibiting the conventional reading. I attach no value to Q, and in my general remarks on the MSS. have left it wholly out of account.


Bonitz made a collation of the whole of the Nic. Eth. in this MS.: "Kritische Ausbeute hat diese Collation so gut wie gar nicht ergeben, sondern nur bestätigt, was sich im Voraus vermuthen liess, dass Bekker Grund hatte, von der Collation der ganzen Handschrift abzusehen; sie ist an Fallen der Ungenauigkeit und an Auslassungen so reich, dass sie für Textes-recension der Nikomachischen Ethik sehr geringen Werth hat." Aristot. Stud. II. 8. I have nothing to say against this decided condemnation.

Kb. Laurentianus lxxxi. 11: "codex membranaceus MS. in fol. minori seculi x nitidissimus et optimae notae, cum
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I might have saved myself the trouble of collating this MS., as Bekker's collation has been most carefully revised by Schöll, whose corrections and additions are printed in Rassow's Forschungen p. 10 sqq. Numerous as are the readings which this MS. alone preserves, it is very incorrect, in the fifth book more so than several MSS. of less importance.

Lb. Parisiensis 1854: “cod. membr. Nic. Eth. cum scholiis varia manu caque recentiori scriptis. Mich. Pselli esse verisimile est. Sec. XII.” Catalogue. This MS. appears to me to be on the whole the most trustworthy authority for the text of the fifth book (“im fünften und zehnten Buche vielleicht als die zuverlässigste Quelle zu betrachten,” says Rassow), though there are not very many instances in which it is alone in preserving a good reading.

Mb. Marcianus ccxiii: “in 4ª membranaceus, fol. 276, saec. circ. xv.” Zanetti. Though very incorrect this MS. occasionally preserves an important reading which would otherwise be lost. In the judgment of Bonitz (Aristot. Stud. II. 9) and Susemihl (Politics p. xxvi) it ranks for the Ethics only second in importance to Kb. So far as Bk. V is concerned, I think Lb more trustworthy than either.

Nb. Marcianus. Append. iv. 53: “bomb. fol. saec. xii.” Waitz, Organon p. 3. I suspect that this was the MS. which was used by Aldus in printing the Nic. Eth. for his editio princeps. Lines have been drawn in the MS. to guide the copyist or printer in punctuation, and errors have been carefully corrected in the margin by the aid of some other MS. or MSS. In general the Aldine text exactly reproduces Nb together with the punctuation and emendations indicated by the corrector. I have admitted some three readings into my text on the sole authority of Nb. It is now well known that Bekker's collation of this MS. (as of H*) is an incomplete one, and that it is the neglect of this fact which has led some scholars strangely to overrate its importance.
O\textsuperscript{b}. Riccardianus 46. More correct than M\textsuperscript{b}, O\textsuperscript{b} contributes fewer peculiar readings to the text than that MS. In this book however it does not seem to be as decidedly inferior to M\textsuperscript{b} as (according to the best authorities) it is elsewhere.

P\textsuperscript{b}. Vaticanus 1342. "Membr., kl. 4to oder 8vo, 133 Bl., Griechisch und Römisch paginirt. Kleine Schrift, viele Abkürzungen." Brandis.

In the Journal of Philology, 1876, vi. 208, I have endeavoured to show that the Cambridge MS. (‘Eliensis’) was copied from P\textsuperscript{b}, which must therefore have been written before 1279. Although apparently more closely connected with K\textsuperscript{b} than any other MS. and not so ancient, P\textsuperscript{b} is nevertheless less incorrect. I do not however find that it preserves any good readings which are not to be found in either K\textsuperscript{b}L\textsuperscript{b}M\textsuperscript{b}N\textsuperscript{b} or O\textsuperscript{b}.

My own conclusions (as shown in the text which I have adopted) are, so far as Bk. v is concerned, briefly as follows:

1. That the MSS. collated (exclusive of Q which agrees too closely with M\textsuperscript{b} to be worth considering) stand in respect of correctness in the following order L\textsuperscript{b}P\textsuperscript{b}O\textsuperscript{b}N\textsuperscript{b}K\textsuperscript{b}H\textsuperscript{a}M\textsuperscript{b}, L\textsuperscript{b} being decidedly the most correct, and M\textsuperscript{b} decidedly the most incorrect;

2. That H\textsuperscript{a} and P\textsuperscript{b} contribute to the text nothing which is not to be found in one or other of the remaining five codices;

3. That when H\textsuperscript{b} and P\textsuperscript{b} are neglected there are about 43 places in which my reading depends upon one only of the remaining five MSS., the contributions of each being as follows: K\textsuperscript{b} 23, L\textsuperscript{b} 9, M\textsuperscript{b} 5, O\textsuperscript{b} and N\textsuperscript{b} 3 each;

4. That I am unable to distinguish families.

It will be remarked that these conclusions agree substantially with those of Rassow (Forschungen p. 8), and do not encourage the hope that in other parts of the Ethics an examination of the MSS. neglected by Bekker would yield considerable improvements upon his text.

Besides the MSS. above mentioned, I have also collated Bk. v in two MSS. which are important only on the ground that
they have been occasionally quoted by editors. One of them, now in the Library of the University of Cambridge, quoted by Zell as 'El.' i.e. 'Eliensis,' is, if I am not mistaken, a transcript from P\textsuperscript{b} (vide supra). It is dated 1279. See Journal of Philology, 1876, vi. 208 sqq., where I have given an account of it. The other, which is in the Library of New College, Oxford, quoted by Zell as C. N., seems to me to be a copy of Parisiensis 1853. Both codices have a lacuna extending from VIII. 11 § 7 to IX. 12 § 1, and if I may judge from the comparison of a few pages of the Parisian MS. with my collation of the Oxford one, they have the same readings, except where the Oxford MS. introduces a new blunder. I have also collated a few pages in Marcianus CCXII ("in 8\textsuperscript{o} chartaceus, fol. 499, saeculi circiter XV" Zanetti), which appears to be a transcript from Q.

It will be understood that I have not in general recorded the corrections of later hands, that I have noted false accents and breathings only where they might seem to have some slight significance, and that I have neglected altogether the variations of the MSS. in respect of \( \omega \theta \epsilon \iota \varsigma \), \( \omega \theta \epsilon \iota \varsigma \), &c., of elisions, and of the \( \nu \ \epsilon \varphi \epsilon \lambda \kappa \varsigma \nu \sigma \tau \iota \kappa \delta \nu \). I have not in general thought it necessary to call attention to discrepancies between Bekker's collation and my own. Finally, I have noted in the critical commentary all cases in which my text differs from that of Bekker.

II. On Dislocations in the Text.

Conceiving as others have done that the difficulty and the obscurity of this book are in a large measure due to dislocations in the text, I have with some hesitation decided to print the several parts of the treatise in what I suppose to be the true order. In this way I shall at any rate give the reader an opportunity of testing my rearrangement,
whilst whatever may be thought of my attempt, I cannot well create a greater confusion than that which is to be found in the received text.

My main objections to the vulgate are two: (1) that the discussion of the ἀπορία περὶ τοῦ αὐτὸν αὐτὸν ἀδικεῖν is broken in two places by the intrusion of (a) 9 § 14—10 § 8, and (b) 11 §§ 7, 8, and (2) that 6 §§ 1—3 are wholly out of place in their present position between 5 § 19 and 6 § 4.

I proceed to examine these portions of the book with the double purpose of justifying the above statements, and of discovering how to dispose of the intrusive passages.

The opening words of ch. 9—ἀπορίασε εὖ ἀν τις, εἰ ἑκανός διώρισται περὶ τοῦ ἀδικεῖσθαι καὶ ἀδικεῖν — appear to announce the beginning of a new division of the book, devoted to the consideration of ἀπορία with respect to ἀδικεῖν and ἀδικεῖσθαι. The first ἀπορία, discussed somewhat confusedly in §§ 1—7, is (a) 'can a man ἐκὼν ἀδικεῖσθαι?' The question having been answered in the negative, we are told in § 8 that two other ἀπορίαι remain to be investigated, (b) 'is it the distributor or the receiver who ἀδικεῖ?' and (c) 'can a man ἀδικεῖν αὐτὸν?' The second of the two latter ἀπορίαι (which has been already referred to incidentally in § 4) having been separated from the first, in which at first sight it might seem to be involved, in § 9, the first is discussed and decided in §§ 10—13. Then follow three §§ (14—16), which have nothing to do with the ἀπορίαι announced for discussion, and which would appear to belong to a preliminary review of ἐνδοξα about universal δίκαιον and ἀδικον, such as that with which the book opens—else why the references, not merely to particular justice and injustice, but also to other virtues and vices? Next, § 17 limits the sphere of ἡ κατὰ μέρος δίκαιοσύνη, and consequently has nothing to do either with §§ 14—16, or with §§ 8—13. Ch. 10 which follows investigates ἐπιείκεια and its relation to δίκαιοσύνη, thus raising an entirely new matter. And now in ch. 11 §§
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1—6, the third ἀπορία (which, I repeat, has been in 9 § 4 and § 9 referred to, but never considered) is formally discussed. Then, in 11 §§ 7, 8 it is debated whether ἀδικεῖν or ἀδικεῖσθαι is the worse. Next, § 9 recurs to the ἀπορία 'can a man ἀδικεῖν αὐτὸν?'. Finally § 10 concludes the book.

Thus the matters discussed in ch. 9—11 may be tabulated as follows:

(1) 9 §§ 1—7. The ἀπορία
(a) Can a man ἐκὼν ἀδικεῖσθαι? discussed and decided.
(2) §§ 8, 9. The ἀπορίαι
(b) Is it the distributor or the receiver who ἀδικεῖ; and
(c) Can a man ἀδικεῖν αὐτὸν? announced and distinguished.
(3) §§ 10—13. The ἀπορία
(b) Is it the distributor or the receiver who ἀδικεῖ? decided.

(4) 9 §§ 14—16. Certain ἐνδοξα about universal justice enumerated and considered.
(5) 9 § 17. The sphere of particular justice determined.
(6) 10. Equity.

(7) 11 §§ 1—6. The ἀπορία (c) Can a man ἀδικεῖν αὐτὸν? discussed and decided.

(9) § 9. The ἀπορία (c)
Can a man ἀδικεῖν αὐτὸν? finally dismissed.

(10) § 10. Conclusion of the book.
However we may hereafter dispose of the passages which I have enumerated on the right side of the page, there can be no doubt that those which I have placed on the left side gain in perspicuity if they are read in connection with one another. Even if I could offer no suggestion for the disposal of the two interpolations, i.e. 9 § 14—10 § 8 and 11 §§ 7, 8, I should still recommend this course. But I think that I can find places for the fragments which I have set aside. In the first place, it seems natural that the discussion of ἐπείκεια, as a supplement to the investigation of δικαίοσύνη, should stand at the end of the book. I therefore propose to place it after 11 § 9, prefixing to it another fragment (6 § 3) of which I shall have something to say hereafter, and affixing 11 § 10 with which the book obviously concludes. Thus according to the numeration of the above tabular statement, (1), (2), (3), (7), (9), (6), (10) will stand in the order indicated.

It remains to determine the position of 9 §§ 14—16, 9 § 17, and 11 §§ 7, 8.

The first of these fragments, being an enumeration and examination of ἐνδοξα about justice and injustice in the large senses of those words, would seem to belong to the early part of the book. Now in 1 § 3 the author states and accepts provisionally the popular notion of justice and injustice: he then proceeds in § 4, οὐδὲ γὰρ τὸν αὐτὸν ἔχει τρόπον ἐπι τῶν ἐπιστημῶν καὶ δυνάμεων καὶ ἐπὶ τῶν ἔξεων. Does this sentence naturally succeed § 3? For my part, I think not. To say nothing of the harshness of the ellipse which Grant assumes,—“(and I have specified them thus) for it is not the same,” &c.—the introduction of a doctrine of the schools in § 4, for no better purpose than to justify the form in which the popular notion of § 3 has been expressed, is surely very strange. Here then, after the words ὑποκείσθω ταῦτα, I propose to insert 9 §§ 14—16. (See paraphrase, p. 3.) It will be remarked (1) that a somewhat lengthy enumeration of popular views with accompany-
ing criticisms is precisely what the author's declaration in § 2, that he will proceed κατὰ τὴν αὐτὴν μέθοδον τοῖς προειρημένοις, has led us to expect at the outset of the enquiry, whereas the addition of such an enumeration after the author's own view has been stated is not only useless, but also contrary to his ordinary practice; and (2) that the doctrine of 1 § 4 is necessary to complete the argument of 9 § 16, as was seen by Michael Ephesius, who, though he does not suspect any displacement, is nevertheless careful in commenting on the latter passage to quote the former.

Again 9 § 17, which determines the kind of society in which ἥ κατὰ μέρος δικαιοσύνη can subsist, is obviously connected in thought with 1 § 9. Accordingly I propose to insert it after the words τὰ αὐτοῖς ἀγαθά, though I cannot allege any better reason than a general sense of superior fitness for placing it here, after the parenthetical remarks about prayer, rather than after τωὶ δ' οὐχ ἄει. (See paraphrase, p. 7.)

It remains to find a place for 11 §§ 7, 8. In these §§, which have obviously nothing to do with the ἀπορίαι raised in ch. 9, ἀδικεῖν and ἀδικεῖσθαι being regarded as deviations from τὸ μέσον, it is asked which of the two is the worse? Now 5 §§ 17, 18 is the one place in which τὸ κατὰ μέρος δικαιοῦν (taken as a whole) is regarded as a μέσον. I therefore insert this fragment at the end of 5 § 18, after the words τοῦ δὲ ἀδικήματος τὸ μὲν ἔλαττον τὸ ἀδικεῖσθαι ἐστι, τὸ δὲ μεῖζον τὸ ἀδικεῖν.

Further, two minor changes appear to me to be necessary. Firstly, I cannot construe the clause καὶ ὥσπερ ὑγιεινῶν μὲν ἐν λατρείᾳ ἑνεκτικῶν δὲ ἐν γυμναστικῇ (11 § 7) in connection with its present surroundings. The best place which I can find for it is in 5 § 17 after the words ἀλλ' ὅτι μέσον ἐστίν, and accordingly I have printed it there in my text, though not without hesitation.

Secondly, I have introduced in 11 § 7, after οὐ γὰρ ἀπαν τὸ ἐκούσιον μετὰ ἀδικίας, the words ἐν οἷς δ' [qu. γὰρ] ἀδικία,
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καὶ τὸ ἀδικεῖν ἐν τούτοις, ἐν οἷς δὲ τὸ ἀδικεῖν, οὐ πᾶσιν ἀδικία, which, as Münscher has pointed out, Quaest. Crit. p. 84, are wholly irrelevant to 6 § 4. Here again, though I am sure that the sentence is out of place where it stands, I cannot be sure that I have discovered the right position for it.

I turn now to 6 §§ 1—3. These sections, as is acknowledged by nearly all the scholars who have attempted to unravel the perplexities of this book, seriously interrupt the argument. As the text stands, 5 § 19 declares that the investigation of δικαιοσύνη, ἀδικία, δίκαιον and ἀδικον regarded καθόλου is now complete; while 6 § 4 begins an investigation of the kinds of δίκαιον called respectively πολιτικῶν, δεσποτικῶν, πατρικῶν, οἰκονομικῶν; and the introductory sentence—

δεὶ δὲ μὴ λανθάνειν οὕτο τὸ ζητούμενόν ἐστι καὶ τὸ ἐπειδὸς δίκαιον καὶ τὸ πολιτικὸν δίκαιον—carefully marks the connection of this inquiry with the inquiry concluded in ch. 5. Any intervening sentences must be either explanatory of the previous discussion, or explanatory by anticipation of 6§ 4 sqq., or, if purely parenthetical, complete in themselves. Now it is impossible to connect §§ 1—3 either with 5 § 19 or with 6 § 4: and when we consider them by themselves, apart from the context, we find that the author (1) in 6 §§ 1, 2, starting from the new assumption that ὁ ἀδικῶν is not necessarily ἀδικος, asks a question, demurs to the form of it, and alleges examples in justification of his objection, but does not restate the question or proceed to enunciate his doctrine, although in the words ἀλλ’ οὐ διὰ προαιρέσεως ἀρχήν he has implicitly established a basis for it; and (2) in 6 § 3 introduces a reference to a former discussion, which reference is irrelevant not only to 6 §§ 1, 2, but also to 5 § 19 and 6 § 4. I conceive then that the passage does not occupy its proper position, and that it consists of two distinct fragments, one of which,

1 In the Journal of Philology, 1876, vi. p. 108, I placed these words in 6 § 1 after διὸς.

2 In the Latin version of Averroes' commentary no notice is taken of §§ 1—3, as is expressly noted in the margin of the Venetian edition of 1550. Michael. Ephesius paraphrases §§ 1, 2, but not § 3.

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§§ 1, 2, belongs in thought, as Trendelenburg (Historische Beiträge zur Philosophie III. 421) has pointed out, to ch. 8, whilst the other, § 3, contains at first sight no hint of its origin. I proceed to deal with these fragments separately and in detail; and first with §§ 1, 2.

I have already said that the distinction between ὁ ἄδικων and ὁ ἄδικος, which is introduced as though it were familiar to the reader, is here imported into the discussion for the first time. I may now add that, whereas the words οὐ διὰ προαιρέσεως ἄρχὴν ἄλλα διὰ πάθος read as though the distinction between τὰ ἐκ προαιρέσεως and τὰ διὰ πάθος had been already enforced, that distinction has not been brought before us in connection with the present subject. It has also been stated that the author after asking the question ὁ ποιὰ ἄδικήματα ἄδικῶν ἢ ἄδικος ἢ στίν ἐκάστην ἄδικίαν; objects to the form of the question, prepares to answer it in its spirit if not in its letter, but strangely stops short and drops the matter. Now in ch. 8 we find (1) that προαιρετὰ and ἀπροαιρετὰ (in which ὅσα διὰ θυμὸν καὶ ἄλλα πάθη ὅσα ἀναγκαῖα ἡ φυσικὰ συμβαίνει τοῖς ἄνθρωποις are included) are carefully distinguished in 8 § 5; (2) that the distinction between ὁ ἄδικων and ὁ ἄδικος is introduced, apparently as a novelty, in 8 § 8; and (3) that the very question asked in 6 § 1, not having been restated in the interval, is declared answered in 8 § 11, upon the principle hinted at but not distinctly enunciated in the former passage. Hence I infer that the fragment 6 §§ 1, 2 is to be inserted in ch. 8 somewhere between οὐ μέντοι πω ἄδικοι διὰ ταῖτα οὐδὲ πονηροί (§ 8) and ἢν δ’ ἐκ προαιρέσεως βλάψῃ, ἄδικεί, κ.τ.λ. (§ 11): and on examination of the region thus defined I decide to place it in § 8 after βλάβη. (See paraphrase, p. 47.) The train of thought of 8 §§ 6—11 is then as follows:—'The βλάβαι which may occur in the several κοινωνίαι of society are three—ὑπόχυμα (ὁταν παραλόγως ἡ βλάβη γένηται), ἀμάρτημα (ὁταν μὴ παραλόγως ἄνευ δὲ κακίας), ἄδικημα (ὁταν εἰδὼς μὲν μὴ προβουλεύσας δὲ). He who acts knowingly, but not of deliberate purpose, ἄδικεί but is not
necessarily ἄδικος. What are the acts then the commission of which makes the agent ἄδικος as well as ἄδικων? Not certain specified acts, but acts done ēκ προαιρέσεως (whence τὰ ἐκ θυμοῦ are rightly accounted ἄδικήματα which do not imply ἄδικια in the agent, for ὁ ὀργισθεὶς is εἰδὸς but not προελόμενος). Thus in this chapter ἄδικον, ἄδικημα, and ἄδικια implying ἄδικια are successively considered and defined. When the agent is not ἐκῶν, he ἁδικα πράττει. When the agent is ἐκῶν but not προελόμενος, he ἁδικεῖ and the act is an ἁδίκημα. When the agent is προελόμενος, he ἁδικεῖ καὶ ἁδικός ἐστίν. It will be observed, (1) that the fragment inserted accounts for the transition from the plurals ἁδικοῦ, πονηροῦ in 8 § 8 to the singulars ἁδικοῦ, μοχθηρῶς in 8 § 9; and (2) that the phrase διὰ προαιρέσεως ἀρχήν in 6 § 1 leads up to the emphatic ἀρχεῖ in the last sentence of the second of these sections. These coincidences may seem in some measure to confirm my conjecture.

So much for the first of the two fragments of which I suppose 6 §§ 1—3 to consist. It is more difficult to dispose of the second. We may however assume from the form of it—πῶς μὲν οὖν ἔχει τὸ ἄντιπεπονθός πρὸς τὸ δίκαιον εἰρηται πρῶτερον—that it is the beginning of a distinct paragraph, whilst it is evident that this allusion to the investigation of τὸ ἄντιπεπονθός would be specially appropriate at the beginning of a subsequent chapter upon an offshoot of justice. Indeed it is difficult to imagine any other circumstances under which the reminder would be required. I propose therefore to insert the fragment at the beginning of the chapter upon equity. No inconsistency or awkwardness is created by the transfer. The opening sentence of ch. 10 will now run thus:

πῶς μὲν οὖν ἔχει τὸ ἄντιπεπονθός πρὸς τὸ δίκαιον εἰρηται πρῶτερον; περὶ δὲ ἐπιεικείας καὶ τῶν ἐπιεικοῦς, πῶς

1 According to Grant, Spengel so far anticipates me as to place ch. 10 after 6 § 3. In his Aristotelische Studien however Spengel adopts Hildenbrand’s proposal to place 6 § 3—7 § 7 (with the omission of the word πρῶτερον) between 5 § 16 and 5 § 17.
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I think that when these changes have been effected the several matters discussed in the book follow one another in a natural and orderly sequence. In ch. 1, (1) certain popular notions about justice and injustice are stated, criticized, and accepted, modified, or rejected: (2) the relations of the just and the unjust, the just and justice are considered: (3) the just is shown to include the lawful and the equal: (4) the just in the sense of the lawful is subdivided into τὸ κατὰ τὴν ὀλὴν ἠρετὴν and τὸ ποιητικὸν καὶ φυλακτικὸν εὐδαιμονίας τῇ πολιτικῇ κοινωνίᾳ. In ch. 2, (1) our attention is directed to ἡ ἐν μέρει δικαιοσύνη, the discussion of which is necessary to the completeness of our theory of the virtues: (2) ἡ κατὰ μέρος δικαιοσύνη is subdivided into τὸ διανεμητικὸν and τὸ διορθωτικὸν. In ch. 3, distributive justice is shown to consist in that kind of equality which is attained by geometrical proportion. In ch. 4, corrective justice is shown to consist in that kind of equality which is attained by arithmetical proportion. In ch. 5, (1) commercial justice is shown to consist in that kind of equality which is attained by reciprocal proportion: (2) δικαιοσύνη is declared to be in some sense a mean, ἀδικεῖν and ἀδικεῖσθαι being extremes of which ἀδικεῖν is the worse: (3) the general investigation of δικαιοσύνη, ἀδικία, δίκαιον, and ἀδικον is declared complete. In ch. 6, we leave τὸ ἀπλῶς δίκαιον and proceed to consider τὸ πολιτικὸν δίκαιον together with τὰ καθ' ὀμοιότητα δίκαια, viz. δεσποτικῶν, πατρικῶν, οἰκονομικῶν. In ch. 7, two elements of τὸ πολιτικὸν δίκαιον, viz. τὸ φυσικὸν and τὸ νομικὸν, are distinguished. In ch. 8, we pass on to the investigation of justice and injustice in the individual, who (1) οὐκ ἄδικεῖ unless he is ἐκόν, (2) οὐ διὰ ταῦτα ἄδικος ἐστὶν unless he acts ἐκ προαιρέσεως. In ch. 9 §§ 1—13 and ch. 11 §§ 1—6 and § 9, supplementary ἀπορίαι in regard to ἄδικεῖν and ἄδικεῖσθαι are discussed. In ch. 10,
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ἐπιεἰκεία and its relations to justice are considered. Finally, in II § 10, the investigation of δικαιοσύνη and the other ἡθικαὶ ἀρεταί is declared to be complete.

It now only remains for me to tabulate my arrangement of the book as follows:

1 §§ 1—3. περὶ δὲ—ταῦτα.
9 §§ 14—16. οἱ δ'—ὁδί.
1 §§ 4—9. οὔδὲ γὰρ—ἀγαθά.
9 § 17. ἔστι δὲ—ἔστιν.
1 § 10—5 § 18. ὁ δ'—ἀδικεῖν.
11 §§ 7, 8. φανερὸν—ἀποθανεῖν.
5 § 19. περὶ—καθόλου.
6 § 4—8 § 8. δεῖ δὲ—βλάβη.
6 §§ 1, 2. ἐπεῖ—ἀλλων.
8 § 9—9 § 13. ὅταν δ'—ἐλαβεῖν.
11 §§ 1—6. πῶτερον—ἀδικεῖσθαι.
11 § 9. κατὰ μεταφορὰν—τοῦτος.
6 § 3. πῶς μὲν—πρῶτερον.
10 §§ 1—8. περὶ δὲ—ἐξίσ.
11 § 10. περὶ μὲν—τοῦτον.

In the above statement I have not taken account of the two sentences ἐν οἷς δ' ἄδικα, καὶ τὸ ἄδικεῖν ἐν τούτοις, ἐν οἷς δὲ τὸ ἄδικεῖν, οὐ πᾶσιν ἄδικα, and καὶ ὥσπερ ὕγιεν οὐν μὲν ἐν ὑπηρετικὸν δὲ ἐν γυμναστικῆ, because, though I am convinced that they ought not to stand in their present position (6 § 4 and II § 7), I do not feel much confidence in my attempt to find a place for them. On the same principle I have allowed them to stand in the text in their traditional positions, as well as in the places which I hesitatingly assign to them.
III. On the relations of Book V. to the two Ethical treatises.

Book V. being one of the three books which are common to the Nicomachean and the Eudeman Ethics, it is necessary that I should say something about its relation to the two treatises.

The principal theories which have been entertained in regard to N. E. v. vi. vii. = E. E. iv. v. vi. are the following:

1. That these books, with the exception of the superfluous theory of pleasure at the end of vii., belong to the Nicomachean treatise: L. Spengel, Abhandl. der k. bayer. Akad. 1841:

2. That v. 1—10 belong to the Nicomachean treatise, v. 11. vi. vii. to the Eudeman: A. M. Fischer, de Ethicis Nicomacheis et Eudemiis, Bonn, 1847:


For my own part, I give an unhesitating assent to the last of these three theories. I do not however propose on this occasion to investigate the whole question, but only so much of it as specially affects the fifth book, a limitation of the inquiry which would hardly be possible, had not Fischer taken up an intermediate position between the extreme theories of Spengel and Munro, holding that, while vi. and vii. belong to the E. E., v. with the exception of the last chapter (ch. 11) belongs to the N. E. Assuming then that the detailed arguments which Fischer brings forward to prove the Eudeman origin of vi. and vii. are, as I think

1 I imagine that Schleiermacher's paradoxical theory, that the Eudeman treatise, to which these books belong, is of superior authority to the Nicomachean, and the Magna Moralia of superior authority to both (Philosophische Schriften iii. 306 sqq.) has not found many supporters.
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them, absolutely conclusive, I proceed to consider his reasons for assigning V. 1—10 to the other treatise.

The following is, I think, a fair summary of his main argument:

"The discussion of the ἀπορία—πότερον ἐνδέχεται ἐαυτὸν ἀδίκειν in ch. II is not only an ‘ineptissima repetitio,’ the question having been already settled in precisely the same way in 9 §§ 1—13, but also out of place, as it is impossible to justify the interposition of 9 §§ 14—17 and of ch. 10 (περὶ ἐπιεικείας). Both discussions cannot possibly be parts of the same work. Hence we are justified in assigning V. VI. VII. partly to one, partly to the other treatise; whereas had there been no such disturbance in the argument, we could hardly have refused to assign the whole to the E. E., to which the superfluous theory of pleasure plainly belongs. That it is the second of the two discussions περὶ τοῦ αὐτὸν ἀδίκειν, and not the first, which belongs to the E. E., there can be no doubt; for, while the whole of the investigation of justice contained in cc. 1—9 is ‘Aristotele dignissima,’ and the last fragment of ch. 9 ( §§ 14—17) ‘pulcrae dispositioni pulcerrimum finem imponit,’ the superfluous ch. II exhibits ‘anxiam illam argumentandi rationem qua haud raro in Eudemis defatigamur,’ and betrays the ‘animum pusillum Eudemi, qui saepissime ad explicandas Nicomacheorum quaestiones non solum Aristoteleis argumentis utitur, sed de suo insuper hoc illudve adiicit, quo magis res conficiatur.’ Thus ch. II, together with VI. and VII., belongs to the Eudemian treatise, ‘tota autem disquisitio de iustitia, omnibus suis partibus integra cum inequenti capite de aequitate locum suum in Nicomacheis obtinet.’"

It will be perceived that the whole of this argument rests upon the assumption that II §§ 1—6 are no more than a repetition of a previous discussion. Where then is this previous discussion to be found? According to Fischer in 9 §§ 1—7: "argumentatio capitis 15 [i.e. ch. 11] nil plane differt ab illa quae est in capite 11 [i.e. 9 §§ 1—7]; utroque
loco notione spontanei adhibita demonstratur, iniuriam in se ipsum illatam esse nullam.” I cannot however allow that this is a correct account of the substance of §§ 1—7. In § 4 indeed the question ἰτερον ἐνδέχεταί αὐτὸν αὐτὸν ἁδικεῖν is mentioned, but the mention is an incidental one in connection with another ἀπορία, as the words ἢ γάρ τούτῳ ἐν τῷ ἀπορουμένῳ, ἢ ἐνδέχεται αὐτὸν αὐτὸν ἁδικεῖν plainly show. Indeed Fischer himself, when he is speaking more precisely, seems to argue, not that the ἀπορία is here discussed, but rather that the resolution of it becomes unnecessary: “non dedita quidem opera hoc loco de quaestione αὐτὸν ἁδικεῖν disputatur, sed et hanc verbis eius postremis solvi nemo non videt; quodsi enim ἑκόντα ἁδικεῖθαι absurdum est, iam per se liqueat, αὐτὸν ἁδικεῖν non minus esse ineptum, quam illud ἁδικεῖν non possit nisi ἑκούσιον esse, id quod iamdudum demonstratum est. Itaque quaestio illa per se iam ideo evanescit, quod fieri non potest ut, quam quis iniuriam sibi ipse sua sponte inferat, eandem invitus a se patiatur. Pluribus verbis ad id demonstrandum non opus fuisse, satis liqueat.” But even if further discussion is unnecessary, it does not follow that we can dispense with all mention of the ἀπορία. The author ought at least to point out that further discussion is superfluous. He ought, in fact, to make the very remark which Fischer makes: and accordingly that remark occupies a prominent position in §§ 1—6. At any rate the author himself does not think that the question has been “prorsus absoluta” in §§ 1—7; for in § 8 we read— ἢ γάρ ὁν προειλόμεθα δύο ἢ γάρ ἦστιν ἐπείρᾳ, πότερον ποτ’ ἁδικεὶ ὁ νείμας παρὰ τὴν ἀξίαν τὸ πλέον ἢ ὁ ἐχών, καὶ ἢ ἦστιν αὐτὸν αὐτὸν ἁδικεῖν. That the ἀπορία has not been discussed hitherto, and will be discussed hereafter, could not well be stated more explicitly. Fischer indeed thinks “id tantum hoc loco agi, ut ex occasione quaestionis: πότερον ποτ’ ἁδικεὶ ὁ νείμας, κ.τ.λ. exemplum quoddam iniuriae in se ipsum illatae (dico exemplum: εἰ τίς πλέον ἐτέρῳ ἢ ἑαυτῷ νέμει εἰδὼς καὶ ἐκὼν)
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quod solum iam superesse videri poterat, una cum hac quaestione absolvetur:” but for my own part I cannot allow that, when the author says ‘two matters included in our programme have still to be spoken of,’ he means ‘it remains to consider in connection with another ἀποτελεῖ a case upon which we have already pronounced judgment.’

In brief, as I read the passage, 9 § 8 promises an answer to two questions, the second of which has been mentioned incidentally in § 4: § 9 shows that the two questions must be kept separate: §§ 10—13 discuss the former of them. Thus, that the argument may be complete, it is necessary that 9 § 13 should be immediately followed either by 11 §§ 1—6 or by a paragraph to the same effect; and as there are other grounds for supposing that the concluding pages of the book have been disarranged (to say nothing of other disturbances, the last paragraph of ch. 9 being, not an “epilogus qui totam disquisitionem de iustitia propriis sic dicta concludit,” but rather a fragment or fragments of a preliminary investigation of justice in general), I unhesitatingly accept the former of these alternatives.

One other point in Fischer’s argument summarized above remains to be noticed. He thinks that, whereas the concluding chapter exhibits the prolixity and the weakness which are characteristic of Eudemus, cc. 1—10 are worthy of Aristotle. It is always difficult to decide whether a given work is worthy of its reputed author, and especially in such a case as this, where the other claimant confessedly borrows both his style and his matter. I propose therefore to modify the question which Fischer here raises, and to inquire, not whether the fifth book (exclusive of ch. 11) is worthy of Aristotle, but whether it is consistent with the Nicomachean treatise. Now as to the style my own opinion is in complete accord with that of Munro, who holds that “the style of this book, last chapter and all, is precisely the same as that of the other two, and of the undisputed parts of the Eudemian Ethics.” In regard to the substance of the book, I am not of course bound to show
that it is wholly unaristotelian (as I may fairly assume that the Eudemian and Nicomachean accounts of justice were related to one another in precisely the same way as the Eudemian and Nicomachean accounts of the other virtues, i.e. that in general they agreed), but only that if any matter about which the two treatises are at variance is raised in this book, its doctrine is that of the *E. E.*. If no such matter is raised here, Munro's theory does not necessarily fall to the ground: on the other hand, if it can be shown that, in dealing with any question, v. agrees with the *E. E.* in differing from the *N. E.*, this will be a strong reason for believing that v. does not belong to the latter. Now *N. E.* III. and *E. E.* II. differ, not inconsiderably, in the detail of the theory of the *ékouśia* and the *ákouśia*, and it will be found on examination that v. 8 agrees, in the minutest particulars, with the Eudemian statement: thus (1) the distinction made in *N. E.* III. 1 § 13 between *ov' ékouśia* and *ákouśia* is ignored in *E. E.* II. and in *N. E.* v. 8; (2) the view taken in *N. E.* v. 8 § 3 of *tovs* *φύσει ύπαρχόντων*, *óion* *tò γνηράν ή ἀποθυησκειν*, that they are *oùth* *ékouśia* *ou't* *ákouśia*, is in exact accord with the statement made in *E. E.* II. 8 § 4, about the upward motion of the flame and the downward motion of the stone, *ὅτι οὔ βία, οὔ μὴν οὔθ ἑκόυσια λέγεται, ἀλλ' ἀνώνυμος ἡ ἀντίθεσις*, whilst *N. E.* III. 5 § 7 seems to indicate that the author of the *N. E.* had no such distinction in his mind; (3) in *N. E.* v. 8 and in *E. E.* II. 10 § 19 prominence is given to the legal classification of *παθήματα* as *ákouśia*, *ékouśia* and *ék προνοίας*, which does not appear in the *N. E.*; (4) in v. 8 § 8 *τὰ διὰ τυμόν* are included amongst *ὅσα εἰδίως μὲν μὴ προβουλεύσας δέ*, a classification which is at any rate not inconsistent with the doctrine of the *E. E.* (cf. *E. E.* II. 9 § 3), whilst in *N. E.* III. I § 14 it is expressly stated that *ὅ δ' ὀργιζόμενος* is *οὐκ εἰδίως ἀλλ' ἁγνοῦν*. I select these trifling instances of agreement and difference merely because they are capable of precise formulation; but I think that any one who takes the trouble to compare *N. E.* v. 8 as a whole with the last chapters of *E. E.* II. and the first
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chapters of *N. E. III.*, will find the impression grow upon him that *N. E. v.* and *E. E. II.* are, and that *N. E. v.* and *N. E. III.* are not, the work of the same author.

For my own part, in proportion as I have become more familiar with *N. E. v.* = *E. E. iv.*, the more certain I have become that, whereas its agreements with the rest of the *N. E.* are precisely what are to be expected from the general resemblance of the two treatises, its agreements with the rest of the *E. E.*, both in thought and in expression, indicate a more intimate connection.

One other argument is put forward, though cautiously, by Fischer: "in *E. E. vii.* 15 § i we read κατὰ μέρος μὲν οὖν περὶ ἐκάστης ἀρετῆς εἰρηται πρότερον ἐπεὶ δὲ χωρὶς διεῖλομεν τὴν δύναμιν αὐτῶν, καὶ περὶ τῆς ἀρετῆς διαρθρωτέον τῆς ἐκ τούτων, ἦν ἐκαλοῦμεν ἡδή καλοκαγαθίαν. The concluding sentence of this extract tells us that the word καλοκαγαθία has been used in some previous part of the *E. E.*, whereas it is nowhere to be found in the extant treatise. The most likely place for its occurrence would be the book about justice. Hence the surviving discussion of justice, in which it does not appear, must belong not to the Eudemian, but to the Nicoma-
chean work." To this argument Munro replies:—"But surely the word was more likely to have been mentioned in some one of the lost portions of this last book in which he treats of this virtue and its end and aim the right worship and contemplation of God." I think however that exception may be taken on other grounds. Apparently Fischer assumes that ἡδή in the phrase ἦν ἐκαλοῦμεν ἡδή καλοκαγαθίαν is equivalent to πρότερον. Is this possible? I should have thought that the phrase must mean, not ‘which in a previous passage we called καλοκαγαθία,’ but either ‘which down to a time otherwise determined,’ or ‘which from a time otherwise determined, we called καλοκαγαθία.’ I suspect therefore that in place of ἐκαλοῦμεν we should read καλοῦμεν, and translate—‘whereas we then distinguished the functions of the several virtues, we must now proceed to investigate the virtue which arises from
their conjunction, which virtue we now [i.e. in this form] call καλοκαγαθία. If so, the argument falls to the ground.

At this point it will be convenient to say something about a recent development of the theory of the Eudemian authorship of the three books. Grant, in his first edition of the Ethics, published in 1857, has accepted and justified Munro's theory, and in his second and third editions, published in 1866 and 1874 respectively, has made considerable additions to his chapter on the subject. In the second edition he hints a doubt whether the corresponding portion of the Nicomachean work was ever written, and in his third edition he seems decidedly to incline to the view that the Nicomachean work was left incomplete, and that the compiler of V. VI. VII., "not having before him any written exposition of this part of Aristotle's ethical system," "borrowed directly from other works of Aristotle's, such as the Politics and the Organon." At any rate, he thinks, "at the time when Aristotle wrote what were to be the concluding paragraphs of his treatise, he had not written the middle portion of the Nicomachean Ethics," and he "does not hesitate to pronounce a belief that the words 'as has before been said in the Ethics' in Politics II. ii. 4 and III. ix. 3" [which might seem to show that Aristotle had himself "by his own writing filled up the lacuna"] "are, in each case, the interpolated addition of either an editor or a copyist."

It will be convenient to examine first the evidence which Grant brings forward to prove that "Aristotle had not written the middle portion of the Nic. Eth., at the time when he wrote what were to be the concluding paragraphs of his treatise." His argument is as follows:—

"That Aristotle, in summing up what he thought might be considered a complete ethical system, should have specified the leading topics of Books I.—IV. and VIII.—X. of his treatise, and should have omitted any mention of the subjects dealt with in Books V.—VII., seems a strong argument to prove that, at all events when he was writing Book X., he had not written the disputed middle books. Another argument
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in the same direction is, that while the three concluding books of the *Ethics* refer abundantly to Books I.—IV., they never make a single reference to Books V.—VII., though there was much opportunity for their doing so. For instance it seems peculiar that in all which is said about justice in Book VIII., there should be no allusion to the discussions of Book V., and that contemplation (*θεωρία*) should be treated of in Book X., without any recapitulation of what was said of the nature of Philosophic Wisdom (*σοφία*) in Book VI. That the treatise on Pleasure could have been written as it stands at the beginning of Book X., if Aristotle had previously written that other treatise on the same subject for what was to form Book VII. of the same work, is utterly impossible."

I proceed to consider these three arguments in their order.

Firstly, is it true that Aristotle “in summing up what he thought might be considered a complete ethical system omits any mention of the subjects dealt with in Books V.—VII.”? The summary in question is to be found in X. 9 § 1: ᾧρον εἴ περὶ τῶν ἄρετῶν, ἐτι δὲ καὶ φιλίας καὶ ἰδονής ἰκανός εἴρηται τοῖς τύποις, κ.τ.λ. Cf. also X. 6 § 1. Grant assumes that the phrase περὶ τῶν ἄρετῶν represents the subject-matter of II.—IV. to the exclusion of that of V. VI.; whereas it is obvious that the phrase includes the subject-matter of V. (περὶ δικαιοσύνης) and VI. (περὶ τῶν διανοητικῶν ἄρετῶν) as well as that of II.—IV. (περὶ τῶν ἀλλῶν ἄρετῶν). Thus Aristotle has not “omitted any mention of the subjects dealt with” in V. VI. In fact, if the Nicomachean equivalent of V. VI. had not been written, surely Aristotle would have avoided, instinctively or deliberately, the assertion that the virtues had been adequately treated. It is true that there is no mention of the subject of VII.: but the omission is not one which need surprise us. These summaries enumerate, not all the matters discussed in the treatise (else why is τὸ ἐκούστων omitted?), but only so many of them as bear directly upon the subject of cc. 6—8, in which the ἀνθρώπινον ἀγαθόν is determined more precisely than was
possible at the outset of the treatise. Now it is obvious that
the theory of ἐγκράτεια and ἀκρασία, and that of ἡρωικὴ ἀρετή
and θηριότης, are not directly connected with the subject of
these chapters. Hence the silence of the two summaries is
no proof that Aristotle had not written the equivalent of VII.
I do indeed suspect, for reasons which I need not mention
here, that Eudemus in the extant VII. treats this part of his
subject at greater length than Aristotle had done, but this is a
very different thing from saying that the corresponding Nico-
machean book was never written. On the whole then the
unqualified statement that 'the ἀρεταὶ have been adequately
discussed' seems to me to indicate that Aristotle had already
formulated his views about justice and the intellectual virtues:
certainly it does not prove that he had not done so.

I pass on to speak of Grant's second argument. "The
concluding books," he says, "never make a single reference to
Books V.—VII." In particular he desiderates in VIII. some
allusion to the theory of δικαιοσία, and in X. a recapitulation
of what had been said about σοφία. But is he right in assum-
ing that there are in VIII. IX. no allusions to the theory of
justice? To say nothing of other passages in VIII. IX. which
seem to show that Aristotle had made up his own mind about
questions dealt with in V., such passages as Ν. Ε. VIII. 7 § 3
(οὐχ ὁμοίως δὲ τὸ ὄσιον ἐν τε τοῖς δικαίοις καὶ ἐν τῇ φιλίᾳ
фа́ντασαι ἕξειν ἕστι γὰρ ἐν μὲν τοῖς δικαίοις ὄσιον πρῶτος τὸ κατ'
ἀξίαν, τὸ δὲ κατὰ ποσῶν δευτέρως, κ.τ.λ.) and IX. 1 § 1 (ἐν πά-
σαις δὲ ταῖς ἀνομοιοειδεῖς φιλίαις τὸ ἀνάλογον ἰσάζει καὶ σώζει
tὴν φιλίαν, καθάπερ εἴρηται [sc. VIII. 13 § 1], οἶνον καὶ ἐν τῇ
πολιτικῇ τῷ σκυτοτόμῳ ἀντὶ τῶν ὑποδημάτων ἁμοίβῃ γίνεται
κατ' ἀξίαν, καὶ τῷ ὑφάντη καὶ τοῖς λοιποῖς) seem to show, not
only that he had elaborated the theory of commercial justice,
but also that it was already familiar to the reader. Again in
X. 7 § 1 we read—ἡ τούτον [sc. τοῦ ἄριστου, εἴτε νός τοῦτο εἴτε
ἀλλο τι ὃ δὴ κατὰ φύσιν δοκεῖ ἀρχεῖν, κ.τ.λ.] ἐνέργεια κατὰ τὴν
οἰκείαν ἄρετὴν εἰς ἄν ἡ τελεία εὐδαιμονία, ὅτι δ' ἐστὶ θεωρητικῆ,
εἴρηται. Nowhere in the acknowledged Nicomachean books
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has it been said that the ἐνέργεια of our noblest and best part is θεωρητική. Certainly not in I. 13 § 20 or I. 5 § 7, the passages quoted hesitatingly by Grant in his commentary, since I. 13 § 20 is a statement that some ἀρεταί are διανοητικαί, others ἡθικαί, whilst I. 5 § 7 is a purely anticipatory declaration, and, not the statement ὅτι ἡ τοῦ ἀρίστου ἐνέργεια κατὰ τὴν οἰκείαν ἀρετὴν θεωρητικὴ ἔστιν, but the conclusion to which it leads us, that ἡ τελεια εὐδαιμονία is to be found in the θεωρητικὸς βιός. The reference then is to the missing books, and it is obvious that the remark in question would naturally occur in the investigation of the διανοητικαί ἀρεταί. If it is asked how it is that we find no such remark in the extant VI., the reason is not far to seek. With Eudemus it is not θεωρία, but καλοκαγαθία which is the centre of the system: hence in the investigation of the intellectual virtues he has no occasion to say that ἡ τοῦ ἀρίστου ἐνέργεια κατὰ τὴν οἰκείαν ἀρετὴν θεωρητικὴ ἔστιν, whilst it would be strange indeed if the author of the Ν. Ε. had neglected the opportunity of making a remark which has so important a bearing upon his main argument. In fact x. 7 § 1 seems to me to prove that Aristotle had already written the middle books of the Nicomachean treatise, and at the same time to indicate that Ν. Ε. vi. = E. E. v. is not one of them.

Thirdly, Grant remarks that "the treatise on Pleasure could not have been written as it stands at the beginning of x., if Aristotle had previously written that other treatise on the same subject for what was to form Book vii. of the same work." This is of course perfectly true; it does not however prove that Aristotle had not written the middle portion of the Ν. Ε., but only that Ν. Ε. vii. = E. E. vi. differs in some respects from the corresponding (lost) Nicomachean book1.

If then Grant fails to prove that, when Aristotle wrote the concluding books, he had not written the middle portion of the

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1 In fact here, as in some other places, Grant seems to confound the two distinct questions, 'Had Aristotle, when he wrote Ν. Ε. x., already written the middle portion of the treatise?' and 'Had Aristotle, when he wrote Ν. Ε. x., already written Ν. Ε. v. vii. = E. E. iv. v. vi.?'
treatise, the presumption is, in the absence of evidence to the contrary, that Aristotle completed his account of the moral virtues, and discussed the intellectual virtues, before he proceeded to treat of friendship in VIII. IX., and to sum up the results of the whole treatise in X. If the theory of the intellectual virtues had been unimportant, we might have imagined Aristotle deferring it to a more convenient moment: but as it is, it is the very keystone of the system. It is noticeable that Grant, who endeavours to explain how Aristotle came to defer the consideration of justice, does not attempt to show why he set aside the consideration of the intellectual virtues, a far more important matter.

Finally, Grant asks "Did Aristotle himself ever fill up by his own writing the lacuna which he had left in his Ethics?" and he would answer this question in the negative, on the grounds that "the remarks on Retaliation in the Ethics [V. v. 6] have all the appearance of being a development and improvement of those in the Politics" [II. ii. 4], and that Nic. Eth. v. iii. 4 "discusses the Law of Distribution in States (though a purely political question) with additional refinements beyond what we find in the Politics." I am not prepared to allow that the doctrine of the passages cited from the Ethics is an advance upon that of the passages cited from the Politics: but even if it were so, Grant's point would not be proved; for, if, as he and I agree in supposing, V. VI. and VII. belong to the E. E., the appearance in these books of refinements upon the doctrines of the Politics does not prove that their Nicomachean equivalents were never written, but only that the Eudemian treatise was written at a later date. Finally, it must not be forgotten that Grant by his own confession is obliged to suppose that at least two references to the Ethics have been interpolated in the Politics.

In brief, I hold with Munro that V. VI. and VII. were written by Eudemus, and are related to a lost portion of the Nicomachean treatise in precisely the same way in which the rest of the E. E. is related to the rest of the N. E.
ΗΘΙΚΩΝ ΝΙΚΟΜΑΧΕΙΩΝ Ε.
Περὶ δὲ δικαιοσύνης καὶ ἀδικίας σκέπτεσον, περὶ ποιας τε τυγχάνουσιν οὖσαι πράξεις, καὶ ποιὰ μεσότης ἐστὶν ὡς δὲ σκέψαι ἡμῖν ἐστω κατὰ τὴν αὐτὴν μέθοδον τοὺς προερημένους.

Ὡς όρῳμεν ὅτι πάντα τῆν τοιαύτην ἐξίνθβουλομένους λέγειν δικαιοσύνην, ἂφ' ἂς πρακτικοὶ τῶν δικαίων εἰσὶ καὶ ἄφ' ἂς δικαιοπραγοῦσι καὶ βούλονται τὰ δίκαια· τὸν αὐτὸν δὲ τρόπον καὶ περὶ ἀδικίας, ἂφ' ἂς ἀδικοῦσι καὶ βούλονται τὰ ἅδικα. διὸ καὶ ὡς πρῶτον ὡς ἐν τούτῳ ὑποκείσθω ταῦτα. 

Ὡς τούτῳ όμοιως δὲ καὶ τὸ γνῶναι τὰ δίκαια καὶ τὰ ἅδικα οὔδέν οἴονται σοφῶν εἶναι, ὅτι περὶ δὲν οἱ νόμοι λέγουσιν οὐ χαλεπῶν συννέναι. ἀλλ' οὖν ταῦτ' ἐστὶ τὰ δίκαια ἅλλ' ἣ κατὰ συμβεβηκός, ἀλλὰ πᾶς πραττόμενα καὶ πῶς νεμόμενα δίκαια· τούτῳ δὲ πλέον ἔργον ἢ τὰ υγιεώτα εἰδέναι, ἐπεὶ κάκει μὲλὶ καὶ οἴνον τοῦτο ἐστὶν ΜδQ.
IN regard to δικαίοσύνη and ἀδικία we have to inquire (1) what sort of actions they are concerned with, (2) in what sense δικαίοσύνη is a μετότης, and (3) what the extremes are between which τὸ δίκαιον lies: and our inquiry shall be conducted in the same way as our previous investigations.

Now [firstly] we see that all men understand by δικαίοσύνη the ἔξις which makes men πρακτικοὶ τῶν δικαίων,—that is to say which makes them δικαιοπραγεῖν καὶ βούλεσθαι τὰ δίκαια; and in the same way by ἀδικία, the ἔξις which makes men ἀδικεῖν καὶ βούλεσθαι τὰ ἀδικα. Wherefore we may ourselves begin by assuming this to be roughly true. [Secondly] men conceive that τὸ ἄδικεῖν rests with themselves, and therefore that to be δίκαιος is easy: but this is not the case; for though it is easy and rests with ourselves to lie with another's wife, to strike our neighbour, and to give away our money, it is not easy nor does it rest with ourselves to do these things in a given ἔξις. [Thirdly] men assume in like manner that it requires no special wisdom to discriminate things δίκαια and things ἄδικα, because it is not difficult to apprehend such matters as are provided for by the laws: but it is only κατὰ συμβεβηκός that actions prescribed by law are identical with τὰ δίκαια; to be δίκαια, actions must be done and distributions must be made in a particular manner, and the knowledge required thereto is more difficult of attainment than the knowledge of what is salutary; whilst even in matters of health, though it is easy to know what honey, wine, hellebore, the
καὶ ἐλλέβορον καὶ κάδσων καὶ τομῆν εἰδέναι ράδιων, ἀλλὰ πῶς δεὶ νείμαι πρὸς ὑγίειαν καὶ τίνι καὶ πότε, τοσοῦτον

§ 16 ἐργον ὅσον ιατρῶν εἶναι. δι’ αὐτὸ δὲ τοῦτο καὶ τοῦ δικαίου οἰονται εἶναι οὖθεν ἦττον τὸ ἄδικεῖν, οτι οὖθεν ἦττον ὁ δίκαιος ἀλλὰ καὶ μᾶλλον δύνατ’ ἂν ἔκαστον 5 πράξαι τούτων, καὶ γὰρ συγγενέσθαι γυναικὶ καὶ πατάξαις, καὶ ὁ ἀνδρείας τὴν ἁσπίδα ἀφεῖναι καὶ στραφεῖς ἐφ’ ὀποτεραοῦν τρέχειν. ἀλλὰ τὸ δειλαίνει καὶ τὸ ἄδικεῖν οὐ τὸ ταῦτα ποιεῖ ἐστὶν, πλὴν κατὰ συμβεβηκός, ἀλλὰ τὸ ὦδὶ ἔχοντα ταῦτα ποιεῖν, ὦστε καὶ τὸ ιατρεύειν καὶ τὸ ὑγιάζειν οὐ τὸ τέμνειν ἡ μὴ τέμνειν ἡ φαρμακεύων ἡ

§ 4 μὴ φαρμακεύων ἐστίν, ἀλλὰ τὸ ὦδὶ. > ὦδὲ γὰρ τὸν αὐτὸν ἔχει τρόπον ἐπὶ τε τῶν ἐπιστημόνων καὶ δυνάμεων καὶ ἐπὶ τῶν ἐξεων’ δύναμις μὲν γὰρ καὶ ἐπιστημῆς δοκεῖ τῶν ἐναντίων ἡ αὐτὴ ἐναι, ἐξει δὲ ἡ ἐναντία τῶν ἐναντίων οὐ οἷον 15 α., τῆς ὑγίειας οὐ πράττεται τὰ ἐναντία, ἀλλὰ τὰ ὑγιενά μόνον λέγομεν γὰρ ὑγιενὸς βαδίζειν, ὅταν βαδίζῃ ὡς ἀν ὁ

§ 5 ὑγιαίων. πολλάκις μὲν οὖν γνωρίζεται ἡ ἐναντία ἐξει απὸ τῆς ἐναντίας; πολλάκις δὲ αἱ ἐξεὶς ἀπὸ τῶν ὑποκειμένων’ εάν τε γὰρ ἡ εὐεξία ἡ φανερά, καὶ ἡ καχεξία φανερά 20 γίνεται, καὶ ἐκ τῶν ἑυεκτικῶν ἡ εὐεξία καὶ ἐκ ταύτης τὰ ἑυεκτικά’ εἰ γὰρ ἐστιν ἡ εὐεξία πυκνότης σαρκός, ἀνάγκη καὶ τὴν καχεξίαν εἶναι μανότητα σαρκός καὶ τὸ ἑυεκτικὸν

§ 6 τὸ ποιητικὸν πυκνότητος ἐν σαρκί. ἀκολουθεῖ δ’ ὡς ἐπὶ τὸ πολύ, ἐὰν θάτερα πλεοναχῶς λέγηται, καὶ θάτερα πλεο- 25

1 ἡλέβορον ἡλέβορον ἢθλιαθοὶ θλιαθοὶ 3 λατρῶν λατρῶν θλιαθοὶ 5 λατρῶν λατρῶν 6 ὑγίειαν ὑγίειαν 8 ὑγίειαν ὑγίειαν 9 ὑγίειαν ὑγίειαν 11 ὑγίειαν ὑγίειαν 13 ὑγίειαν ὑγίειαν 15 ὑγίειαν ὑγίειαν 17 ὑγίειαν ὑγίειαν 21 ὑγίειαν ὑγίειαν 23 ὑγίειαν ὑγίειαν 24 ὑγίειαν ὑγίειαν 25 ὑγίειαν ὑγίειαν
cautery, and the use of the knife are, to know how, for whom, and when, we should apply them with a view to health is no less an undertaking than it is to be a physician. [Fourthly] on the principle stated above, men assume that the ἓκαῖος can ἄδικεῖν as easily as ἓκαῖονπραγματεύειν, because he can do any particular ἄδικον as easily as any particular ἓκαῖον, if not more easily,—for example, lie with a woman, or strike a blow,—and the brave man can let go his shield and take to flight in this direction or in that: but δειλαίειν and ἄδικεῖν consist, not in doing these things (except κατὰ συμβεβηκός), but in doing these things in a particular ἓκειν, just as the practice of medicine or healing consists, not in using or not using the knife, in exhibiting or not exhibiting medicines, but in adopting either course on particular [i.e. scientific] grounds. The fact is that sciences and faculties differ from ἓκειν: for a faculty or a science is admitted to be the same for contraries, but one of two contrary ἓκειν does not deal with the matter of the other: for example, unhealthy things cannot be done with a healthy ἓκειν, but only healthy things, for we say a man walks healthily, when he walks as a healthy man would.

Hence [as a faculty or a science is the same for contraries, though a ἓκειν is not,] sometimes one of two contrary ἓκειν is known from the other, and sometimes the ἓκειν are known from things which are appropriate to them: for example, if we know what good condition of body is, we hence know also what bad condition of body is, and from things appropriate to good condition we know what good condition is, and from good condition, what are things appropriate to it; thus if good condition is firmness of flesh, bad condition must be flabbiness of flesh, and that which is appropriate to good condition that which produces firmness in flesh. And it follows in general that if one of the correlatives is used in several senses, the other is used in several senses
ναχῶς λέγεσθαι, οἶνον εἰ τὸ δίκαιον, καὶ τὸ ἄδικον καὶ ἡ
§ 7 ἄδικια. ἐνικῇ δὲ πλεοναχῶς λέγεσθαι ἡ δικαιοσύνη καὶ ἡ ἄδικια, ἀλλὰ διὰ τὸ σύνεγγυς εἶναι τὴν ὁμωνυμίαν αὐτῶν
λανθάνει καὶ οὐχ ὡστερ ἐπὶ τῶν πόρρω δήλη μᾶλλον
ἡ γὰρ διαφορὰ πολλῆ ἡ κατὰ τὴν ἱδεῖαν, οἶνον ὃτι καλεῖται 5
κλεῖς ὀμωνύμως ἡ τε ὑπὸ τῶν αὐχένα τῶν ζώων καὶ ἡ τὰς
§ 8 θύρας κλείονσιν. εἰλήφθω δὴ ὁ ἄδικος ποσαχῶς λέγεται.
δοκεῖ δὲ ὃ τε παράνομος ἄδικος εἶναι καὶ ὁ πλεονέκτης
[καὶ ὁ ἄνισος]. ὡστε δὴλον ὃτι καὶ ὁ δίκαιος ἐσται ὁ τε
νόμιμος καὶ ὁ ἴσος. τὸ μὲν δίκαιον ἀρα τὸ νόμιμον καὶ τὸ
ἴσον, τὸ δ' ἄδικον τὸ παράνομον καὶ τὸ ἄνισον.

§ 9 ἐπεὶ δὲ καὶ πλεονέκτης ὁ ἄδικος, περὶ τάγαθα ἐσται, οὐ
πάντα, ἀλλὰ περὶ ὅσα εὐτυχία καὶ ἀτυχία, ἂ ἐστὶ δὲν
ἀπλῶς αἰεὶ ἀγαθά, τω ἄ, οὐκ ἂει: (οἱ άνθρωποι ταῦτα
εὐχοῦσα καὶ διώκουσιν' δεὶ δ' οὐ, ἀλλ' εὐχεσθαι μὲν τὰ
ἀπλῶς ἀγαθά καὶ αὐτοῖς ἀγαθὰ εἶναι, αἰρεῖσθαι δὲ τὰ
9 § 17 αὐτοῖς αγαθὰ·) <ἐστι δὲ τὰ δίκαια ἐν τούτοις ὦς μέτεστιν
τῶν ἀπλῶς ἀγαθῶν, ἔχουσι δ' ὑπερβολὴν καὶ ἐλειψιν
τοὺς μὲν γὰρ οὐκ ἐστιν ὑπερβολὴ αὐτῶν, οἶνον ἰσος τοῖς
θεοῖς, τοῖς δ' οὐθέν μόριον ὑφέλιμον, τοῖς ἀνάτως κακοῖς, 20
ἀλλὰ πάντα βλάπτει, τοῖς δὲ μέχρι τοῦ· διὰ τοῦτ ἄνθρω-
πον ἐστών. ὥ' δ' ἄδικος οὐκ αἰεὶ τὸ πλέον αἰρεῖται,
ἀλλὰ καὶ τὸ ἔλαττον ἐπὶ τῶν ἀπλῶς κακῶν· ἀλλ' ὃτι δοκεῖ

1 εἰ] εἰ καὶ Ἡ. δίκαιον καὶ τὸ ἄδικον καὶ ἡ ἄδικια] Ἡ. ἄδικον καὶ ἡ ἄδικια Κδ. δίκαιον καὶ τὸ ἄδικον Ἡ.ΜνΟοδ. ἄδικα] Ἡ. δικαιοσύνη καὶ ἄδικα 1δ. ἄδικα καὶ ἡ δικαιοσύνη Ἡ. 3 σύνεγγυς] σύν-
(ομίσσον ἐσται] Κδ. 21 πάντα βλάπτει] βλάπτει πάντα Ἡ. 21 πάντα βλάπτει] βλάπτει πάντα Ἡ. 21 πάντα βλάπτει] βλάπτει
also: for example, if ὁ δίκαιον, then also τὸ ἁδικόν and ἡ ἁδικία. Now it appears that the terms δικαιοσύνη and ἁδικία are used in several senses, but their equivocation escapes detection in consequence of the close connection of their equivocal uses, whereas in the case of things widely different equivocation is comparatively obvious: thus the difference is considerable if it is one of shape; for example, the equivocal use of the word κλεῖς for the bone beneath the neck in animals and for the instrument with which we lock our doors. We have then to ascertain in how many senses we speak of ὁ ἁδικός. Now it is generally assumed that the term ἁδικός is applicable both to the violator of law (παράνομος) and to the grasping man (πλεονέκτης). Hence it is plain that the term δίκαιος will apply both to the law-fearing man (φόμιμος) and to the equal man (ἴσος). Τὸ δίκαιον then includes τὸ νόμιμον and τὸ ἴσον, and τὸ ἁδικόν, τὸ παράνομον and τὸ ἄνυσον.

And since the ἁδικός may be πλεονέκτης, he will be so in respect of goods; not all goods, but those on which good fortune and bad fortune depend, which goods, though always good ἀπλωσί, are not always so τινὶ;—([not seeing this] men pray for these goods and seek them; whereas they should rather pray that τὰ ἀπλωσὶ ἄγαθά may be good for them, and choose those things which are good for them:)—and δίκαια of this sort subsist among those who participate in τὰ ἀπλωσὶ ἄγαθά and can have too much or too little of them: for there are those who cannot have too much of them, (I mean of course the gods,) and those, (that is to say the incurably bad,) who cannot derive benefit from any share [however small], all goods being harmful to them, and again those to whom such goods are beneficial within limits: wherefore the sphere of τὸ δίκαιον is human society. But the ἁδικός does not always choose the larger share; in the case of τὰ ἀπλωσὶ κακά he chooses the less: nevertheless
καὶ τὸ μεῖον κακὸν ἀγαθὸν ποιεῖ εἶναι, τοῦ δὲ ἀγαθοῦ ἐστὶν
§ 11 ἡ πλεονεξία, διὰ τοῦτο δοκεῖ πλεονέκτης εἶναι. ἐστὶ δὲ ἀνισος· τοῦτο γὰρ περιέχει καὶ κοινὸν. καὶ παράνομος· τοῦτο γὰρ [ἡ παρανομία ἦτοι ἡ ἀνισότης] περιέχει πάσαν ἀδικίαν καὶ κοινὸν ἐστὶ πάσης ἀδικίας.

§ 12 ἐπεὶ δὲ ὁ παράνομος ἀδικος ἦν ὁ δὲ νόμιμος δίκαιος, δῆλον ὅτι πάντα τὰ νόμιμα ἐστὶ πως δίκαια· τὰ τε γὰρ ἀρισμένα ὑπὸ τῆς νομοθετικῆς νόμιμα ἐστίν, καὶ

§ 13 ἐκαστὸν τοὺτον δίκαιον εἶναι φαμέν. οἱ δὲ νόμοι ἀγορεύσωσι περὶ ἀπάντων, στοχαζόμενοι ἡ τοῦ κοινῆς συμ- ἄφοροντο πάσων, [ἡ τοὺς ἀρίστοις] ἡ τοὺς κυρίους ἡ κατ' ἀρετὴν ἡ κατ' ἄλλον τινὰ τρόπον τοιοῦτον. ὥστε ἐνα μὲν τρόπον δίκαια λέγομεν τὰ ποιητικά καὶ φυλακτικὰ εὐδαιμονίας καὶ τῶν μορίων αὐτῆς τῇ πολιτικῇ

§ 14 κοινωνίᾳ· προστάττει δὲ τὸ νόμος καὶ τὰ τοῦ ἀνδρείου 15 ἐργα ποιεῖν, οἷον μὴ λείπειν τὴν τὰξιν μηδὲ φεύγειν μηδὲ ῥίπτειν τὰ ὄπλα, καὶ τὰ τοῦ σώφρονος, οἷον μὴ μοιχεύειν μηδὲ ῥήματον, καὶ τὰ τοῦ πράους, οἷον μὴ τύπτειν μηδὲ κακογερέιν, ἤμοιος δὲ καὶ τὰ κατὰ τὰς ἀλλὰς ἀρετὰς καὶ μοχθηρίας, τὰ μὲν κελεύον τὰ δὲ ἀπαγορεύουσι, ὀρθῶς 20

§ 15 μὲν ὁ κείμενος ὀρθῶς, χείρον δὲ ὁ ἀπεσχεδιασμένος. αὐτὴ μὲν οὖν ἡ δικαιοσύνη ἀρετὴ μὲν ἐστὶν τελεία, ἀλλ’ οὖν ἀπλῶς ἀλλὰ πρὸς ἔτερον. καὶ διὰ τοῦτο πολλάκις κρατίστῃ τῶν ἀρετῶν εἶναι δοκεῖ ἡ δικαιοσύνη, καὶ οὖθ᾽ ἐστερος οὖθ’ ἐφος οὖτω θαυμαστός· καὶ παροιμιαζόμενοι φαμέν 25

because the lesser evil is admitted to be in a manner a good, and πλεονεξία is concerned with what is good, the ἄδικος who so acts is therefore thought to be πλεονέκτης. And he is ἄνισος; for this is a comprehensive term which includes πλεονεξία. Further he is παράνομος; for this is a term which includes all ἄδικα and applies to it without exception.

And since the παράνομος is, as we have said, ἄδικος, and the νόμιμος, δίκαιος, it is plain that all νόμιμα are in a sense δικαία; for νόμιμα are the determinations of νομοθετική, and we acknowledge that each of the determinations of νομοθετική is δίκαιον. Now the laws pronounce upon all subjects, endeavouring to hit either that which is for the common interest of all, or that which is for the interest of the governing class whether its position is determined by merit or in some other similar way. Hence in one sense we call things δικαία which produce and secure happiness or the parts of happiness for the political community. But the law also enjoins conduct characteristic of the brave man,—for example, not to desert one’s post, not to run away, not to throw away one’s arms,—conduct characteristic of the temperate man,—for example, not to commit adultery, not to assault with violence,—conduct characteristic of the gentle man,—for example, not to strike, not to speak evil,—and similarly with the other virtues and vices, enjoinimg some things and forbidding others, the rightly established law doing this rightly, and the extemporized law with less propriety.

Hence this sort of δικαιοσύνη is perfect virtue, yet perfect virtue not ἀπλῶς but in relation to one’s neighbour. And for this reason δικαιοσύνη is often thought to be the best of the virtues; neither the evening nor the morning star, it is thought, is so wonderful: indeed we use the proverb,
ἐν δὲ δικαιοσύνη συλλήβδην πάσῃ ἀρετῇ ἐν.
<τελεία δ' ἐστὶν> ἀρετὴ ὅτι τῆς τελείας ἀρετῆς χρῆσις ἐστι, <καὶ τελεία μάλιστα> ὅτι οἱ ἔχον αὐτὴν καὶ πρὸς ἑτερον δύναται τῇ ἁρετῇ χρῆσθαι, ἀλλ' οὐ μόνον καθ' αὐτῶν πολλοὶ γὰρ ἐν μὲν τοῖς οἰκείοις τῇ ἁρετῇ δύνανται 5
§ 16 χρῆσθαι, ἐν δὲ τοῖς πρὸς ἑτερον ἀδυνατοῦσιν. καὶ διὰ τοῦτο εὐθὸς ἔχειν τὸ τοῦ Βιαντος, ὅτι ἀρχῇ ἄνδρα δεῖξει.
§ 17 πρὸς ἑτερον γὰρ καὶ ἐν κοινωνίᾳ ἤδη οἱ ἀρχῶν. διὰ δὲ τὸ αὐτὸ τούτο καὶ ἀλλότριον ἀγάθων δοκεῖ εἶναι ἡ δικαιοσύνη μόνη τῶν ἁρετῶν, ὅτι πρὸς ἑτερον ἐστιν ἀλλο γὰρ τὰ 10
§ 18 συμφέροντα πράττει, ἡ ἀρχὴν ἡ κοινωνίᾳ. κάκιστος μὲν οὖν ὁ καὶ πρὸς αὐτὸν καὶ πρὸς τοὺς φίλους χρώμειος τῇ μοχληρίᾳ, ἀριστος δ' οὖχ ὁ πρὸς αὐτὸν τῇ ἁρετῇ ἀλλ' ο ὅ 15
§ 19 πρὸς ἑτερον τούτου γὰρ ἑργον χαλεπὸν. αὐτὴ μὲν οὖν ἡ δικαιοσύνη οὐ μέρος ἁρετῆς ἀλλ' ὅλη ἁρετὴ ἐστιν, οὖν ὧ 20
§ 20 ἐναντία ἀδίκια μέρος κακίας ἀλλ' ὅλη κακία. τί δὲ διαφέρει ἡ ἁρετή καὶ ἡ δικαιοσύνη αὐτῆ, δῆλον ἐκ τῶν εἰρήμενων ἐστὶ μὲν γὰρ ἡ αὐτή, τὸ δ' εἶναι οὐ τὸ αὐτό, ἀλλ' ἣ μὲν πρὸς ἑτερον, δικαιοσύνη, ἢ δὲ τοιάδε ἐξείς ἀπλῶς, ἁρετή.

2 ἦτοιμεν δὲ γε τήν ἐν μέρει ἁρετῆς δικαιοσύνην ἐστὶ γὰρ τις, ὡς φαμεν. ὁμοίως δὲ καὶ περὶ ἀδίκιας τῆς κατὰ 25
§ 21 μέρος. σημείων δ' ὅτι ἐστίν κατὰ μὲν γὰρ τὰς ἄλλας μοχληρίας ὁ ἐνεργῶν ἀδίκει μὲν, πλεονεκτεί δ' οὐδέν, οἶνον
'and in δίκαιοσύνη all virtue is contained comprehensively.'
And it is perfect virtue because it is the practice of perfect virtue—and perfect in a special sense because he who possesses it can practise his virtue towards another and not merely in himself: for there are many who can practise their virtue in their personal affairs, but are unable to do so in their relations to another. And for this reason the saying of Bias is generally approved, that ‘office will show a man,’ because the officer is ex hypothesi in relation to others and a member of a community. And it is for this same reason too, viz. because it implies relations with another, that δίκαιοσύνη alone of the virtues is thought to be the good of others, as it does what is to the advantage of another, that other being either a ruler or an associate. Hence the worst man is one who practises his vice in relation to himself and in relation to his friends and not merely in relation to his neighbour, and the best is not one who practises his virtue in relation to himself but one who practises it in relation to another: for this is a work of difficulty. This sort of δίκαιοσύνη then is not a part of virtue but universal virtue, and the contrary ἄδικία is not a part of vice but universal vice. How virtue and this sort of δίκαιοσύνη differ, is plain from what has been said: for though they are the same, their εἶναι is not the same, the ἔξω viewed in relation to another being δίκαιοσύνη, but viewed ἀπλῶς as a certain ἔξω, virtue.

What we have to investigate is the δίκαιοσύνη which is a part of virtue;—that there is such a δίκαιοσύνη, we assume;—and in like manner particular ἄδικία. Of the existence of particular ἄδικία, we have the following evidence: one who exhibits the other vices in action ἄδικει μὲν πλεονεκτέι δ' οὖδέν; for example, one who throws away his shield
ο ρύθια την ἄσπίδα διὰ δειλίαν ἦ κακῶς εἰπόν διὰ χαλεπότητα ἦ οὐ βοηθήσας χρήμασι δι' ἀνελευθεριάν· ὅταν δὲ πλεονεκτή, πολλάκις κατ' οὐδεμίαν τῶν τουτών, ἀλλὰ μὴν οὖδὲ κατὰ πᾶσας, κατὰ πονηρίαν δὲ γε τυχά (ψέγομεν γάρ)
§ 3 καὶ κατ' ἀδίκιαν. ἦστιν ἁρὰ γε ἁλλὰ τις ἀδικία ὡς μέρος τῆς ὅλης, καὶ ἀδίκον τι ἐν μέρει τοῦ οἴου ἀδίκου τοῦ παρὰ
§ 4 τὸν νόμον. ἐτί εἰ ὁ μὲν τοῦ κερδαίνει ἕνεκα μοιχεύει καὶ προσλαμβάνων, ὁ δὲ προστιθεῖς καὶ ἐξημούμενος δι' ἐπιθυμίαν, οὗτος μὲν ἀκόλαστος δόξειεν ἐὰν εἰναὶ μᾶλλον ἡ πλεονέκτης, ἐκεῖνος δ' ἀδίκος, ἀκόλαστος δ' οὐ δ' ἦλθον ἁρὰ 10
§ 5 ὅτι διὰ τὸ κερδαίνειν. ἐτί περὶ μὲν τάλλα πάντα ἀδίκημα γίνεται ἡ ἐπαναφορὰ ἐτί τινα μοχθηρίαν ἄει, ὅσον εἰ ἐμφάνεσθεν, ἐπὶ ἀκόλασίαν, εἰ ἐγκατέλιπε τὸν παραστάτην, ἐτὶ δειλίαν, εἰ ἐπάταξεν, ἐτὶ ὀργῆν' εἰ δ' ἐκέρδανεν, ἐπ'
§ 6 οὐδεμίαν μοχθηρίαν ἀλλ' ἡ ἐπ' ἀδίκιαν. ὡστε φανερὸν 15 ὅτι ἐστὶ τις ἀδικία παρὰ τὴν ὅλην ἁλλὴ ἐν μέρει, συνώνυμος, ὅτι ὁ ὀρισμὸς ἐν τῷ αὐτῷ γένει, ἀμφὶ γὰρ ἐν τῷ πρὸς ἔτερον ἔχουσι τὴν δύναμιν, ἀλλ' ἡ μὲν περὶ τιμήν ἡ χρήματα ἡ σωτηρίαν ἐὰν τίνι ἐξομενεῖ ὑπὸ ὑποματι περιλαβεῖν ταῦτα πάντα, καὶ δ' ἢδονὴν τὴν ἀπὸ τοῦ κέρδους, ἡ 20 δὲ περὶ ἀπαντὰ περὶ ὅσα το σπουδαῖος.
§ 7 ὅτι μὲν οὖν εἰσὶ δικαιοσύναι πλείους, καὶ ὅτι ἐστὶ τις καὶ ἐτέρα παρὰ τὴν ὅλην ἁρετὴν, δήλον· τίς δὲ καὶ ποιὰ τίς, 
§ 8 ληπτέων. διώρισται δὴ τὸ ἀδίκου τὸ τε παράνομον καὶ τὸ

through cowardice, or speaks evil through illnature, or refuses pecuniary aid through illiberality; but when a man πλεονέκτη, it often happens that he exhibits none of these, certainly not all, but yet a sort of vice, (for we censure him,) which vice is called ἄδικε. Hence there is besides universal ἄδικε another sort of ἄδικε which is a part of universal ἄδικε, and an ἄδικον which is a part of the universal ἄδικον which consists in the violation of law. Further if one man commits adultery with a view to gain and earns money by it, and another from desire at his own cost and to his own loss, the latter would appear to be intemperate rather than πλεονέκτης, the former ἄδικος but not intemperate: thus it is plain that gain is the motive of particular ἄδικε. Again in the case of all other ἄδικήματα there is always the further reference to some particular depravity; for example, if a man commits adultery, to intemperance, if he abandons his comrade, to cowardice, if he strikes another, to anger, but if a man derives gain unjustly, to no particular depravity besides ἄδικε. Hence it is plain that besides universal ἄδικε there is another sort of ἄδικε which is particular, συνώνυμος with the former because the definition has the same genus, both being occupied with a man’s relations to his neighbour, but whereas the one is concerned with honour or property or safety or that, by whatever name we may call it, which comprehends all these, and is actuated by the pleasure derived from gain, the other is concerned with everything with which the virtuous man is concerned.

Thus it is plain that there are more kinds of δικαιοσύνη than one, and that there is another kind of δικαιοσύνη besides the universal virtue so called: we must now ascertain the genus and the differentia of particular δικαιοσύνη.

Now two kinds of ἄδικον have been distinguished, viz. τὸ παράνόμον and τὸ ἁνισον, and two kinds of δικαιον, viz. τὸ
HΘΙΚΩΝ ΝΙΚΟΜΑΧΕΙΩΝ Ε.

ἀνισου, τὸ δὲ δίκαιον τὸ τε νόμιμον καὶ τὸ ἱσόν.
κατὰ μὲν οὖν τὸ παράνομον ἥ πρότερον εἰρημένη ἄδικία ἑστὶν.
§ 9 ἐπεὶ δὲ τὸ ἁνίσου καὶ τὸ παράνομον οὐ ταύτων ἀλλ' ἐτερον
ως μέρος καὶ ὅλον (τὸ μὲν γὰρ ἁνίσου ἄταν παράνομον, τὸ
δὲ παράνομον οὐχ ἄταν ἁνίσου), καὶ τὸ ἄδικον καὶ ἡ
ἀδικία οὐ ταύτα ἀλλ' ἐτερα ἐκείσων, τὰ μὲν ὡς μέρη τὰ θ' ὡς ὀλα, (μέρος γὰρ αὐτὴ ἡ ἀδικία τῆς ὀλης ἄδικιας,
ὁμοίως δὲ καὶ ἡ δικαιοσύνη τῆς δικαιοσύνης,) —όστε
περὶ τῆς ἐν μέρει δικαιοσύνης καὶ περὶ τῆς ἐν μέρει ἄδικιας
§ 10 λεκτέων, καὶ τοῦ δικαίου καὶ τοῦ ἄδικου ὡσαίνως.
ἡ μὲν οὖν κατὰ τὴν ὀλήν ἁρετὴν τεταγμένη δικαιοσύνη καὶ
ἀδικία, ἡ μὲν τῆς ὀλῆς ἁρετῆς οὐσα χρήσις πρὸς ἄλλουν, ἡ
δὲ τῆς κακίας, αφεισθα. καὶ τὸ δίκαιον δὲ καὶ τὸ ἄδικον
tὸ κατὰ ταύτας φανερὸν ὡς διοριστέον' σχεδὸν γὰρ τὰ
πολλά τῶν νομίμων τὰ ἀπὸ τῆς ὀλῆς ἁρετῆς πραττόμενα 15
ἐστιν' καθ' έκαστην γὰρ ἁρετὴν προστάτητε ἐνι θανατ' καὶ
§ 11 έκαστην μοχθηρίαν κωλυει ὁ νόμος' τὰ δὲ ποιητικά τῆς
��이δείαν τὴν πρὸς τὸ κοινόν. περὶ δὲ τῆς καθ' έκαστον
παιδείας, καθ' ἢν ἀπλῶς αἵρη ἁγαθὸς ἑστι, πότερον τῆς
πολιτικῆς ἑστιν' ἡ ἑτέρας, ὑστερον διοριστέον' ὦ γὰρ ἱσος
tαυτὸν ἀνδρὶ τ' ἁγαθῷ εἶναι καὶ πολιτῆ παντὶ.
§ 12 τῆς δὲ κατὰ μέρους δικαιοσύνης καὶ τοῦ κατ' αὐτὴν
dικαίου ἐν μέν ἐστιν εἶδος τὸ ἐν ταῖς διανομαις τιμῆς ἡ

3 τὸ ante ἁνίσου] τῷ Νb. 3 παράνομον] παράνομον πλέον ΚbPb. om. Ηa. πλέον
ΗbPbQNb Bekker. πλέον (παράνομον corr.) Οb. 4 καὶ] καὶ πρὸς Κb. πρὸς
ΗbPbQNbOQPb Bekker. πρὸς τὸ ΜbQ. τὸ μὲν γὰρ ἁνίσου ἄταν παράνομον,
τὸ δὲ παράνομον οὐχ ἄταν ἁνίσου] τὸ μὲν γὰρ ἁνίσου ἄταν παράνομον, τὸ δὲ παρά
νομον οὐχ ἄταν ἁνίσου] τὸ μὲν γὰρ (καὶ τὸ μὲν ΜbQ) πλέον ἄταν ἁνίσου, τὸ δ' ἁνίσου
οὗ πᾶν (οὐχ ἄταν ΜbQ) πλέον ΜbQOQbPb. τὸ μὲν γὰρ πλέον ἄταν ἁνίσου, τὸ δ' ἁνίσου
οὗ τὰν πλέον HbKbLPNQb Bekker. 6 μέρη] μέρος Ηb.
7 γὰρ] δ' ΜbQ. 8 ωὑτε] ὡς Κb. ὡς Νb. ωὕτε καὶ ΜbQ Bekker. 9 περὶ post καὶ] om. Οb.
ΜbQ. πραττόμενα] πραττόμενα μαργι Ob. προστατόμενα Pb et corr. Κb.
23 τοῦ κατ' αὐτὴν δικαίου] τοῦ κατὰ ταύτην δικαίου Κb. δικαίου τοῦ κατ' αὐτὴν Λb.
vómimov and τὸ ἱσον. Hence, whereas the ἀδικία spoken of above is coextensive with τὸ παράνομον, since τὸ ἁνίσον and τὸ παράνομον are not identical but different, being related as part and whole,—(for τὸ ἁνίσον is always παράνομον, but τὸ παράνομον is not always ἁνίσον,)—and consequently the ἀδικα and ἀδικίαι belonging to them are in like manner not identical but different, the ἀδικον and the ἀδικία belonging to the one being parts, and the ἀδικον and the ἀδικία belonging to the other being wholes,—that is to say, the ἀδικία of which we are speaking being a part of universal ἀδικία, and in like manner the δικαιοσύνη of which we are speaking, a part of universal δικαιοσύνη,—we must now investigate particular δικαιοσύνη and particular ἀδικία, and the particular δίκαιον and the particular ἀδικον in like manner. At this point then we may dismiss the δικαιοσύνη, coextensive with universal virtue, which is the practice of universal virtue towards another, and the correlative ἀδικία which is the similar practice of universal vice. And it is obvious how the δίκαιον and ἀδικον which correspond to universal δικαιοσύνη and ἀδικία are to be determined: the great majority of the acts directed by law are the acts which spring from universal virtue, the law commanding us to live in the practice of each particular virtue and forbidding us to live in the practice of each particular vice, while those provisions which have been made by the legislature with regard to the education which fits a man for social life are means to the production of universal virtue. As to that particular education which produces simply a good man, we must hereafter determine whether it falls within the scope of political science or of some other: for it would seem that it is not in every case the same thing to be a good man and to be a good citizen.

But of particular δικαιοσύνη and the δίκαιον connected with it there are two sorts: one which is exhibited in dis-
χρημάτων ἕ τῶν ἄλλων ὡς μεριστὰ τοῖς κοινωνοῦσι τῆς πολιτείας (ἐν τούτοις γὰρ ἔστι καὶ ἀνισον ἔχειν καὶ ἴσον ἔτερον ἐτέρου), ἐν δὲ το ἐν τοῖς συναλλάγμασι διορθωτικόν.

§ 13 τούτου δὲ μέρη δύο: τῶν γὰρ συναλλαγμάτων τὰ μὲν ἐκουσία ἐστὶ τὰ δ' ἀκούσια· ἐκουσία μὲν τὰ τοιαῦτα οὖν πράσις ὡς δανεισμός ἔγγυη χρήσις παρακαταθήκη μίσθωσις, ἐκουσία δὲ λέγεται, ὅτι ἡ ἀρχὴ τῶν συναλλαγμάτων τούτων ἐκουσίος· τῶν δ' ἀκούσιων τὰ μὲν λαθραία, οὖν κλοπὴ μοιχεία φαρμακεία προαγωγεία δουλαπατία δολοφονία ψευδομαρτυρία, τὰ δὲ βίαια, οὖν αἰκία δεσμός 3 θάνατος ἀρπαγή πήρωσις κακηγορία προπηλακισμός. ἐπεὶ δ' ὃ τ' ἀδίκως ἄνισος καὶ τὸ ἄδικον ἄνισον, δῆλον ὅτι καὶ § 2 μέσον τι ἐστὶ τοῦ ἀνίσου. τοῦτο δ' ἐστὶ τὸ ἴσον ἐν ὁποίᾳ γὰρ πράξει ἐστὶ τὸ πλεόν καὶ τὸ ἐλαττον, ἐστὶ καὶ τὸ § 3 ἴσον. εἰ οὖν τὸ ἄδικον ἄνισον, τὸ δίκαιον ἴσον ὅπερ καὶ 15 ἄνευ λόγου δοκεῖ πάσιν. ἐπεὶ δὲ τὸ ἴσον μέσον, τὸ δίκαιον § 4 μέσον τι ἄν εἰπ. ἐστὶ δὲ τὸ ἴσον ἐν ἐλαχίστοις δυσών. ἀνάγκη τοῖς τὸ δίκαιον μέσον τε καὶ ἴσον εἶναι καὶ § 5 πρὸς τι, καὶ ἤ μὲν μέσον, τινῶν (ταυτὰ δ' ἐστὶ πλεῖον καὶ ἐλαττον), ἤ δ' ἴσον ἐστὶ, δυοῖν, ἤ δὲ δίκαιον, τισίν. 20 § 6 πράγματα.] δύο. καὶ ἡ αὐτῆ ἐσται ἴσότης, οἰς καὶ ἐν οἰς· ἃς γὰρ ἐκείνα ἔχει, οὕτω κάκεινα ἔχει· εἰ γὰρ μὴ

tributions of preferment, property, or anything else which is divided amongst the members of the community, (for in such matters shares may be either unequal or equal)—and another sort which rectifies wrong in the case of private transactions. This last sort has two subdivisions: for some transactions are voluntary, others involuntary; such transactions as selling, buying, lending at interest, pledging, lending without interest, depositing, letting for hire are voluntary, being called so because they are voluntarily entered into, whilst of involuntary transactions some are furtive, such as theft, adultery, poisoning, procuring, enticement of slaves, assassination, false witness, others violent, such as assault, imprisonment, murder, rape, maiming, slander, contumelious treatment.

Now since the ἄδικος is ἀνίσος, and τὸ ἄδικον, ἀνίσον, it is plain that there is a mean belonging to τὸ ἀνίσον. This mean is τὸ ἴσον; for in any action which admits of τὸ πλέον and τὸ ἐλαττων, there is also τὸ ἴσον. Hence (1) if τὸ ἄδικον is ἀνίσον, τὸ δίκαιον is ἴσον; a view which commends itself to all apart from argument. And (3) since τὸ ἴσον is a μέσον, τὸ δίκαιον will be a μέσον. Again (2) τὸ ἴσον subsists between two terms at the least. Hence τὸ δίκαιον must be a μέσον, an ἴσον, and πρὶς τι (relative): and inasmuch as it is a μέσον, it is between certain extremes, which are πλέον and ἐλαττων respectively; inasmuch as it is an ἴσον, it concerns two things; inasmuch as it is δίκαιον, it is relative to certain persons. It follows from this that τὸ δίκαιον implies four terms at the least; for the persons, for whom a distribution is δίκαιον, are two, and the things, of which distribution is made, are two: and if the persons are ἴσοι, the things will be ἴσα; since as the one person is to the other person, so is the one thing to the other thing, for if the persons are not ἴσοι they will not have
§ 1 νέμονται. ἦτι ἐκ τοῦ κατ' αξίαν τούτῳ δήλων' τὸ γὰρ
dίκαιον ἐν ταῖς διανομαῖς ὁμολογοῦσι πάντες κατ' αξίαν
tῶα δεῖν εἶναι, τὴν μέντοι αξίαν οὐ τὴν αὐτὴν λέγουσι
πάντες ὑπάρχειν, ἄλλ' οἱ μὲν δημοκρατικοὶ ἐλευθεριὰν, οἱ
ὁλοὶ ἀριθμοῦ· ἡ γὰρ ἀναλογία ἴσοτης ἔστι λόγων, καὶ ἐν 10
§ 9 τέταρτων ἐλαχίστοις. ἡ μὲν οὖν διηρρήμην οὗ ἐν τέτ-
ταροι, δήλων. ἀλλὰ καὶ ἡ συνεχὴς τοῦ γὰρ ἐν ὑπὸ δυσι
χρηται καὶ δίς λέγει, ὡδὲν ὡς ἡ τοῦ πρῶτου πρὸς τὴν τοῦ
dευτέρου οὐτως ὡς τοῦ δευτέρου πρὸς τὴν τοῦ τρίτου. δις
οὖν ἡ τοῦ δευτέρου ἐφηται· ὡστ' ἐὰν ἡ τοῦ δευτέρου τεβη 15
§ 10 δις, τέταρτα ἐσται τὰ ἀνάλογα. ἔστι δὲ καὶ τὸ δίκαιον ἐν
tέταρτων ἐλαχίστοις, καὶ ὁ λόγος ὁ αὐτὸς· διηρρηται γὰρ
§ 11 ὁμοίως, οἷς τε καὶ ἂν. ἔσται ἀρα ὡς ὁ πρῶτος ὁρὸς πρὸς
τὸν δευτέρου οὖτως ὁ τρίτου πρὸς τῶν τέταρτων, καὶ ἐναλλαξ.
and indeed all battles and complaints arise in consequence of ἴσοι having and possessing things which are not ἴσα, or persons who are not ἴσοι, things which are ἴσα. Again this is plain in the case of τὸ κατ’ ἀξίαν (proportion); for all admit that in distributions τὸ δίκαιον should be determined κατ’ ἀξίαν, though all do not acknowledge the same ἀξία, democrats taking as their ἀξία freedom, oligarchs wealth and sometimes birth, aristocrats excellence.

Hence τὸ δίκαιον is ἀνάλογον τι. For τὸ ἀνάλογον is not peculiar to numerical quantity, but belongs to quantity generally, ἀνάλογια being equality of ratios and having four terms at the least. That discrete ἀνάλογια has four terms is plain: and so has continuous ἀνάλογια; for it treats one term as two and repeats it; for example, with three lines, as the first term is to the second, so is the second to the third; thus the second term is repeated, and if the second term is so repeated, the ἀνάλογα will be four in number. And τὸ δίκαιον too has four terms at the least, and the ratio of the first to the second is the same as the ratio of the third to the fourth, for the persons and the things are similarly divided. Thus as the first term is to the second, so will the third be to the fourth; hence per-
ἀρα, ὡς ὁ πρῶτος πρὸς τὸν τρίτον οἱ δευτερος πρὸς τὸν τέταρτον ὡστε καὶ τὸ ὅλον πρὸς τὸ ὅλον ὀπέρ ἦ νομή
§ 12 συνδέαζει· κἂν οὕτως συντεθῇ, δικαίως συνδέαζει. η ἁρα τοῦ πρῶτου ὄρου τῷ τρίτῳ καὶ ἡ τοῦ δευτέρου τῷ τέταρτῳ σύζευξις τὸ ἐν διανομῇ δίκαιον ἐστι· καὶ μέσον τὸ δίκαιον τούτῳ ἐστὶ τοῦ παρὰ τὸ ἀνάλογον, τὸ γὰρ ἀνάλογον μέσον, 
§ 13 τὸ δὲ δίκαιον ἀνάλογον. καλοῦσι δὲ τὴν τοιαύτην ἀναλογίαν γεωμετρικὴν οἱ μαθηματικοὶ· ἐν γὰρ τῇ γεωμετρικῇ συμβαίνει καὶ τὸ ὅλον πρὸς τὸ ὅλον ὀπέρ ἐκάτερον πρὸς ἐκάτερον. ἐστὶ δ’ οὐ συνεχῆς αὐτὴ ἡ ἀναλογία· οὐ γὰρ γίνεται εἰς ἀριθμὸ ὄρος, ὅ καὶ ὅ. τὸ μὲν οὖν δίκαιον τοῦτο τὸ ἀνάλογον, τὸ δ’ ἀδίκου τὸ παρά τὸ ἀνάλογον. γίνεται ἁρὰ τὸ μὲν πλέον τὸ δὲ ἐλαττὸν. ὀπερ καὶ ἐπί τῶν ἐργῶν συμβαίνει· ὡς μὲν γὰρ ἀδίκων πλέον ἔχει, ὡς δ’ ἀδικούμενος ἐλαττὸν τοῦ ἀγαθοῦ. ἐπὶ δὲ του κακοῦ ἀνά-παλιν· ἐν ἀγαθῷ γὰρ λόγῳ γίνεται τὸ ἐλαττὸν κακῶν πρὸς 
§ 14 τὸ μείζον κακῶν ἐστὶ· γὰρ τὸ ἐλαττὸν κακῶν μᾶλλον αἱρετὸν τοῦ μείζονος, τὸ δ’ αἱρετὸν ἀγαθόν, καὶ τὸ μᾶλλον μείζον.
§ 15 τὸ μὲν οὖν ἐν εἴδος τοῦ δικαίου τούτῳ ἐστὶν, τὸ δὲ λοιπὸν ἐν τῷ διορθωτικῷ, ὡς γίνεται εἰς τοὺς συναλλάγμασι καὶ τοὺς ἐκουσίους καὶ τοὺς ἀκουσίους. τοῦτο δὲ τὸ δίκαιον 
§ 2 ἀλλο εἴδος ἔχει τοῦ προτέρου. τὸ μὲν γὰρ διανεμητικὸν 

mutando, as the first is to the third, so is the second to the fourth; and therefore also [componendo] the whole to the whole. Now this is the combination which the distribution effects, and the combination is effected δικαίος if the ἀνάλογα are so compounded. Hence the conjunction of the first term with the third, and that of the second term with the fourth is τὸ δίκαιον in distribution: and this δίκαιον is a mean between violations of τὸ ἀνάλογον, since τὸ ἀνάλογον is a mean, and τὸ δίκαιον is ἀνάλογον. This sort of ἀναλογία is called by mathematicians geometrical, for it is in geometrical ἀναλογία that the whole is to the whole as each to each. This ἀναλογία is not continuous, for person and thing do not constitute a single term.

Thus this sort of δίκαιον is τὸ ἀνάλογον, and the corresponding ἁδίκον that which violates τὸ ἀνάλογον. Further τὸ ἁδίκον violates τὸ ἀνάλογον either by excess or by defect; and this we find in fact, for ὁ ἁδικών has too much, ὁ ἁδικοῦ-μενος too little of the good in question. In the case of evil the contrary holds: for the lesser evil in comparison with the greater evil is reckoned a good; since the lesser evil is more desirable than the greater evil, and that which is desirable is a good, and that which is more desirable, a greater good.

This then is one sort of δίκαιον. The other is the corrective sort, which appears in private transactions both voluntary and involuntary. This sort of δίκαιον is of a different character from the former one. For, on the one hand the δίκαιον
δίκαιου τῶν κοινῶν ἄφετε τὴν ἀναλογίαν ἐστὶ τὴν εἰρη-
μένην· καὶ γὰρ ἀπὸ χρημάτων κοινῶν ἐὰν γίγνηται ἡ
διανομή, ἔσται κατὰ τὸν λόγον τοῦ αὐτοῦ ὄντερ ἔχουσι
πρὸς ἄλληλα τὰ εἰσενεχθέντα· καὶ τὸ ἄδικον τὸ ἀντικεί-

§ 3 μενον τῷ δίκαιῳ τούτῳ παρά τὸ ἀναλογόν ἐστιν.
τὸ δ’ ἐν
toischυναλλάγμασι δίκαιον ἐστὶ μὲν ἵσον τι, καὶ τὸ ἄδικον
ἀνύσων, ἀλλ’ οὐ κατὰ τὴν ἀναλογίαν ἐκείνην ἀλλὰ κατὰ
tὴν ἀριθμητικήν. οὐθεὶ γὰρ διαφέρει, εἰ ἐπιεικῆς φαύλου
ἀποστέρησεν ἡ ἐπιεικῆ, οὔτ’ εἰ ἐμοίχευσεν ἐπιεικῆς
ἡ φαύλος· ἀλλὰ πρὸς τοῦ βλάβους τὴν διαφορὰν μόνον 10
βλέπει ὁ νόμος, (καὶ χρὴται ὡς ἵσον,) εἰ ὁ μὲν ἄδικεὶ ὁ δ’

§ 4 ἀδικεῖται, καὶ εἰ ὁ μὲν ἐβλάψειν ὁ δὲ βέβλαπται.
ὡστε τὸ
ἀδικον τούτο ἅνυσων ὑπὸ ἵσαζεων πειρᾶται ὁ δικαστής· καὶ
γὰρ ὅταν ὁ μὲν πληγῆ ὁ δὲ πατάξῃ, ἡ καὶ κτείνῃ ὁ δ’
ἀποθάνῃ, διήρηται τὸ πάθος καὶ ἡ πράξεις εἰς ἄνισα. ἀλλὰ 15

§ 5 πειρᾶται τῇ ζημίᾳ ἵσαζεων, ἀφαιρῶν τὸν κέρδος.
Λέγεται
γὰρ ὡς ἄπλως ἐπείνῃ ἐπὶ τοὺς τουούτους, καί εἰ μὴ τισον
οἰκείων ὁνόμα εἴη, τὸ κέρδος, ὁδὸν τὸ πατάξαντι, καὶ ἡ

§ 6 ζημίᾳ τῷ παθόντι· ἀλλ’ ὅταν γε μετρηθῇ τὸ πάθος, καλεῖται
τὸ μὲν ζημία τὸ δὲ κέρδος. ὡστε τοῦ μὲν πλείονος καὶ 20
ἐλάττωνος τὸ ἵσον μέσων, τὸ δὲ κέρδος καὶ ἡ ζημίᾳ τὸ μὲν
πλέον τὸ δ’ ἐλαττων ἐναντίως, τὸ μὲν τοῦ ἀγαθοῦ πλέον τοῦ
κακοῦ δ’ ἐλαττων κέρδος, τὸ δ’ ἐναντίῳ ζημίᾳ· ὥν ἂν ἡ
μέσων τὸ ἵσον, ὁ λέγομεν εἶναι δίκαιων· ὡστε τὸ ἐπανορθωτικὸν

1 δικαιω] om. K1Prb. τὸν εἰρημένην] τῶν εἰρημένων Η♭. 2 γίγνηται]
γίγνεται Ο♭. γένηται Ι♭. 3 τὸν πρὸς λόγον] om. M1Q♭. 4 πρὸς ἄλληλα τὰ
eἰσενεχθέντα] εἰς ἄλληλα τὰ προσενεχθέντα Π♭. εἰς ἄλληλα προσενεχθέντα Κ♭. 5
παράτ] τὸ παρά Κ♭Ωb. 7 ἐκείνη] ἐχει ἐκείνη Π♭. 8 ἐπιεικῆς] ὁ ἐπιεικῆς Μ♭Q♭.
φαύλος] φαύλια Η♭. 9 ἀποστέρησεν] ἀποστερηθεί Ο♭. φαῦλος] ὁ φαῦλος
μὸνον βλέπει] βλέπει μὸνον Κ♭Prb. 12 καὶ] om. M♭Q♭. 14 om. ἄντι-
11 (ἐλάττωνος] τοῦ ἐλάττωνος Ο♭. δὲ
κέρδος] κέρδος δὲ Ι♭. 22 πλέον] πλέον Π♭. ἐλαττων ἐναντίως] ἐλαττων καὶ
ἡ ζημίᾳ τὸ μὲν πλέον τὸ δ’ ἐλαττων ἐναντίως Ο♭. 23 ἰν] Ὡ. 24 λέγομεν]
Lέγεται τὸ μὲν Η♭.


which distributes public possessions is always governed by the above-named ἀναλογία,—since, if the distribution is made from public funds, it will be in accordance with the ratio subsisting between the contributions,—and the ἀδίκον opposed to this δίκαιον violates τὸ ἀναλογον; and on the other hand the δίκαιον of private transactions, though it is ἵσον τὸ and the corresponding ἀδίκον, ἄνισον, is regulated not by geometrical, but by arithmetical, ἀναλογία. For it makes no difference whether a good man defrauds a bad man or a bad one a good one, nor, whether it is a good man or a bad one who commits adultery, so that the law looks only to the degree of harm done, and, treating them as ἵσοι, considers whether the one ἀδικεῖ and the other ἀδικεῖται, whether the one harmed, and the other has been harmed. And consequently, this ἀδίκον being ἄνισον, the juror endeavours to equalize it: i.e. when one man strikes and the other is struck, when one man kills and the other is killed, the action and the suffering have been divided into unequal portions, and the juror endeavours to equalize the profit and the loss by a deduction from the former. For, generally speaking, these terms are applied to all such cases, although in some they may not be strictly appropriate names, 'profit' to the striker for example, and 'loss' to the sufferer: but it is when the suffering comes to be estimated that the act of the one is called 'profit' and the suffering of the other 'loss'. Thus τὸ ἵσον is a mean between too much and too little, and profit and loss are, contrariwise, too much and too little, or too little and too much, too much good and too little evil being profit, too little good and too much evil being loss; and as τὸ ἵσον, which is conceived to be δίκαιον, is, as we said, a mean between them, τὸ δίκαιον in correction will
§ 7 δύκαιον ἄν εἰς τὸ μέσον ζημίας καὶ κέρδους. διὸ καὶ ὅταν ἀμφισβητῶσιν, ἐπὶ τὸν δικαστήν καταφεύγουσιν τὸ δὲ ἐπὶ τὸν δικαστήν ἵναι ἱέναι ἐπὶ τὸ δύκαιον ο ἡ γὰρ δικαστὴς βούλεται εἶναι οἴον δύκαιον ἐμψυχον καὶ ζητοῦσι δικαστὴν μέσον, καὶ καλοῦσιν ἴνοι µεσιδίους, ὡς ἐὰν τοῦ
§ 8 µέσου τύχοσι τοῦ δύκαιου τευχόμενοι. µέσον ἁρὰ τι τὸ δύκαιον, εὔκαιρ καὶ ὁ δικαστὴς. ο ὁ δικαστὴς ἐπανυστεύκαλ καὶ ὡσπερ γραµµὴς εἰς ἀνύσαι τετµηµένης ὡς τὸ µείζον τµήµα τῆς ἡµισείας υπερέχει τούτω ἀφείλει καὶ τὸ ἐλάττων τµήµατι προσέθηκεν. ὅταν ὁ διχὰ διαµεθῆκῃ τὸ ὅλων, τοῦτο ἄφεν τούτων, τοὺς λάβωσιν τὸ ἱσον. <ὅτι τούτῳ καὶ ὀνοµάζεται δύκαιον, ὅτι δίχα ἐστίνως, ἀφιεῦ ἄν εἰ τούτων δύκαιοιν καὶ ὁ δικαστὴς δικαστὴς.> <ὅτι δὲ ἱσον µέσον ἵναι τῆς µείζονος καὶ ἐλάττωνος κατὰ τήν ἀρµ.
§ 10 θµητικὴν ἀναλογίαν. > ἔπαι γὼν δύο ἱσων ἀφαρέθη ἀπὸ ἁτέρου πρὸς ἁτέρουν δὲ προστεθῇ, δυσὶ τούτως υπερέχειν ἁτέρουν εἰ γὰρ ἀφηρέθη μὲν, µὴ προστεθῇ δὲ, ἐν ἀν µοὸν υπερέχειν τοῦ µέσου ἁρὰ ἑν, καὶ τὸ µέσον <τοῦ>
§ 11 ἀφ' οὖ ἀφηρέθη ἑν. τούτῳ ἁρὰ γνωρισώμεν τι τε ἀφελεῖν δεῖ ἀπὸ τοῦ πλέον ἔχοντος, καὶ τί προσθείναι τὸ ἐλαττὸν ἕχοντι ὃ µὲν γὰρ τὸ µέσον υπερέχει, τοῦτο προσθείναι δεῖ τοῦ ἐλαττὸν ἔχοντι. ὃ δὲ υπερέχεται, ἀφελεῖν ἀπὸ τοῦ
§ 12 µεγίστου. ἵνα αἰ ἐφ' ὄν τὸν ΔΑ ΒΒ ΓΓ ἀλλήλαις ἀπὸ τῆς ἈΑ ἀφθηρίσθω τῷ ΛΕ καὶ προσκείσθω τῷ ΓΓ τὸ ἐφ' ὃ

ἔµψυχον] om. Μβ. ζεισίδιως] κατακεραυνίως (κε correcto) Λβ. κατακεραυνίως Ηβ. 
τοῦ] τοὺ ὅτους Ωβ. 17 ἁτέρου] Κβ. τὸ ἑτερον ceteri. ἀφθηρίσθη] ἀφαρέθη 
20 πτέρου] πτέρους Μβ. προστεθήκα] προστεθήκα Η[λ.]Μβ. 21 ἕπει]—ἐχοντι] 
om. Η[λ.]Μβ. 23 αἰ ἐφ' ὄν] ἐφ' ὄν αἰ Μβ. 24 ἀφθηρίσθω] ἀφαρέθη (ὁ) 
Μβ. ἀφθηρίσθω Ωβ. ἀφαρέθη Ωβ. ἀφηρήσθαι Κβ. προσκείσθω] προσκ 
κείται Κβ. ζ[Ωβ.] ὄν ceteri et Bekker.
be the mean between loss and profit. And this is the reason why when men dispute they have recourse to the juror: to go to the juror is to go to \( \tau \delta \) \( \delta \iota \kappa \alpha i\theta \upsilon \); for the juror is supposed to be a personification of \( \tau \delta \) \( \delta \iota \kappa \alpha i\theta \upsilon \), and men resort to a juror as to a mean, (some indeed calling jurors \( \mu \varepsilon \sigma \iota \delta \iota \iota \iota \iota \),) on the assumption that if they hit the mean they will obtain \( \tau \delta \) \( \delta \iota \kappa \alpha i\theta \upsilon \): \( \tau \delta \) \( \delta \iota \kappa \alpha i\theta \upsilon \) is therefore a mean, seeing that the juror is one. Now the juror restores equality, and, to illustrate the matter by a line divided into two unequal parts, takes away that by which the greater segment exceeds the half of the whole line and adds it to the lesser segment. When the whole has been divided into two equal parts, men say they 'have their own', both having now got \( \tau \delta \) \( \iota \sigma o\). And this is the reason why \( \delta \iota \kappa a i\theta \upsilon \) is so called, because it is \( \delta i \chi a \) (equally divided), just as though one should call it \( \delta i \chi a i\theta \upsilon \), and [similarly] the \( \delta i \kappa a t i\theta \iota s \) is a \( \delta i \chi a t i\theta \iota s \). Here \( \tau \delta \) \( \iota \sigma o\) is an arithmetical mean between the greater and the lesser lines. For when of two equals a part is taken from the one and added to the other, the second is in excess by twice the amount of the addition, since, if the part had been taken from the one but not added to the other, the second would have exceeded the first only by once the part taken away; so that the greater line exceeds the mean by once the part taken away, and the mean exceeds the segment from which a part was taken by once that part. By this process then we shall ascertain what we ought to take away from that which has too much, and what we ought to add to that which has too little: we must add to that which has too little that by which the mean exceeds it, and take from the greatest that by which the mean is exceeded. Let the lines \( A A', B B', C C' \) be equal to one another: let the segment \( A E \)
ΓΔ, ὥστε οἶη ἡ ΔΓΓ τῆς ΕΔ ὑπερέχει τῷ ΓΔ καὶ τῷ ΓΖ τῆς ἄρα ΒΒ τῷ ΓΔ. [ἐστι δὲ καὶ ἐπὶ τῶν ἄλλων τεχνῶν τούτων ἀνηρροῦντο γὰρ ἀν, εἰ μὴ ἐποίει τὸ ποιοῦν, καὶ ὅσον καὶ ὅσον καὶ τὸ πάσχον, ἐπαναγχεῖ τοῦτο καὶ τοσοῦτον καὶ τοσοῦτον.] ἐλήλυθε δὲ τὰ ὀνόματα ταυτα, ἡ τε ζημία 5 καὶ τὸ κέρδος, ἐκ τῆς ἐκουσίας ἄλλαγης: τὸ μὲν γὰρ πλέον ἔχειν ἂν τὰ ἐαυτοῦ κερδαίνειν λέγεται, τὸ δὲ ἔλαττων τῶν εἴ ἀρχὴς ζημιοῦσθαι, οἶον ἐν τῷ ὀφείλεται καὶ πωλεῖν καὶ ἐν ὅσοις ἄλλοις ἄδειευν ἐδώκεν νόμος· ὅταν δὲ μὴτε πλέον μητ᾽ ἔλαττων ἀλλὰ ἀυτὰ δι᾽ αὐτῶν γένεται, τὰ αὐτῶν φασὶν ἀν ἔχειν καὶ οὔτε ζημιοῦσθαι οὔτε κερδαίνειν.

ὡστε κέρδους τινὸς καὶ ζημίας μέσον τὸ δίκαιον ἐστὶ τῶν παρὰ τὸ ἐκουσίον, τὸ ἵσον ἔχειν καὶ πρότερον καὶ ὡστερον.

5 δοκεῖ δὲ τισὶ καὶ τὸ ἀντιπεπονθὸς εἶναι ἄπλως δίκαιον, 15 ὥσπερ οἱ Πυθαγόρειοι ἔφασαν· ὑρίζοντο γὰρ ἀπλώς τὸ 2 δίκαιον τὸ ἀντιπεπονθός. τὸ δὲ ἀντιπεπονθός οὐκ ἐφαρμότετο οὔτ' ἐπὶ τὸ διανεμητικὸν δίκαιον οὔτ' ἐπὶ τὸ διορθο- 3 τικόν· (καίτων Βούλουνται γε τοῦτο λέγειν καὶ τὸ 'Ραδαμάνθυνος δίκαιον εἰ κε πάθοι τά τ' ἔρεξε, δίκη κ' ἱθεία γένοιτο').

be taken away from the line $AA'$ and the segment $CD$ [equal to $AE$] be added to $CC'$; then the whole line $DCC'$ exceeds $EA'$ by $CD$ and $CZ$, and therefore $BB'$ by $CD$. These names ‘loss’ and ‘profit’ have come from voluntary exchange: for to have more than one’s own is called ‘to profit’ and to have less than one had originally is called ‘to lose,’ for instance, in buying and selling, and in all other transactions which the law allows: but when men get just what they had at the outset, not more nor less, they say they ‘have their own’ and neither lose nor profit.

Thus τὸ [διορθωτικὸν] δίκαιον is a mean between a sort of profit and a sort of loss in matters which are not voluntary—the possession of exactly as much after the transaction as before it.

Some think with the Pythagoreans that τὸ ἀντιπεπονθὸς (retaliation) is without further qualification δίκαιον: for the Pythagoreans defined τὸ δίκαιον without qualification as τὸ ἀντιπεπονθὸς. But τὸ ἀντιπεπονθὸς does not accord either with δίκαιον in distribution or with δίκαιον in correction:—and yet they would have the δίκαιον of Rhadamanthus mean this; ‘if a man suffers that which he did, right justice will be done.’—
§ 4 πολλαχῶν γὰρ διαφωνεῖ· οὖν εἰ ἁρχὴν ἔχων ἐπάταξεν, οὐ δεὶ ἀντιπληγήναι, καὶ εἰ ἁρχοντα ἐπάταξεν, οὐ πληγήναι
§ 5 μόνον δεὶ ἀλλὰ καὶ κολασθῆναι. ἔτι τὸ ἐκούσιον καὶ τὸ ἀκούσιον διαφέρει πολὺ. ἀλλ᾽ ἐν μὲν ταῖς κοινωνίαις ταῖς ἀλλακτικαῖς συνεχεί τὸ τοιοῦτον δίκαιον, τὸ ἀντιπεπονθός, κατ᾽ ἀναλογίαν καὶ μὴ κατ᾽ ἱσότητα. τῷ ἀντιποιεῖν γὰρ ἀνάλογον συμμένει ἡ τόλμη· ἡ γὰρ τὸ κακὸς ζητοῦσιν εἰ δὲ μὴ, δουλεία δοκεῖ εἶναι, εἰ μὴ ἀντιποιῆσε· ἡ τὸ εἴ, εἰ δὲ μὴ, μετάδοσισ οὐ γίνεται, τῇ μεταδόσεις δὲ συμμένουσι. διὸ καὶ Χαρίτων ἱερὸν ἐμποδοῦν ποιοῦνται, ἢ ἀνταπόδοσις ἢ τοῦτο γὰρ ἵδιον χάριτος- ἀνθυπηρετήσαι τε γὰρ δεὶ τῷ χαρισμαένῳ, καὶ πάλιν αὐτὸν ἁρξαί χαριζόμενον.
§ 8 ποιεῖ δὲ τὴν ἀντίδοσιν τὴν κατ᾽ ἀναλογίαν ἡ κατὰ διάμετρον σὺζευξίς. οὗν οἰκοδόμος ἑφ᾽ ὧν Λ, σκυτοτόμος ἑφ᾽ ὧν Β, οἰκία ἑφ᾽ ὧν Γ, ἡπόδημα ἑφ᾽ ὧν Δ. δεὶ οὖν λαμβάνειν τὸν οἰκοδόμον παρὰ τοῦ σκυτοτόμου τοῦ ἐκείνου ἔργου, καὶ αὐτὸν ἐκείνην μεταδίδοσιν τὸν αὐτόν. ἐὰν οὖν πρῶτον ἢ τὸ κατὰ τὴν ἀναλογίαν ἴσον, εἶτα τὸ ἀντιπεπονθὸς γένηται, ἑσται τὸ λεγόμενον. εἰ δὲ μὴ, οὐκ ἴσον, οὐδὲ συμμένει· οὖθεν γὰρ κωλύει κρείττον εἶναι τὸ βατέρουν.
§ 9 ἔργου ἢ τὸ βατέρουν δεὶ οὖν ταῦτα ἰσασθῆναι. ἔστι δὲ τούτῳ καὶ ἐπὶ τῶν ἄλλων τεχνῶν ἀνηροῦντο γὰρ ἢ ἢ, εἰ μὴ ἐποίει τὸ ποιοῦν, καὶ ὄσον καὶ οἶδον καὶ τὸ πᾶσχον,

for in many cases the law of retaliation and the law of correc-
tive justice do not agree; for example, if a man strikes being
a magistrate, he ought not to be struck back, whilst if a man
strikes a magistrate, he ought not only to be struck, but also to
be chastised: furthermore there is a great difference between
what is voluntary and what is involuntary. Nevertheless in
commercial κοινωνίαι the bond of union is this sort of δικαιον,
viz. τὸ ἀντιπεπονθός, κατ' ἀναλογίαν (in the sense of reciprocal
proportion), not κατ' ἴσότητα (in the sense of retaliation). In
fact it is by proportionate requital that the city holds to-
gether: for men seek either to requite ill,—else, if they are
not to requite it, they think themselves slaves, or to requite
good,—else, there is no interchange, and it is by interchange
that men hold together. And this is the reason why men set
a shrine of the Graces in a prominent position, in order that
there may be mutual requital: for this is a characteristic of
grace, since it is right to make return to one who has shown
grace, and then that he should begin again to show it.

Now proportionate return is secured by cross-conjunction.
For example, let A be a builder, B a shoemaker, C a house,
and D a shoe. Here the builder must receive from the shoemak-
er a portion of his work; and must give him a portion of
his own. If then first there is proportionate equality of
wares, and then τὸ ἀντιπεπονθός is effected, the result of
which we speak will be attained. Otherwise the bargain is
not ἴσον and does not hold: for there is nothing to prevent
the work of the one from being superior to the work of the
other: they must therefore be equalized. And this holds
of the arts generally; for they would fall into disuse, if,
besides acting, the agent did not receive an equivalent both
επασχε τούτο καὶ τοσοῦτον καὶ τοιοῦτον’ οὐ γὰρ ἐκ δύο ἰατρῶν γίνεται κοινωνία, ἀλλ’ ἐξ ἰατροῦ καὶ γεωργοῦ, καὶ ὦλως ἐτέρων καὶ ὦν ἵσων’ ἀλλὰ τούτως δεῖ ἱσασθῆναι.

§ 10 διὸ πάντα συμβλητὰ δεῖ πως εἶναι, ὃν ἐστὶν ἀλλαγή. ἐφ’ ὃ τὸ νόμισμα ἐλήλυθε, καὶ γίνεται πως μέσον πάντα γὰρ μετει, ὡστε καὶ τὴν ὑπεροχήν καὶ τὴν ἐλεησίαν, πῶσα ἀττα ἡ ὑποθήματι ἵνα ἑπερ, ἐτοὶ τοὺς ὅπερ οἰκοδόμοι πρὸς σκυτότομον, τοσαδὶ ὑποθήματα πρὸς οἰκίαι, ἡ τροφῆν’ (εἰ γὰρ μὴ τοῦτο, οὐκ ἔσται ἀλλαγὴ οὐδὲ κοινωνία) τούτο δ’, εἰ μὴ ἵσα εἰπ’ πως, οὐκ ἔσται δεὶ ἀρα εἰνὶ των πάντων μετεχθαί, ὅσπερ ἔλεξθη πρότερον τοῦτο δ’ ἐστὶ τῇ μὲν ἀληθείᾳ ἡ χρεία, ἡ πάντα συνέχει. (εἰ γὰρ μηθὲν δέωντο μὴ μὴ ὀμοιώσ, ἡ οὐκ ἔσται ἀλλαγὴ ἡ οὐχ ἡ αὐτὴ’) οἶον δ’ ὑπάλλαγμα τῆς χρείας τὸ νόμισμα γέγονε. κατὰ συνθήκην καὶ διὰ τοῦτο τοῦνομα ἔχει νόμισμα, ὅτι 15 οὐ φύσει ἀλλὰ νόμῳ ἔστι, καὶ ἐφ’ ἦμῖν μεταβαλεῖν καὶ

§ 12 ποιῆσαι ἀχρηστὸν. ἔσται δὴ ἀντίπεπουθός, ὅταν ἱσασθῇ, ὅστε ὅπερ γεωργός πρὸς σκυτότομον, τὸ ἔργον τὸ πρὸς τὸ σκυτότομον πρὸς τὸ γεωργόν. εἷς σχῆμα δ’ ἀναλογίας ό ὃ ὃ ἠγειν ὅταν ἀλλάξωταί (εἰ δέ μὴ, ἀμφοτέρας ἐξει τὰς ὑπεροχὰς τὸ ἔτερον ἄκρον). ἀλλ’ ὅταν ἐχωσι τὰ αὐτῶν’ ὦτως ἵσοι καὶ κοινωνία, ὅτι αὐτὴ ἡ ἱσότης δύναται ἐπ’ αὐτῶν γίνεσθαι’ (γεωργὸς Α’, τροφῆς Γ’, σκυτότομος Β’, τὸ ἔργον αὐτοῦ τὸ ἱσασμένον Δ’) εἰ δ’ οὖτω μὴ ἦν αὐτῷ

§ 13 πεπονθέναι, οὐκ ἄν ἦν κοινωνία. ὅτι δ’ ἡ χρεία συνέχει 25 ὅσπερ ἐν τῷ ὅν, δηλοῖ ὅτι ὅταν μὴ ἐν χρείᾳ ὅσων ἀλλήλων,

in quantity and quality for what the recipient receives: for it is not two physicians between whom κοινωνία finds place, but a physician and a husbandman, and generally those who are not ἵσοι, but different: these have to be equalized. Hence all things which are exchanged must be somehow commensurable: and that they may be so, men have introduced τὸ νόμισμα, which serves as a sort of medium; for it measures all things, and therefore the excess and the defect,—that is to say, determines how many shoes are equivalent to a given house or a given quantity of food. Hence, as a builder to a shoemaker, so must so many shoes be to a house or a given quantity of food (otherwise there will be no exchange, and no κοινωνία), and this proportion will not be secured unless the articles are somehow equal. Hence, as was said above, all things must be measured by a single standard. This standard is in reality demand, which holds all things together; (for if the builder and the shoemaker do not require anything, or do not require correspondingly, there will be either no exchange, or an exchange of a different sort): but demand is conventionally represented by νόμισμα, which is therefore so called, because it is not φύσει but νόμῳ, so that it is in our power to change it and to make it useless. "Αντιπεπονθὸς then will take place when an equality is established so that as husbandman is to shoemaker, so is the shoemaker's ware to the husbandman's. The reference to the proportional formula must be made, not after the exchange (otherwise there will be two extremes, one of which possesses both the excesses [of 4 § 10]), but when they still retain their own wares: in this way they are ἵσοι and κοινωνί, because it is possible in their case to establish the proper equality: (husbandman A, food C, shoemaker B, his ware equated to the food D:) while if "Αντιπεπονθὸς could not be established in this way, there would be no κοινωνία. That demand holds things together as a single standard, is indicated
Η ἁμφότεροι ή ἀτερος, οὐκ ἀλλάττωται, ὡσπερ ὅταν οῦ ἔχει αὐτὸς δεχταί τις, οἶνον οἶνον διδόντες σῖτου ἐξαγωγήν.

§ 14 δεὶ ἀρα τοῦτο ἱσασθῆναι. ὑπὲρ δὲ τῆς μελλούσης ἀλλαγῆς, εἰ νῦν μηδέν δεῖσαι, ὅτι ἔσται ἐὰν δεηθῇ, τὸ νόμισμα οἶνον ἐγγυνητῆς ἐσθ᾽ ἡμῖν δεὶ γὰρ τὸτε φέροντι εἶναι ἀλβεῦν. πάσχει μὲν οὖν καὶ τοῦτο τὸ αὐτὸν οὐ γὰρ ἄει ἢς ὁ διὸν δύναται; ὁμως δὲ βούλεται μὲνεῖν μᾶλλον. διὸ δεὶ πάντα τετμησθαί; οὔτω γὰρ ἄει ἐσται ἀλλαγή, εἰ δὲ τοῦτο, κοινωνία. τὸ δὴ νόμισμα ὡσπερ μέτρον σύμμετρα ποιήσαν ἰσαζεὶ οὔτε γὰρ ἂν μὴ οὐσης ἀλλαγῆς κοινωνία ἐὰν, οὐτ' ἀλλαγὴ ἴσοτήτως μὴ οὐσῆς, οὕτ' ἴσοτης μὴ οὐσῆς

§ 15 συμμετρίας. τῇ μὲν οὖν ἀληθείᾳ ἀδύνατον τὰ τοσοῦτον διαφέροντα σύμμετρα γενέσθαι, πρὸς δὲ τὴν χρείαν ἐδεχεται ἰκανός. ἐν δὴ τι δεὶ εἶναι, τοῦτο δ᾽ εξ ὑποθέσεως διὸ νόμισμα καλεῖσαι τοῦτο γὰρ πάντα ποιεῖ σύμμετρα μετείται γὰρ πάντα νομίσματι. οἰκία Α, μναί δέκα Β, κλίνη Γ. τὸ δὴ Α τοῦ Β ἡμισ τοι πέντε μνῶν ἄξια ἡ οἰκία, ἡ ἰσον ἡ δὲ κλίνη δεκατον μέρος τὸ Γ τοῦ Β

§ 16 δὴ λοιπον τόσαι κλίναν ἰσον οἰκία, ὅτι πέντε. ὅτι δ᾽ οὔτως ἡ ἀλλαγή ἦν πρὶν τὸ νόμισμα εἶναι, δῆλον διαφέρει γὰρ οὐδὲν ἡ κλίνα πέντε ἄντι οἰκίας, ἡ ὢσον αἱ πέντε κλίναν.

§ 17 τι μὲν οὖν τὸ ἀδικον καὶ τί τὸ δίκαιον ἐστιν, εὖρηται.
by the fact that, when there is no demand on the part of both for mutual assistance, or at least on the part of one, they do not exchange: whereas, when \( B \) wants what \( A \) has, they exchange, giving, for example, the privilege of exporting corn in return for wine; this bargain then has to be equalized. But if we do not require a thing now, \( \tau \delta \ \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \) is to us a sort of guarantee of future exchange, a pledge that it shall take place if at another time we require the thing: for it must be possible for the trader on producing the \( \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \) to obtain the ware. Of course \( \tau \delta \ \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \) is subject to the same laws as the wares themselves,—it is not always of the same value: nevertheless it tends to be more constant in value than they. All things therefore ought to have a value assigned to them: for so there will always be exchange, and if so, a \( \kappa \omicron \omicron \omicron \omicron \omicron \omicron \iota \alpha \). Thus \( \tau \delta \ \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \) is a sort of measure which makes things commensurable and reduces them to equality: for there would be no \( \kappa \omicron \omicron \omicron \omicron \omicron \omicron \iota \alpha \) if there were no exchange, and no exchange if there were no equality, and no equality if there were no commensurability, Thus though it is in reality impossible for things so widely different to become commensurable, it is possible in an adequate degree by reference to demand. Hence there must be a single standard, and this determined by agreement, whence it is called \( \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \). This \( \nu \omicron \iota \omicron \sigma \omicron \nu \alpha \) makes all things commensurable, all things being measured by it. Let \( A \) be a house, \( B \) ten minas, \( C \) a bed. Now \( A \) is half \( B \), if the house is worth or equivalent to five minas, and the bed \( C \) is the tenth part of \( B \): it is plain then how many beds are equivalent to a house, viz. five. That this was the way in which exchange was effected before currency existed, is clear; for it makes no difference whether five beds are given for a house, or the price of the five beds.

We have now defined \( \alpha \delta \iota \kappa \omicron \omicron \), and \( \delta \iota \kappa \alpha \iota \omicron \), and from our J.
διωρισμένων δέ τούτων δήλον ὅτι ἡ δικαιοπραγία μέσον ἐστὶ τοῦ ἀδίκειν καὶ ἀδίκεισθαι· τὸ μὲν γὰρ πλέον ἦχειν τὸ δ’ ἐλαττον ἐστὶν. ἡ δὲ δικαιοσύνη μεσότης τῆς ἐστὶν, οὐ τὸν αὐτὸν δὲ τρόπον ταῖς ἀλλαὶς ἀρέταις, ἀλλ’ ὅτι μέσου ἐστίν, <καὶ ὦσπερ ὑγιεινοῦ μὲν ἐν ἰατρικῇ εὐεκτικὸν ὑπὸ ἐν γυμναστικῇ> ἡ δ’ ἀδίκεια τῶν ἀκρων. καὶ ἡ μὲν δικαιοσύνη ἐστὶ καθ’ ἦν ὁ δίκαιος λέγεται πρακτικὸς κατὰ προαιρέσιν τοῦ δικαίου, καὶ διανεμητικὸς καὶ αὐτῷ πρὸς ἄλλον καὶ ἐτέρῳ πρὸς ἔτερον, οὐχ οὕτως ὡστε τοῦ μὲν αἴρετον πλέον αὐτῷ ἐλαττὸν δὲ τῷ πλησίον τοῦ βλαβεροῦ δ’ ἀνάπαλιν, ἀλλὰ τοῦ ἴσου τοῦ κατ’ ἀναλογίαν, ὁμοίως δὲ καὶ ἀλλῷ πρὸς ἄλλον. ἡ δ’ ἀδίκεια τούναντιν τοῦ ἀδίκου· τοῦτο δ’ ἐστὶν ὑπερβολὴ καὶ ἐλλεψίας τοῦ ὀφελήμου ἢ βλαβεροῦ παρὰ τὸ ἀνάλογον. διὸ ὑπερβολὴ καὶ ἐλλεψίας ἢ ἀδίκεια, ὅτι ὑπερβολῆς καὶ ἐλλεψίου ἐστὶν, ἐφ’ αὐτοῦ μὲν ὑπερβολῆς καὶ ἐλλεψίου μὲν τοῦ ἀπλῶς ὀφελήμου, ἐλλεψίας δὲ τοῦ βλαβεροῦ· ἐπὶ δὲ τῶν ἄλλων τὸ μὲν ὅλον ὁμοίως, τὸ δὲ παρὰ τὸ ἀνάλογον, ὀποτέρως ἐτυχεν. τοῦ δὲ ἀδικήματος τὸ μὲν ἐλαττὸν τὸ δὲ ἀδικεῖσθαι ἐστὶ, τὸ δὲ μείζον τὸ ἀδικεῖν.

11 § 7 <φανερὸν δὲ καὶ ὦτι ἄμφω μὲν φαύλα, καὶ τὸ ἀδίκεισθαι καὶ τὸ ἀδίκειν· τὸ μὲν γὰρ ἐλαττὸν τὸ δὲ πλέον ἦχειν ἐστὶν τοῦ μέσου· [καὶ ὦσπερ ὑγιεινοῦ μὲν ἐν ἰατρικῇ εὐεκτικῷ δὲ ἐν γυμναστικῇ] ἀλλ’ ὁμοίως χείρον τὸ ἀδικεῖν· τὸ μὲν
definitions of them it is plain that δικαιοπραγία is a μέσον between ἀδικεῖν and ἄδικεσθαι, the former consisting in having too much, the latter in having too little. Δικαιοσύνη is a μεσότης, not in the same way as the other virtues, but in the sense of having a μέσον for its result, in fact like ύμεινόν in medicine and ἐνεκτικόν in gymnastic, the extremes being similarly the results of ἀδίκλα. Furthermore δικαιοσύνη is a ἔξις in virtue of which the δίκαιος is said to be πρακτικὸς κατὰ προαιρέσιν τοῦ δικαίου, καὶ διενεμητικὸς whether between himself and another, or between two others, not in such a way that he shall have more and his neighbour less of what is desirable, and contrariwise of what is harmful, but so that he and his neighbour shall have τὸ ἴσον τὸ κατ᾽ ἀνάλογαν, and in like manner when the distribution is between two others. Ἀδίκλα on the other hand is similarly related to τὸ ἄδικον, τὸ ἄδικον being excess and defect of what is beneficial or harmful, in violation of τὸ ἀνάλογον. Wherefore ἄδικλα is excess and defect in the sense that its results are excess and defect, that is to say, in the case of the offender, excess of what is generally speaking beneficial and defect of what is harmful, and in the case of others, in general as in the former case, though the deviation from τὸ ἀνάλογον may be either on the side of excess or on that of defect. In the ἄδικημα defect constitutes ἄδικεσθαι, excess ἄδικεῖν. Plainly both are bad, both τὸ ἄδικεσθαι and τὸ ἄδικεῖν; for τὸ ἄδικεσθαι is to have less, and τὸ ἄδικεῖν to have more, than the mean: nevertheless τὸ ἄδικεῖν is the worse of the two; for τὸ ἄδικεσθαι does not imply κακία and
γάρ ἀδικεῖν μετὰ κακίας καὶ ἴκτον, καὶ κακίας ἢ τῆς τελείας καὶ ἀπλῶς ἢ ἐγγύς, (οὐ γὰρ ἀπαν τὸ ἐκούσιον μετὰ ἀδικίας, ἢ τὸ ἀδικεῖν ἐν τούτοις, ἢ τὸ τὸ ἀδικεῖν, οὐ πάσαν ἀδικία, ἢ) τὸ ἀδικεῖσθαι ἢ ἄνευ κακίας καὶ ἀδικίας. καθ' αὐτὸ μὲν οὖν τὸ ἀδικεῖσθαι ἢ ἄνευ κακίας καὶ ἀδικίας. καθ' αὐτὸ μὲν οὖν τὸ ἀδικεῖσθαι 5 ἢ τῶν φαύλων, κατὰ συμβεβηκός ὦ οὐθεν κωλύει μειῶν εἶναι κακῶν. ἀλλ' οὐδὲν μέλει τῇ τέχνῃ, ἀλλὰ πλευρὶς λέγει μειῶν νόσον προσπταίσματος κατά τοῖς γένοις ἢ ποτὲ θάτερον κατὰ συμβεβηκός, εἰ προσπταίσαντα διὰ τὸ πεσεῖν συμβαΐν ὑπὸ τῶν πολεμίων ληφθῆναι καὶ ἀπο- 10 θανεῖν. >

§ 5 § 19 5 περὶ μὲν οὖν δικαιοσύνης καὶ ἀδικίας, τίς ἐκατέρας ἢ ποιήσεις, εἰρήσθω τούτων τῶν τρόπων, ὁμοίως δὲ καὶ 6 § 4 περὶ δικαίου καὶ ἀδίκου καθόλου. δει δὲ μὴ λανθάνειν ὅτι τὸ ζητούμενόν ἐστι καὶ τὸ ἀπλῶς δίκαιον καὶ τὸ πολιτικὸν δίκαιον, τὸτο δ' ἐστὶ κωνώνων βίου πρὸς τὸ εἶναι αὐτάρκειαν, ἔλευθέρων καὶ ἵσων η ἢ καὶ ἀναλογίαι ἢ καὶ ἀρίθμοι· ὥστε ὅσοι μὴ ἔστι τοῦτο, οὐκ ἐστὶν τούτων πρὸς ἀλλήλους τὸ πολιτικὸν δίκαιον, ἀλλὰ τι δίκαιον καὶ καθ' ὁμοίότητα. ἐστὶ γὰρ δίκαιον 20 οἷς καὶ νόμος πρὸς αὐτοῦ· νόμος δ', ἐν οἷς ἀδικία· ἢ γὰρ δίκη κρίσεις τοῦ δικαίου καὶ τοῦ ἀδίκου· [ἐν οἷς δ' ἀδικία, καὶ τὸ ἀδικεῖν ἐν τούτοις, ἢ οὖν δ' τὸ ἀδικεῖν, οὐ πάσιν ἀδικία·] τοῦτο δ' ἐστὶ τὸ πλέον αὐτῷ νέμει τῶν 5 ἀπλῶς ἀγαθῶν, ἔλαττον δὲ τῶν ἀπλῶς κακῶν. διὸ οὖν 25 ἐξομεν ἄρχεων ἄνωθωσον, ἀλλὰ τῶν λόγων, ὅτι ἑαυτῷ τούτῳ
in the sufferer, whereas ὁ ἄδικειν is blameworthy and implies κακία, which κακία is either τελεία καὶ ἀπλῶς or almost so. ([The qualification is required] because an ἄδικημα voluntarily committed does not necessarily imply ἄδικία; where there is ἄδικία, there is ἄδικειν, but where there is ἄδικειν, there is not always ἄδικία.) Thus in itself τὸ ἄδικεῖσθαι is the lesser evil; still it may be κατὰ συμβεβηκός the greater. With this however theory is not concerned: theory reckons pleurisy a more serious infirmity than a sprain; but a sprain may be κατὰ συμβεβηκός worse than a pleurisy, should it chance that a man in consequence of a sprain falls, and in consequence of the fall is taken by the enemy and put to death.

So much may be said in explanation of the nature of δίκαιοσύνη and ἄδικία, and in like manner of δίκαιον and ἄδικον regarded καθόλου. But it must not be forgotten that what we seek is not merely τὸ ἀπλῶς δίκαιον, but also τὸ πολιτικὸν δίκαιον, i.e. the δίκαιον of free and (proportionately or actually) equal citizens living together with a view to the satisfaction of wants. Where this is not the case, πολιτικὸν δίκαιον does not exist, but only a sort of δίκαιον, so called καθ' ὀμοιότητα. For δίκαιον subsists among those who have law to govern their mutual dealings; and law, where there is ἄδικια, δίκη being the determination of δίκαιον and ἄδικον, and ἄδικον consisting in the appropriation of too large a share of what is generally speaking good or too small a share of what is generally speaking bad. Hence we do not allow a particular man to rule, preferring the formula of law, because a particular man


2 εί δέ τοῦ δικαίου] om. M\textsuperscript{b}Q. 3 πλεον post νεμει.] om. Ph. 4 τοῦ ἀπλῶς ἀγαθοῦ αὐτῷ] αυτῷ τοῦ ἀπλῶς ἀγαθοῦ Ι.\textsuperscript{b}. αὐτῷ] αὐτῷ Ι.\textsuperscript{b}Q. αὐτόν] εὐαρσίων Q. 5 ποιεῖ] ποιεῖ Βεκκέρ. εἰναι φασιν ἀγαθον] ἀγαθὸν εἰναι φασιν Ι.\textsuperscript{b}M\textsuperscript{b}Q. 6 καὶ] om. Ι.\textsuperscript{a}. 7 ἀρα τις τις ἀρα Ι.\textsuperscript{b}M\textsuperscript{b}QOb. 8 ὅτε] δεοι Ο. τὰ τοιαύτα] ταῦτα Ι.\textsuperscript{b}M\textsuperscript{b}Q\textsuperscript{a}N\textsuperscript{a}N\textsuperscript{b}. 9 ταὐτον] ταὐτό Ο. τοῖς] τοῖς Ι.\textsuperscript{a}. 10 αὐτῶν] αὐτῶν Ι.\textsuperscript{a}M\textsuperscript{b}N\textsuperscript{a}. 11 τὸ ἀντε τέκνα] om. Κ.\textsuperscript{b}. χωρισθῇ] μὴ καὶ Ι.\textsuperscript{b}M\textsuperscript{b}Q\textsuperscript{a}Eκκέρ. 12 αὐτῶν] αὐτῶν Ι.\textsuperscript{b}N\textsuperscript{a}. 13 αὐτὸν Ι.\textsuperscript{b}K\textsuperscript{b}M\textsuperscript{b}Q. αὐτίκως] αὐτίκα ὅρ Κ.\textsuperscript{b}. 16 γινακα] τῷ γινακα Μ\textsuperscript{b}Q. 17 κτήματα] κτήμα Λ. 18 οἰκονομοῦ] οἰκονομῷ καὶ Ν.\textsuperscript{b}. δὲ] δὲ ἐστὶ Ν\textsuperscript{b}P\textsuperscript{a}. καὶ τοῖς] om. Π.\textsuperscript{a}. 19 τοῦ] τοῖς καὶ Π\textsuperscript{a}. μὲν] μὲν οὗρ Κ.\textsuperscript{b}. 20 νομικῷ] νόμῳς Κ.\textsuperscript{b}P\textsuperscript{a}. νομικῷ, καὶ Λ.\textsuperscript{b}. 21 οὐ] οὗτος Κ.\textsuperscript{b}M\textsuperscript{b}Q. νομικῷ] νόμῳς Κ.\textsuperscript{b}. 5] om. Μ\textsuperscript{b}Q. 22 οὖν] οὖν οὖν οὖν Κ.\textsuperscript{b}.
rules in his own interest and becomes a tyrant. The magistrate is the guardian of τὸ δίκαιον, and therefore of τὸ ἴσον: and since it is assumed that if he is δίκαιος, he has no more than his share,—for he does not apportion to himself more of what is generally speaking good unless such a share is proportionate to his claims, so that it is in the interest of another that he is at the pains of the distribution, (which is the reason why δικαιοσύνη is said to be the good of others, as was remarked before,)—a reward must be given to the magistrate in the shape of honour and privilege; and when magistrates do not receive a sufficiency of such things, they become tyrants.

The δίκαιον of master and slave (δησποτικῶν) and that of father and son (πατρικῶν) resemble, but are not identical with, that of the free and equal: for there is no ἀδικία in the strict sense of the word towards what is one’s own; and the slave, and the child until he reaches a certain age and becomes independent, are as it were parts of oneself. Again no one deliberately chooses to harm himself, and therefore a man cannot show ἀδικία towards himself; it follows that he cannot exhibit towards himself πολιτικῶν ἀδικόν or δίκαιον, since, as we said before, these depend upon law, and subsist only among those with whom law is a natural institution, that is to say, as we explained, those who have equality in ruling and being ruled. Hence δίκαιον subsists rather between man and wife than between father and children or master and slave: this, [the δίκαιον of man and wife,] is the δίκαιον of the household, and even this is different from the δίκαιον of the polity.

Of the πολιτικῶν δίκαιον there are two kinds, the one natural, the other conventional; that being natural which everywhere has the same import and does not depend upon enactment, and that conventional which in the first instance is decided indifferently one way or another, but when once decided is not a matter of indifference: for example, that a mina shall be the prisoner’s ransom, that a sacrifice shall consist of a goat and not of two sheep, and all prescriptions for
§ 2: οὖν τὸ θέεν Βρασίδα, καὶ τὰ ψήφισματάδη, δοκεῖ δ' ἐνώς εἶναι πάντα τοιαύτα, ὅτι τὸ μὲν φύσει ἀκίνητον καὶ πανταχοῦ τὴν αὐτὴν ἔχει δύναμιν, ὥσπερ τὸ πῦρ καὶ ἐνθάδε καὶ ἐν Πέρσας καίει, τὰ δὲ δίκαια κυνούμενα
§ 3 ὀρθων. (τούτῳ δ' οὖν ἔστιν οὕτως ἔχου, ἀλλ' ἔστιν ὡς. 5 καίτοι παρὰ γε τοὺς θεοὺς ἰσος οὐδαμῶς: παρ' ἥμιν δ' ἔστι μὲν τι καὶ φύσει, κινητὸν μέντοι πάν.) ἀλλ' ὀμως
§ 4 ἐστὶ τὸ μὲν φύσει τὸ δ' οὐ φύσει: ποιῶν δὲ φύσει τῶν ἐνδεχομένων καὶ ἀλλώς ἔχειν, καὶ ποιῶν οὐ ἄλλα νομικῶν καὶ συνθήκης, εἴπερ ἀμφὸς κινητὰ ὁμοίως, ἄθιν. καὶ ἐπὶ 10 τῶν ἀλλῶν οὗ αὐτὸς ἀρμόσει διορισμός: φύσει γὰρ η' δεξιὰ κρείττων, καίτοι ἐνδέχεσθαι πάντας ἀμφιδεξίους γε-
§ 5 νέσθαι. τὰ δὲ κατὰ συνθήκην καὶ τὸ συμφέρον τῶν δικαίων ὁμοίως ἔστι τοῖς μέτροις. οὐ γὰρ πανταχοῦ ἰσα τὰ οὐνηρὰ καὶ σιτηρὰ μέτρα, ἀλλ' οὐ μὲν ἀνώνυται, μεῖζω, 15 οὐ δὲ πολούσιν, ἐλάττων: ὁμοίως δὲ καὶ τὰ μὴ φυσικὰ ἀλλ' ἀνθρώπων δίκαια οὐ ταυτὰ πανταχοῦ, ἐπεὶ οὐδ' αἱ πολιτείαι, ἀλλὰ μία μόνον πανταχοῦ κατὰ φύσιν ἡ ἀρίστη.
§ 6 τῶν δὲ δικαίων καὶ νομίμων ἐκαστῶν οἷς τὰ καθολοῦ πρὸς τὰ καθ' ἐκαστα ἔχει: τὰ μὲν γὰρ πραττόμενα πολλά, 20 § 7 ἐκείνων δ' ἐκαστὸν ἐν' καθολοῦ γάρ. διαφέρει δὲ τὸ ἀδίκημα καὶ τὸ ἀδίκον, καὶ τὸ δικαίωμα καὶ τὸ δίκαιον. ἀδίκον μὲν γὰρ ἐστὶ τῇ φύσει η' τάξει: αὐτὸ δὲ τοῦτο, ὅταν πραξθῇ, ἀδίκημα ἐστὶ, πρὶν δὲ πραξθῆναι, οὕτω,

individual cases, e.g. the sacrifice in honour of Brasidas, and
the provisions of a psephism. Some maintain that all δίκαια
are of this conventional sort, because what is by nature is
invariable and has the same effect everywhere, as for ex-
ample fire burns both here and in Persia; whereas they see
that δίκαια vary. (That δίκαια vary, though not true with-
out limitation, is true in a manner. With the gods indeed,
it is perhaps not true at all; but with men, though there is
a δίκαιον which is by nature, all δίκαια are variable.) Never-
theless there is a δίκαιον which is natural, as well as a δίκαιον
which is non-natural: and it is easy to see what regulations
which might have been otherwise are natural, and what regu-
lations are not natural but legal and conventional, the two
sorts being all the time equally variable. And in all other
matters the same distinction will hold: for by nature the right
hand is the stronger; still all may become ambidextrous.
In fact δίκαια which are determined by convention and con-
venience resemble standard measures: for the measures of
wine and corn are not equal in all places, being larger in
wholesale, and smaller in retail, markets; and in like manner
δίκαια which are not natural but of human appointment are
not the same in all places, inasmuch as constitutions are
not the same, though in all places there is one only which is
natural, i.e. the perfect constitution.

Each δίκαιον or νόμιμον stands to individual acts in the
relation of universal to particulars: for the things done are
many, and each δίκαιον or νόμιμον is one, because universal.

There is a difference between the ἀδίκημα and the ἀδίκον,
the δίκαιωμα and the δίκαιον: for whereas a thing is ἀδίκον by
nature or by appointment, the thing in question when it is
done is an ἀδίκημα; before it is done it is not an ἀδίκημα but
ΗΘΙΚΩΝ ΝΙΚΟΜΑΧΕΙΩΝ Ε.

§ 8 Ουτων δε των δικαίων και ἀδίκων των εἰρημένων, ἀδίκει μὲν καὶ δικαιοπραγεῖ, ὅταν ἔκω τις αὐτὰ πράττῃ ὅταν δ' ἀκον, οὔτ' ἀδίκε ἀντε ἀδικαπραγεὶ ἀλλ' ἦ κατὰ συμβεβηκὸς οἷς γὰρ συμβεβηκε δικαίως εἶναι ἦ

§ 2 ἀδίκους, πράττουσιν. (ἀδίκημα δὲ καὶ δικαιοπράγματα τῷ ἐκοινῷ καὶ ἀκοινῷ' ὅταν γὰρ ἐκοίννυον ἢ, ψέγεται, ἀμα δὲ καὶ ἀδίκημα τότ' ἐστὶν ὤστ' ἐσται τι ἄδικον μὲν ἀδίκημα δ' οὕτω, ἐὰν μῆ τὸ ἐκοιννυον

§ 3 προσῃ. λέγω δ' ἐκοίννυον μὲν, ὀσπερ καὶ πρότερον εἰρητα, δ' ἄν των ἔφ' αὐτῷ οὐντων εἰδὼς καὶ μή ἁγ._ 15 νοῶν πράττῃ μήτε ὅν μήτε φ' μήτε οὔ <ἐνεκα>, οἷον τίνα τύπτει καὶ τίνι καὶ τίνος ἐνεκα, κακεῖνων ἐκαστον μή κατὰ συμβεβηκὸς μηδὲ βία, ὀσπερ εἰς τις λαβῶν τὴν χεῖρα αὐτοῦ τύπτοι ἑτερον, οὐχ ἐκώ, οὐ γὰρ ἐπ' αὐτῷ. ἐνδεχεται δὲ τὸν τυπτόμενον πατέρα εἶναι, τὸν δ' ὅτι μὲν 20 ἀνθρωπὸς ἢ τῶν παρόντων τις γνωσκειν, ὅτι δὲ πατὴρ ἀγνοεῖν. ὁμοίως δὲ τὸ τοιοῦτον διωρίσθω καὶ ἐπὶ τού οὖ ἐνεκα, καὶ περὶ τὴν πραξῆν ὀλην. τὸ δ' ἀγνοοῦμεν, ἡ μή ἀγνοοῦμενον μὲν μή ἐπ' αὐτῷ δ' οὖν, ἥ βία, ἀκοιννυον.)

only ἄδικον. So too with a δικαίωμα. (More correctly the general term is δικαιοπράγμα, δικαίωμα being the correction of the ἄδικημα.)

We must enumerate hereafter the several kinds of δίκαια and νόμιμα, and describe them and the things with which they are concerned.

And whereas δίκαια and ἄδικα are what has been said, a man ἄδικει or δικαιοπραγεῖ when he voluntarily does ἄδικα or δίκαια: but when he does those acts involuntarily, he neither ἄδικει nor δικαιοπραγεῖ except κατὰ συμβεβηκός, for such an one does acts which are κατὰ συμβεβηκός δίκαια or ἄδικα. (That an act is or is not an ἄδικημα or δικαιοπράγμα is determined by its voluntariness or involuntariness: for when an act is voluntary it is blamed, and is at the same time an ἄδικημα: so that there will be an act which is ἄδικον, but not yet an ἄδικημα, if voluntariness is lacking. Here by a voluntary act I mean, as has been said above, anything which being within his power a man does knowingly and not in ignorance of the person, the instrument, or the result,—for example whom he strikes, what he strikes with, and with what result,—doing any such act neither κατὰ συμβεβηκός nor under compulsion; whereas if B were to take A's hand and strike C, A would not strike voluntarily, the act not being in his own power. But it is possible that the person struck should be the father of the striker, and that the striker should know that the other was a human being or even one of the bystanders, and yet be ignorant that it was his father. The same sort of distinction may be made in like manner in regard to the result, and with reference to the act generally. Now an act done in ignorance, or an act which, though not done in ignorance, is not under the agent's control, or is done under compulsion,
πολλά γάρ καὶ τῶν φύσει ὑπάρχοντων εἰδότες καὶ πράττομεν καὶ πάγχομεν, ὅπως οὖν οὕτω ἐκούσιον οὕτ' ἀκού-
§ 4 σιν εἶτιν, οἷον τὸ γεγονός ἡ ἀποβηθήσεως’ ἑστι δὲ ὁμοίως ἐπὶ τῶν ἀδίκων καὶ τῶν δικαίων καὶ τὸ κατὰ συμβεβηκός’
καὶ γάρ ἄν τὴν παρακαταθήκην ἀποδοίη τις ἄκων καὶ
διὰ φόβουν, ὅν οὕτε δίκαια πράττειν οὕτε δικαιοπραγεῖν
φατών ἀλλ’ ἡ κατὰ συμβεβηκός’ ὁμοίως δὲ καὶ τὸν ἀναγκαζόμενον καὶ ἀκόντα τὴν παρακαταθήκην μὴ ἀπο-
διδόντα κατὰ συμβεβηκός φατῶν ἀδικεῖν καὶ τὰ ἀδίκα
§ 5 πράττειν. τῶν δὲ ἐκούσιον τὰ μὲν προελθόμενοι πρά-
τομεν τὰ δ’ οὐ προελθόμενοι, προελθόμενοι μὲν ὀσα προβο-
§ 6 λευσάμενοι, ἀπροαιρετα δὲ ὀσα ἀπροβούλευτα. τριῶν δὲ
οὐσῶν βλαβῶν τῶν ἐν ταῖς κοινωνίας, τὰ μὲν μετ’ ἀγνοίας
ἀμαρτήματα ἑστιν, ὅταν μὴτε ὄν μῆτε δ’ μῆτε ὅν
ἔνεκα ὑπέλαβε πράξεις’ ἡ γὰρ οὗ βαλεῖν ἢ οὗ τοῦτο ἢ οὗ
τοῦτον ἢ οὗ τοῦτον ἔνεκα ὑήθη, ἀλλὰ συνεβήν οὐχ οὗ
ἔνεκα ψηθῆ, οἷον οὐχ ὑπ’ ἓτο μὴν κεντηθῆ, ἢ οὐχ
§ 7 οὐν, ἢ οὐχ ὅς, ὅταν μὲν οὖν παραλόγως ἡ βλάβη γένηται,
ἀτύχημα, ὅταν δὲ μὴ παραλόγως, ἀνεί, δὲ κακίας, ἀμάρ-
τημα: ἀμαρτάνει μὲν γὰρ ὅταν ἢ ἀρχὴ ἐν αὐτῷ ἢ τῆς ἀγ-
§ 8 νοίας, ἀτυχεὶ δ’ ὅταν ἐξωθεῖ. ὅταν δὲ εἰδὼς μὲν μὴ προ-
βολεύσας δὲ, ἀδίκημα, οἷον ὅσα τε διὰ θυμὸν καὶ ἀλλα
πάθη ὅσα ἀναγκαία ἡ φυσικὴ συμβαίνει τοῖς ἀνθρώποις:
ταῦτα γὰρ βλάπτονται καὶ ἀμαρτάνοντες ἀδικοῦσι μὲν,

1 γάρ καὶ τῶν φύσεως] γάρ τῶν κατὰ φύσιν Ἡ.Μ.β.Ο.
2 3 γεγον] ἐγγεγον Ἡ.Μ.β.Ο.Ν.β.οβ. ᾧ] καὶ Ἡ.β.
3 καὶ τῷ Ἡ.β.] ἑστι δ’] ἑστιν Ἡ.β.
4 ἀμοίως] ἀμοίως
cal Ἡ.β.
5 καί ἀνθι δά] Ἡ.β.
6 ἄ] Ἡ.β. om. ceteri. ἀκαίρα]
7 om. pr. Ἡ.β.
8 οὐ προελθόμενα] οὐ προσαρμοζόμενοι Ἡ.Μ.β.οβ.
9 12 ἀπροβούλευτα]
κρο-βούλευτα Ἡ.β.
11 15 πράξει] Ἡ.β. βατα
12 πράξει Ἡ.β. άνθι
13 πράξει Ἡ.Μ.β.οβ. βαλεῖν Ἡ.β. βαλεῖ Ἡ.Μ.β.
14 ἀλλὰ-ψηθῆ] οὖν Ἡ.β.
15 18 ᾧ] Ἡ.β. ὀυθέν Ἡ.Μ.β.
16 κατʼ οὐθέν] Ἡ.Μ.β. om. Ἡ.β.
17 ἄ]  Ἡ.β. οὐθέν Ἡ.Μ.β. om. Ἡ.β.
18 ἡ ἀρχὴ ἐν αὐτῷ[ ἡ ἀρχὴ ἐν αὐτῷ Ἡ.β. ἐν αὐτῷ ἡ ἀρχὴ Ἡ.Μ.β.
19 20 ἡ ἀρχὴ ἐν αὐτῷ] ἡ ἀρχὴ ἐν αὐτῷ Ἡ.Μ.β.
21 ἐν αὐτῷ ἡ ἀρχὴ Ἡ.Ν.β.οβ. ἡ Ἡ.Ν.β.
22 ἀγνοιᾶς] e coni. scripsi.
23 airias Ἡ.Ν.β.οβ. δ’ οὐθέν Ἡ.Μ.β.
24 22 καὶ ἀνθι δά] Ἡ.Μ.β.
25 24 ταῦτα] δά ταῦτα ὃβ.
is involuntary.) For there are many natural processes which we perform and experience with full knowledge, but which do not fall either under the head of voluntary or under that of involuntary, for example growing old, or dying: and in like manner there is a *kata* ἕμβηκος in the case of things ἄδικα and ἔκαστα: thus a man may restore the deposit unwillingly and under the influence of fear, and such a one should not be said ἔκαστα πράττειν or ἐκαίσαπραγεῖν except *kata* ἕμβηκος: and in like manner one who under compulsion and unwillingly retains the deposit should be said *kata* ἕμβηκος ἄδικεῖν and τὰ ἄδικα πράττειν. Of voluntary acts we do some of deliberate purpose, others without deliberate purpose, of deliberate purpose when we have previously debated what we shall do, without deliberate purpose when we have not so debated. And whereas there are three sorts of harm which may be done in κοινονίαι, things done ignorantly are ἀμαρτήμαta when the object, the act, the instrument, or the result is other than the agent supposed: for instance, he had thought that he would not strike, or that he would not strike with this weapon, or that he would not strike this person, or that the blow would not have this effect, and the result was other than he had expected (thus he did not strike with intent to cut, but with intent to prick), or the person or the weapon was different. Now when the harm is done contrary to expectation, it is an ἀτύχημα; but when, though it is not contrary to expectation, there is no malice, it is a ἀμάρτημα: that is to say, when the origin of the ignorance is in the agent, he ἀμαρτάνει, but when it is external to him, he ἀμαρτά. When however a man harms another knowingly but without previous deliberation, it is an ἄδικημα; for instance, harms done under the influence of anger or any other unavoidable or natural passion to which men are liable: when men do harm (βλάπτοντες) or misconduct themselves (ἀμαρτά-
καὶ ἀδικήματα ἐστιν, οὐ μέντοι ποι ἀδίκου διὰ ταῦτα οὐδὲ

§ 1 πουηροὶ· οὐ γὰρ διὰ μοχθηρίαν ἡ βλάβη. ἦ ἔπει δ' ἑστιν ἀδικοῦντα μῆτρῳ ἀδικον εἶναι, ο ποῖα ἀδικήματα ἀδίκων ἤδη ἀδικός ἐστιν ἐκάστην ἀδικίαν, οὐν κλέπτης ἡ μοιχός ἡ ληστής; ἡ οὖτω μὲν οὐδὲν διοίκει, (καὶ γὰρ ἁν συγγένουτε γυναικὶ εἰδῶς τῷ ἡ, ἀλλ' οὐ διὰ προαιρέσεως ἀρχὴν δ' ἕξασθεν ἀδικοὶ οὐκ ἐστιν, οὐν οὗ κλέπτης, ἐκλείπει δὲ, οὐδὲ μοιχός, ἐμοίχευσε δὲ· ὀμοίως δὲ καὶ ἐπὶ τῶν ἄλλων,) οταν δ' ἐκ προαιρέσεως, ἀδικοὶ καὶ μοχθηρός; διὸ καλῶς τὰ ἐκ θυμοῦ οὐκ ἐκ προνοιας κρύνεται· οὐ γὰρ ἄρχει ο θυμὸς ποιῶν, ἀλλ' ο ὀργύσας.

voines) in this manner, they \( \delta \delta i k o u s i n \) and the acts are \( \delta \delta i k h-\mu m a t a \), but the perpetrators are not necessarily \( \delta \delta i k o u \) or \( \pi o n h-p o i \), the harmful act not being the result of \( \mu o x h \eta r i a \). But seeing that a man may be \( \delta \delta i k o u \) and yet not necessarily \( \delta \delta i k o s \), what are the \( \delta \delta i k h-\mu m a t a \) the commission of which makes a man necessarily \( \delta \delta i k o s \) of any particular \( \delta \delta i k i a \)—for example, a thief, an adulterer, or a brigand? Shall we not rather say that the distinction is not of this sort [i.e. does not lie in the acts],—(for a man may have intercourse with a woman knowing who she is, yet not of deliberate purpose, but under the influence of passion: such an one \( \delta \delta i k e i \) without being \( \delta \delta i k o s \), thieving, for example, yet not being a thief, committing adultery, yet not being an adulterer, and so forth),—[but lies in the person], and that it is when a man \( \delta \delta i k h \) of deliberate purpose that he is \( \delta \delta i k o s \) and \( \mu o x h \eta r o s \)?

Hence actions prompted by anger are rightly held not to have been done \( \epsilon k \ \pi r o n o i a s \). For it is not \( \delta \ \theta u m o \ \pi o i o n \) who begins the quarrel, but \( \delta \ \varphi i \zeta \varsigma a s \). Moreover the issue is one not of fact but of \( \delta i k a i o n \), anger arising at apparent \( \delta i k i a \) : i.e. the parties do not dispute the fact, as they do in \( \sigma v u a l l \alpha \gamma m a t a \), where one or other must be \( \mu o x h \eta r o s \),—unless they do it through forgetfulness; but, agreeing about the fact, they disagree as to the side on which right lies (\( \pi a t r o s \ \delta i k a i o n \)). On the other hand \( \delta \ \epsilon p i b o u l e i \varsigma a s \) (the vengeful man) is obviously not ignorant of the fact. Thus whereas \( \delta \ \theta u m o \ \pi o i o n \) may plead his belief that he has been wronged, \( \delta \ \epsilon p i b o u l e i \varsigma a s \) cannot do so.

But if a man harms another of deliberate purpose, he \( \delta \delta i k e i \) and is moreover \( \delta \delta i k o s \), provided that the act violates proportion or equality. In like manner a man is \( \delta i k a i o s \) when he \( \delta i k a i o p r a g y \) of deliberate purpose, whilst he \( \delta i k a i o-\pi r a g e i \) if he acts voluntarily though not, perhaps, deliberately.

Of involuntary harmful acts some are excusable, others are not. Those \( \acute{\alpha} \mu a r t \heta m a t a \) which men do not only in ignorance, but owing to ignorance, are excusable, but those
9 ἀπορήσειςεὶς δ' ἂν τις εἰ ἴκανὸς διώρισται περὶ τοῦ ἀδικε┘σθαι καὶ ἀδικεῖν, πρῶτον μὲν εἰ ἐστὶν ὦσπερ Ἐὐρὶ-
πίδης εἰρήκε, λέγων ἀτόπως

μητέρα κατέκταν τὴν ἐμὴν, βραχὺς λόγος.

ἐκὼν ἐκούσαν, ἢ οὐχ ἐκούσαν οὐχ ἐκὼν;

πότερον γὰρ ὃς ἀληθῶς ἔστω ἐκόντα ἀδικεῖσθαι, ἢ οὐ ἀλλ' ἀκούσιον ἀπαν, ὦσπερ καὶ τὸ ἀδικεῖν πᾶν ἐκούσιον;
καὶ ἀρα πᾶν οὕτως ἢ ἐκεῖνως, ὦσπερ καὶ τὸ ἀδικεῖν πᾶν

§ 1 ἐκούσιον, ἢ τὸ μὲν ἐκούσιον τὸ δ' ἀκούσιον; ὁμοίως δὲ καὶ ἐπὶ τοῦ δικαίωσθαι τὸ γὰρ δικαίοπραγεῖν πᾶν ἐκού-
σιον. ὡστ' εὐλογον ἀντικεῖσθαι ὁμοίως καθ' ἐκατέρων τὸ τ' ἀδικεῖσθαι καὶ τὸ δικαίοῦσθαι—ἡ ἐκούσιον ἢ ἀκούσιον 15

ἐναι. ἀτόπον δ' ἂν δὸξεί καὶ ἐπὶ τοῦ δικαίωσθαί, εἰ

§ 3 πᾶν ἐκούσιον ἐνοί γὰρ δικαίονται οὐχ ἐκόντες. ἐπεὶ καὶ τὸ δὲ διαπορήσειςεὶς ἂν τις, πότερον δ' τὸ ἀδικον πε-

πουθῶς ἀδικεῖται πᾶς ἢ ὦσπερ καὶ ἐπὶ τοῦ πράττειν, καὶ ἐπὶ τοῦ πάσχειν ἐστίν; κατὰ συμβεβηκός γὰρ ἐνδέχεται ἐπ'

ἀμφοτέρων μεταλαμβάνειν τῶν δικαίων, ὁμοίως δὲ δηλὸν ὅτι καὶ ἐπὶ τῶν ἀδίκων ὃς γὰρ ταύτον τὸ τάδικα

πράττειν τὸ ἀδικεῖν οὐδὲ τὸ ἀδικα πάσχειν τὸ ἀδικεῖσθαι, ὁμοίως δὲ καὶ ἐπὶ τοῦ δικαίοπραγεῖν καὶ δικαίοῦσθαι:

2 δ' Ὕν. 4 ἴκανος]
cανώτ pr. Nb. 5 ἄδικον] τοῦ ἄδικοι H=Μ\(^{\text{b}}\)Q\(^{\text{b}}\)Ob\(^{\text{b}}\).
6 ἀτόπως] τοῦ πῶς K\(^{\text{b}}\).
atόπως. ψως L\(^{\text{b}}
7 κατέκταν
κατέκτα ceteri et Bekker. 8 οὐχ ἐκούσαν] codd. et Bekker ἐδύνα-

σαν. 9 Αληθῶς] ἀληθῶς M\(^{\text{b}}\)Q. 10 ἐπ' ἄμφοτέρων] o αμφοτέρων M\(^{\text{b}}\)Q.

11 πᾶν] πᾶν O\(^{\text{b}}\). 12 παν ἁθ] οτὶ o atotan O\(^{\text{b}}\).

13 τοῦ ἀκούσιον] o τοῦ ἀκούσιον K\(^{\text{b}}\)Q\(^{\text{b}}\)Ob.

14 ἐπ'] ἐπ' M\(^{\text{b}}\)Q. 15 τὸ δὲ ακούσιον] o τὸ ακούσιον Κ\(^{\text{b}}\)Q\(^{\text{b}}\)Ob.

16 ἐπ'] o αμφοτέρων M\(^{\text{b}}\)Q. 17 πὰν] o πᾶν Κ\(^{\text{b}}\)Q\(^{\text{b}}\)Ob.

18 τὰ] o τὰς K\(^{\text{b}}\)Q\(^{\text{b}}\)Ob. 19 τὸ τῶν N\(^{\text{b}}\)Ob.

21 ἐπ'] o αμφοτέρων M\(^{\text{b}}\)Q. 22 πράττειν] o πράττειν Κ\(^{\text{b}}\)Q\(^{\text{b}}\)Ob. 23 τὸ ἐπ'] o τὸ Κ\(^{\text{b}}\)Q\(^{\text{b}}\)Ob.
which they do, not owing to ignorance, but in ignorance, owing to passion which is neither natural nor such as human beings are liable to, are not excusable.

It may perhaps be doubted whether we have been sufficiently explicit about ἀδικεῖσθαι and ἀδικεῖν: in the first place whether the matter is as Euripides has put it in his strange lines—

Al. I killed my mother, that’s the tale in brief.
Ph. Were you both willing, or unwilling both?

In other words, is it really possible for a man ἐκόντα ἀδικεῖσθαι, or on the contrary is ἀδικεῖσθαι always ἄκούσιον as ἀδικεῖν is always ἐκόνσιον? Is ἀδικεῖσθαι always ἄκούσιον or always ἐκόνσιον, as ἀδικεῖν is always ἐκόνσιον; or is it sometimes ἐκόνσιον, sometimes ἄκούσιον? And so likewise in the case of δικαίοσθαι; δικαιοπραγεῖν being always ἐκόνσιον. Thus we might fairly suppose that ἀδικεῖσθαι and δικαίοσθαι were similarly opposed to ἀδικεῖν and δικαιοπραγεῖν respectively, and so were either ἐκόνσιον or ἄκούσιον. But again in the case of δικαίοσθαι, it would seem strange that it should always be ἐκόνσιον; for some δικαιονται οὐχ ἐκόντες. Indeed a further doubt may be raised whether in every case ὁ τὸ ἀδικον πεπονθῶς ἀδικεῖται, or, on the contrary, it is with πάσχειν as with πράττειν. In fact passively as well as actively actions may κατὰ συμβεβηκός partake of τὰ δίκαια, and plainly this also holds of τὰ ἀδίκα: that is to say, τὰ δίκα πράττειν is not identical with ἀδικεῖν, nor ἀδίκα πάσχειν with ἀδικεῖσθαι, and similarly this is true of δικαιοπραγεῖν and δικαίοσθαι; for a man cannot ἀδικεῖσθαι
ἀδύνατον γὰρ ἀδικεῖσθαί μὴ ἀδικοῦτος ἢ δικαιοῦσθαι
§ 4 μὴ δικαιοσπραγοῦντος. εἰ δὲ ἐστὶν ἀπλῶς τὸ ἀδικεῖ τὸ ἐκόντα τυά, τὸ δὲ ἐκόντα εἰδότα καὶ ὃν καὶ ὃ καὶ ὃς, ὃ ἀκρατῆς ἐκῶν ἐκόπτει αὐτὸς αὐτῶν, ἐκὼν τ' ἂν ἀδικοῦτοι καὶ ἐνδέχετοι αὐτὸν αὐτῶν ἀδικεῖν. (ἐστὶ 5 δὲ καὶ τούτῳ ἐν τοῖς ἀπορουμένων, εἰ ἐνδέχεται αὐτὸν
§ 5 αὐτὸν ἀδικεῖν.) ἐτί ἐκὼν ἂν τις δ' ἀκρασίαν ὑπ' ἀλλον ἐκόπτει ἀδικεῖσθαι. ὃ οὔκ ἐρθὸς ὃ διωρισμός, ἀλλὰ προσθετέον τῷ ἐκόπτει εἰδότα
§ 6 καὶ ὃν καὶ ὃ καὶ ὃς τὸ παρὰ τὴν ἐκείνου βούλησιν; βλάπτει 10 πτεται μὲν οὖν τις ἐκὼν καὶ τάδικα πάσχει, ἀδικεῖται δ' οὐθεὶς ἐκὼν οὐθεὶς γάρ βούλεται, οὐδ' ὁ ἀκρατῆς, ἀλλὰ παρὰ τὴν βούλησιν πράττει: οὔτε γὰρ βούλεται οὐθεὶς ὃ μὴ οίηται ἐναι σπουδαίον, ὃ τε ἀκρατῆς ὃ οὐκ οἴηται δεῖν
§ 7 πράττειν πράττετι. ὃ δὲ τὰ αὐτὸν διδοῦσ, ὡσπερ ὁμηρὸς 15 φησι δοῦναι τὸν Γλαῦκον τῷ Διομήδη

χρύσαν χαλκείων, ἐκατόμβοι τοι ἐννεαβοίων,
οὐκ ἀδικεῖται: ἐπ' αὐτῷ γὰρ ἐστὶ τὸ διδόναι, τὸ δ' ἀδικεῖσθαί οὐκ ἐπ' αὐτῷ, ἀλλὰ τὸν ἀδικοῦντα δεὶ ὑπάρχει.

§ 8 περὶ μὲν οὖν τοῦ ἀδικεῖσθαι, ὅτι οὐχ ἐκόσιον, δῆλον. 20 ἐτὶ δ' ὑν προελόμεθα δῦ' ἐστὶν εἰςπέρον ποτ' ἀδικεῖ ὁ νείμας παρὰ τὴν ἀξίαν τὸ πλεῖον ἢ ὁ ἔχων, καὶ
§ 9 εἰ ἐστὶν αὐτῶν αὐτῶν ἀδικεῖν' εἰ γὰρ ἐνδέχεται τὸ πρότερον λεχθὲν καὶ ὁ διανέμων ἀδικεῖ ἀλλ' οὐχ ὁ ἔχων τὸ πλεῖον,

1 ἀδικοῦτος] ἀδικοῦτος τινος H:\MBQ\O\B. δικαιοῦσθαι] δικαιοῦσθαι ἀδυνατον
§ 4 τὸν MBQ. eidos σὲ H\a. ὃ] δ HsKMBQ\ON\B. 4 αὐτοῦς αὐτὸν Νb. τ'] om. MBQ. 5 αὐτὸν αὐτοῦ] αὐτὸς Κ\B\L\Q. ἀν αὐτοῦ Οβ. αὐτὸν Νb. ἐστὶ—ἀδικεῖν] om. M\b. 6 ἐν] om. L\b. ἐν τι H\N\b\Ob Bocc. αὐτοῦ] αὐτὸν L\b. 7 αὐτῶν αδικεῖν] αὐτῶν αδίκεις Ν\b. αδικεῖς αὐτῶν Οβ. 9 ὁρθὸς ὁρθὸς Κ\b. τῷ τὸ K\B\Ob\Pb. 10 καὶ δὲ] om. K\L\b. ὃ] δ H\M\b\Q et corr. L\b. τὸ L\b. om. ceteri. 11 οὐ] οὐ K\b. οὗ] οὗ L\b. 12 ἀκρατῆς] ἀκρατῆς Κ\b. 13 γαρ] om. MBQ. 14 εἰς σπουδαῖον] σπουδαῖον εἰς Οb. τὲ K\b. δὲ L\b. ὁ οὐ] οὐ K\b. ἀπὸ K\b. Bocc. 15 αὐτοῦ αὐτὸς Νb. 16 φθο] φθο Q. 17 ἐκατομβοῖς] ἐκατομβοῖς Η\a. 18 ἐπ'] αὐτῷ] ἐφ' αὐτῷ Οb. 21 προελόμεθα] προελομέθα K\b. πρότερον τοῦ πρότερον τοῖς Νb. 22 τὸ πλεῖον] πλέον K\b. τὸ πλέον Ρb. ὅ] om. Κ\b. 23 αὐτῶν αὐτῶν Νb. πρότερον] πρότερον Ρb. 24 ἀδικεῖν] ἀδικεῖν Q. ἔχων] ἐκὼν Κ\b. πλέον] πλέον Λ\b.
if there is not some one who ἄδικεῖ, nor δικαῖον ἔσθει, if there is not some one who δικαιοπραγεῖ. Now if τὸ ἄδικεῖν is simply τὸ βλάπτειν ἐκόντα τινὰ, where by ἐκόντα is meant εἰδῶτα καὶ ὅν καὶ ὃ καὶ ὃς, and the incontinent man ἐκὼν βλάπτειν αὐτῶν, a man may ἐκὼν ἄδικεῖσθαι, and may ἄδικεῖν αὐτῶν. (Whether a man can ἄδικεῖν αὐτῶν, is another of the questions which we have to consider.) Again in consequence of ἀκρασία a man may ἐκὼν be harmed by another who is ἐκὼν, whence it will follow that a man may ἐκὼν ἄδικεῖσθαι. But is not this definition incorrect? and should we not add to the words βλάπτειν εἰδῶτα καὶ ὅν καὶ ὃ καὶ ὃς the words παρὰ τὴν ἐκέινου τοῦ ἄδικεῖσθαι? Thus a man may ἐκὼν βλάπτεισθαι and τάδικα πάσχειν, but no one can ἐκὼν ἄδικεῖσθαι: for no one θυλείται βλάπτεσθαι, not even the incontinent man, so that the incontinent man's actions are contrary to his βούλησις, (for no one θυλείται what he does not think to be good, and the incontinent man does things which he does not think it right to do,) [and therefore, when the incontinent man under the influence of ἐπιθυμία does what he thinks wrong, the resistance of his βούλησις has ceased, and consequently he cannot be said ἄδικεῖσθαι.] Again one who gives what is his own, as Homer says Glaucus gave to Diomed 'gold for bronze, a hundred beeves' worth for the worth of nine', οὐκ ἄδικεῖται: for to give is in his power, but ἄδικεῖσθαι is not, as [in order that he may ἄδικεῖσθαι] there must be an ἄδικον. Thus it is clear that ἄδικεῖσθαι is not voluntary.

Furthermore of the questions which we undertook to answer two remain to be discussed: (1) is it one who distributes (or one who receives) more than the just proportion, who ἄδικεῖ; and (2) can a man ἄδικεῖν αὐτῶν? [These questions appear to be connected:] for if the former of them is affirmed,—if it is the distributor, and not the recipient, of
εἷς τις πλέον ἐτέρῳ ἥ αὐτῷ νέμει εἰδὼς καὶ ἐκών, οὕτως αὐτῶς αὐτῶν ἀδικεῖ· ὁπερ δοκοῦσιν οἱ μέτριοι ποιεῖν ὁ γὰρ ἑπιεικὴς ἐλαστικόκος ἐστιν. ἡ οὐδὲ τοῦτο ἀπλοῦν; ἐτέρου γὰρ ἀγαθοῦ, εἰ ἐτυχεῖν, ἐπελευκτεῖ, οἴον δόξης ἤ τοῦ ἀπλῶς καλοῦ. ἐτι λύεται κατὰ τὸν διορισμὸν τοῦ 5 ἀδικεῖν ousièn γὰρ παρά τὴν αὐτοῦ πάσχει βούλησιν, ὡστε οὐκ ἀδικεῖται διὰ γε τοῦτο, ἀλλ' εἰπερ, βλάπτεται μόνον.

§ 10  φανερὸν δὲ ὅτι καὶ ὁ διανέμων ἀδικεῖ, ἀλλ' οὖν ὁ τὸ πλέον ἔχων ἀεὶ· οὐ γὰρ ὁ τὸ ἀδικον ὑπάρχει ἀδικεῖ, ἀλλ' ὁ τὸ ἐκόντα τοῦτο ποιεῖν τοῦτο δ' οἴην ἡ ἀρχὴ τῆς πρά- 10 ἔσων, ἡ ἐστιν εἰ τῷ διανέμοντι ἀλλ' οὖν ἐν τῷ λαμβάνοντι:

§ 11 [ἐτε] ἐπεί πολλαχῶς τὸ ποιεῖν λέγεται, καὶ ἐστιν ὅσ τὰ ἀνήφνα κτείνει καὶ ἡ χείρ καὶ ὁ οὐκέτις ἐπιτάξαντος οὐκ 15 ἀδικεῖ μὲν, ποιεῖ δὲ τὰ ἀδικα. ἐτι εἰ μὲν ἀγνοοῦν ἐκρυνε, οὐκ ἀδικεῖ κατὰ τὸ νομικὸν δίκαιον οὐδ' ἀδικος ἡ κρίσις 15 ἐστιν, ἐστι δ' ὅς ἀδικος· ἐτερον γὰρ τὸ νομικὸν δίκαιον καὶ τὸ πρῶτον· εἰ δὲ γυμνόκων ἐκρυνεν ἀδικεω, πλευκτεί 13 καὶ αὐτὸς ἡ χάριτος ἡ τιμωρίας. ὁσπερ οὖν καὶ εἰ 13 τις μερίσαπτο τοῦ ἀδικήματος, καὶ ὁ διὰ ταύτα κρίνας ἀδικος πλέον ἔχει καὶ γὰρ ἐπ' ἐκείνων ὁ τὸν ἀγρόν κρίνας οὐκ 20 ἀγρόν ἀλλ' ἀργύριον ἐλάβεν.

1 1 <πότερον δ' ἐνδέχεται ἐαυτὸν ἀδικεῖν ἡ οὐ, φανερὸν ἐκ τῶν εἰρημένων.

to πλέον, who ἀδικεῖ,—when a man knowingly and voluntarily distributes more to another than to himself, he ἀδικεῖ αὐτόν. (Modest men are thought to do this; thus the ἐπτεικῆς is one who does not insist upon his right.) But does not this statement require qualification? For (1) it may be that [by assigning more to another than to himself] the distributor obtained a larger share of some other good, such as reputation or τὸ ἀπλαῦς καλῶν; [in which case he οὐκ ἀδικεῖι αὐτόν]: (2) the inference may be met by an appeal to the definition of ἀδικεῖν; for the distributor suffers nothing contrary to his own βούλησις, and therefore οὐκ ἀδικεῖται in consequence, but at most βλάπτεται. [Hence if it is decided that ο νείμας παρὰ τὴν ἄξιαν τὸ πλεῖον, and not ο ἔχων, ἀδικεῖ, it does not necessarily follow that a man can ἀδικεῖν αὐτόν.]

That the distributor ἀδικεῖ, and that the recipient of τὸ πλέον does not do so in all cases, is clear: for it is not he who ἀδικοὶ ποιεῖ, but he who ἔκων ποιεῖ τὸ ἀδικοῦ, who ἀδικεῖ; that is to say, the one with whom the action originates, and the action originates not in the recipient but in the distributor: (for the word ποιεῖν is used in various senses, and there is a sense in which inanimate things are said to kill, and in which the hand or a slave acting under orders is said, not indeed ἀδικεῖν, but ποιεῖν τὰ ἀδικά.)

Again, though if the distributor gave his judgment ἀγνώστων, he οὐκ ἀδικεῖ κατὰ τὸ νομικῶν δίκαιον, and his judgment is not ἀδίκος, (except in a special sense, τὸ νομικῶν δίκαιον and τὸ πρῶτον δίκαιον being different things,) if he γνώσκων ἐκρίνειν ἀδίκως, he πλεονεκτεῖ himself either in gratitude or in revenge; and one who for the sake of gratitude or revenge ἀδίκως κρίνει, is just as much a πλεονέκτης as if he were to share the ἀδίκημα with the recipient, in which last case indeed the distributor who wrongfully assigns a piece of land receives not land but money.

Whether it is possible for a man ἀδικεῖν ἑαυτῶν or not, is clear from what has been said. For—Firstly, one class of
τὰ μὲν γάρ ἐστὶ τῶν δικαιῶν τὰ κατὰ πάσαν ἀρετὴν ὑπὸ τοῦ νόμου τεταγμένα, οἷον οὐ κελεύει ἀποκτηνύναι
§ 2 ἐαυτὸν ὁ νόμος, ἃ δὲ μὴ κελεύει, ἀπαγορεύει ἐτί ὅταν παρὰ τὸν νόμον βλάπτῃ (μὴ ἀντιβλάπτων) ἕκων, ἀδικεῖ, ἔκων δὲ ὁ εἰδὼς καὶ ὁν καὶ ὁ δὲ δὲ ὁργήν ἐαυτὸν 5 σφάττων ἕκων τούτο δρᾶ παρὰ τὸν ὁρθόν λόγον, ὁ οὐκ
§ 3 εὖ ὁ νόμος· ἀδικεῖ ἀρα. ἀλλὰ τίνα; ἢ τὴν πόλιν, αὐτὸν ὁ δὲ οὖ; ἔκων γὰρ πάσχει, ἀδικεῖται ὁ οὖθες ἕκων. διὸ καὶ ἡ πέλεις ἥμισοι, καὶ τις ἄτμια πρόσεστι τὸ ἐαυτὸν διαφεβηράντω ὑσ τὴν πόλιν ἀδικοῦντι.

§ 4 ἐτὶ καθ’ ὁ ἀδικος ὁ μόνον ἀδικῶν καὶ μὴ ὀλως φαθλος, οὐκ ἐστιν ἀδίκησαι ἐαυτὸν. (τοῦτο γὰρ ἀλλο ἐκείνων· ἐστὶ γὰρ πως ὁ ἀδικος οὐτω πονηρὸς ὤσπερ ὁ δειλός, οὐχ ὡς ὀλην ἔχων τὴν πονηρίαν, ὡς οὔδε κατὰ ταυτὴν ἀδικεῖ.) ᾧμα γὰρ τὸ αὐτὸ ἀν εἰ ἁφηρησθαι καὶ προσ- 15 κεῖσθαι τῷ αὐτῷ, τοῦτο δὲ ἀδύνατον· ἀλλ’ ἀεὶ ἐν πλείουσιν
§ 5 ἀνάγκη εἶναι τὸ δίκαιον καὶ τὸ ἀδικον. ἐτὶ δὲ ἐκουσίων τε καὶ ἐκ προαρέσεως, καὶ πρότερον (ὁ γὰρ διότι ἐπαθε καὶ τὸ αὐτὸ ἀντιποιου ὁ δοκεῖ ἀδικεῖν) αὐτὸς δ’ ἐαυτὸν, τὰ αὐτὰ ἀμα καὶ πάσχει καὶ ποιεῖ. ἐτὶ εἰ ἦν ἐκόντα 20
§ 6 ἀδικεῖσθαι. πρὸς δέ τούτους ἀνευ τῶν κατὰ μέρος ἀδικημάτων οὖθες ἀδικεῖ, μοιχεύει δ’ οὔθες τὴν ἐαυτὸν οὐδὲ τοιχωρυχεῖ τὸν ἐαυτὸν τοίχον οὐδὲ κλέπτει τὰ ἐαυτῶν.


\[\text{[Nicomachean] Ethics V II §§ 1—6.} \]

\(\text{δικαια includes those acts in accordance with any virtue which are prescribed by law: for example, the law does not allow a man to commit suicide, and what the law does not allow, it forbids; and when a man } \beta\lambda\alpha\pi\tau \eta\text{ in contravention of the law (except in retaliation) voluntarily, he } \dot{\alpha}\dot{\iota}\dot{k}\iota\epsilon\iota\text{, and one who knows the person and the instrument acts voluntarily; but he who stabs himself in a passion does it voluntarily in despite of right rule, and this the law does not permit: hence he } \dot{\alpha}\dot{\iota}\dot{k}\iota\epsilon\iota\text{. But who is it whom he } \dot{\alpha}\dot{\iota}\dot{k}\iota\epsilon\iota\text{? is it not the state rather than himself? for he suffers voluntarily, and no one } \dot{\alpha}\dot{\iota}\dot{k}\iota\epsilon\iota\tau\alpha\text{ voluntarily. Hence it is the state which exacts the penalty, and hence a certain loss of civil rights attaches to one who commits suicide, because it is the state which he } \dot{\alpha}\dot{\iota}\dot{k}\iota\epsilon\iota\text{.}

\text{Secondly, in the sense in which a man is } \dot{\alpha}\dot{\iota}\kappa\omega\sigma\text{ who only } \dot{\alpha}\dot{\iota}\kappa\iota\epsilon\iota\text{ and is not universally bad, it is impossible for a man } \dot{\alpha}\dot{\iota}\kappa\iota\sigma\tau\alpha\text{ himself. (This case is distinct from the former; for the } \dot{\alpha}\dot{\iota}\kappa\omega\sigma\text{ is vicious in the same sort of way as the coward, not as exhibiting vice in general: so that [I must further show that] a man } \dot{\alpha}\dot{\kappa}\iota\kappa\iota\iota\iota\alpha\tau\iota\tau\dot{\alpha} \text{ in this sense.) For (1) if he could, the same thing might have been subtracted from and added to the same thing simultaneously, which is impossible; in fact } \tau\dot{\o}\delta\kappa\iota\lambda\sigma\nu\text{ and } \tau\dot{\o}\dot{\alpha}\dot{k}\iota\kappa\omega\sigma\text{ always of necessity imply more than one person. Again (2) } \tau\dot{\o}\dot{\a}\dot{k}\iota\epsilon\iota\nu\text{ is voluntary or deliberate, and aggressive,—one who, having suffered, retaliates on the same scale on which he has suffered not being considered } \dot{\a}\dot{\iota}\kappa\epsilon\iota\nu\text{,—whilst if a man harms himself, he suffers and does the same things at the same time. Again (3) if a man could } \dot{\a}\dot{\iota}\kappa\epsilon\iota\nu\dot{\e}\alpha\nu\tau\dot{\o}\tau\dot{\o} \text{, it would be possible for him } \dot{\a}\dot{\iota}\kappa\epsilon\iota\sigma\tau\alpha\text{ voluntarily. Furthermore (4) no one } \dot{\a}\dot{\iota}\kappa\epsilon\iota\text{ without committing particular } \dot{\a}\dot{\iota}\kappa\dot{\i}\kappa\iota\mu\alpha\tau\alpha\text{, and no one can commit adultery with his own wife, or burglary upon his own premises, or theft upon his own property.} \]
διώς δὲ λύεται τὸ ἐαυτὸν ἀδικεῖν κατὰ τὸν διορισμὸν τὸν περὶ τοῦ ἐκοινωνίως ἀδικεῖσθαι.

§ 9 κατὰ μεταφοράν δὲ καὶ ὁμοιότητα ἐστὶν οὐκ αὐτῷ πρὸς αὐτὸν δίκαιον ἀλλὰ τῶν αὐτοῦ τιμῶν, οὐ πάν τε δίκαιον ἀλλὰ τὸ δεσποτικὸν ἢ τὸ ὁικονομικὸν ἐν τούτοις γὰρ τοὺς λόγους διέστηκε τὸ λόγον ἐχον μέρος τῆς ψυχῆς πρὸς τὸ ἄλογον. εἰς ἀ δὴ βλέπουσι καὶ δοκεῖ εἶναι ἀδίκια πρὸς αὐτὸν, ὅτι [ἐν] τούτοις ἐστὶ πάσχειν τι παρὰ τὸς ἐαυτῶν ὀρέξεις. ὡσπερ οὖν ἀρχοντὶ καὶ ἀρχομένῳ εἶναι πρὸς ἀλληλα δίκαιον τι καὶ τούτοις.

6 § 3 <πῶς μὲν οὖν ἔχει τὸ ἀντιπεπονθὸς πρὸς τὸ δίκαιον, 10 εἰρηταί πρότερον > περὶ δὲ ἐπιεικείας καὶ τοῦ ἐπιεικοῦς, πῶς ἔχει ἡ μὲν ἐπιεικεία πρὸς δίκαιος ἐστὶν ὁ δὲ ἐπιεικὲς πρὸς τὸ δίκαιον, ἐχόμενον ἐστὶν εἰπεῖν οὕτε γὰρ ὡς ταύτων ἀπλῶς οὐθ’ ὡς ἔτερον τῷ γένει φαίνεται ἑπτὰς ἑκοικομένους, καὶ ὅτε μὲν τὸ ἐπιεικὲς ἐπαινούμεν καὶ ἀνδρὰ τὸν τουτόν, ὡστε καὶ ἐπὶ τὰ ἀλλὰ ἐπαινούντες μεταφέρομεν ἀντὶ τοῦ ἀγαθοῦ, τὸ ἐπιεικέστερον ὅτι βέλτιον δηλοῦντες: ὥστε δὲ τῷ λόγῳ ἀκολουθοῦσι φαίνεται ἀτοπον εἰ τὸ ἐπιεικὲς παρὰ τὸ δίκαιον τι οὖν ἐπαινετὸν ἐστὶν ἡ

§ 2 γὰρ τὸ δίκαιον οὐ σπουδαίον ἢ τὸ ἐπιεικὲς, [οὐ δίκαιον,] εἰ ἀλλον ἢ εἰ ἀμφω σπουδαία, ταύτων ἐστιν. ἡ μὲν οὖν ἀπορία σχεδὸν συμβαίνει διὰ ταύτα περὶ τὸ ἐπιεικές, ἔχει δ’ ἀπαντὰ τρόπον τινα ὀρθὸς καὶ οὕτω υπενεπτιην ἐαυτοῦς τὸ τε γὰρ ἐπιεικῆς δίκαιον τινὸς ὅν βέλτιον ἐστὶ δίκαιον, 25 καὶ οὖν ὡς ἀλλο τι γένος ὅν βέλτιον ἐστι τοῦ δίκαιου.

And in general, the question 'Can a man *αδικεών ἑαυτόν?* is resolved by our determination in regard to the question 'Can a man *ἐκουσίως αδικεῖσθαι?*'

Nevertheless *κατὰ μεταφορὰν καὶ ὑμοιότητα* there is a *δίκαιον* not between a man and himself, but between certain parts of him; yet not every *δίκαιον*, but only *τὸ δεσποτικὸν* or *τὸ οἰκονομικὸν δίκαιον*: for in these discussions the rational and irrational parts of the *ψυχή* are distinguished. This distinction leads men to suppose that there is an *αδίκια* towards oneself, because these parts may suffer something contrary to their respective inclinations, so that they may have a sort of *δίκαιον* with one another like that between ruler and subject.

How *ἀντιπεπονθός* is related to *τὸ δίκαιον* has been stated before: I have next to speak of *ἐπιείκεια* and *τὸ ἐπιεικὲς*, and to show how *ἐπιείκεια* is related to *δίκαιοσύνη* and *τὸ ἐπιεικὲς* to *τὸ δίκαιον*: for on examination it appears that they are neither absolutely identical nor generically different; and though sometimes we praise *τὸ ἐπιεικὲς* and the *ἐπιεικῆς*, (so that we even apply the word eulogistically to other things in place of the word *ἀγαθὸν*, meaning by *ἐπιεικέστερον* simply *βέλτιον*,) sometimes if we think about it, it seems strange that *τὸ ἐπιεικὲς*, being something other than *τὸ δίκαιον*, should be praised; for (1) if *δίκαιον* and *ἐπιεικὲς* are different, either *δίκαιον* or *ἐπιεικὲς* is not good, or (2) if both are good, they are identical.

These then are I think the considerations from which the difficulty in regard to *τὸ ἐπιεικὲς* arises: nevertheless all of them are in a manner right and not inconsistent: for *τὸ ἐπιεικὲς* is better than one sort of *δίκαιον*, being a *δίκαιον* itself; it is not as a different kind of thing that it is
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ταύτων ἀρα δίκαιοι καὶ ἐπιεικεῖς, καὶ ἀμφότεροι σπουδαίως
§ 3 ὦντων κρείττον τὸ ἐπιεικές. ποιεῖ δὲ τὴν ἀπορίαν ὅτι τὸ
ἐπιεικές δίκαιον μὲν ἐστιν, οὐ τὸ κατὰ νόμον δὲ, ἀλλ'
§ 4 ἐπανορθωμα νομίμων δίκαιοι. αἰτίων δ' ὅτι οἱ μὲν νόμοι
καθόλου πᾶς, περὶ ἐνίων δ' οὐχ οἴνον τὸ ὀρθῶς εἰσέχω
καθόλου. ἐν οἷς οὐν ἀνάγκη μὲν εἰσέχω καθόλου, μη
οἰν τε δὲ ὀρθῶς, τὸ ὦς ἐπὶ τὸ πλέον λαμβάνει οἱ νόμος,
οὐκ ἀγνοοῦν τὸ ἀμαρτανόμενον. καὶ ἐστιν ὦνδὲν ἢττον
ὁρθῶς τὸ γὰρ ἀμάρτημα οὐκ ἐν τῷ νόμῳ οὐδ' ἐν τῷ
νομοθέτῃ ἀλλ' ἐν τῇ φύσει τοῦ πράγματος ἐστὶν εὐθὺς
§ 5 γὰρ τουατὴ ἡ τῶν πρακτῶν ὤλη ἐστίν. ὅταν οὖν λέγῃ
μὲν οἱ νόμος καθόλου, συμβῇ δ' ἐπὶ τουτον παρὰ τὸ
καθόλου, τότε ὀρθῶς ἔχει, ἣ παραλείπει οἱ νομοθέτης καὶ
ημαρτην ἀπλῶς εἰσίν, ἐπανορθοῦν τὸ ἐλλειψθεν, δ' καὶ
ὁ νομοθέτης αὐτοῖς ἄν ἐστεν ἐκεῖ παρῶν, καὶ εἰ ᾦδει.
§ 6 ἐνομοθετήσειν ἂν. διὸ δίκαιοι μὲν ἐστὶν, καὶ βέλτιον τινος
dικαίων, οὐ τοῦ ἀπλῶς δὲ ἀλλὰ τοῦ διὰ τὸ ἀπλῶς ἀμαρ-
τήματος. καὶ ἐστιν αὐτῇ ἢ φύσις ἢ τοῦ ἐπιεικοῦς,
ἐπανόρθωμα νόμον ἢ ἐλλειπεῖ διὰ τὸ καθόλου. τούτῳ
gὰρ αἰτίων καὶ τοῦ μη πάντα κατὰ νόμον εἶναι, ὅτι 20
περὶ ἐνίων αὕτων σέβασθαι νόμον, ὡστε ψηφίσματος δεῖ.
§ 7 τοῦ γὰρ ἀορίστου ἀόριστος καὶ οἱ κανών ἐστίν, ὡσπερ
cαὶ τῆς Λεοβίας οἰκοδομής ὁ μολιβδῖνος κανών πρὸς γὰρ

better than ὑπὸ δίκαιον. Hence δίκαιον and ἐπιεικὴς are identical, and whereas both are good, ὑπὸ ἐπιεικὴς is the better. The reason of the ἀπορία is that though ὑπὸ ἐπιεικὴς is δίκαιον, it is not legal δίκαιον, but a rectification of it: and this distinction is due to the fact that law is always a general statement, whilst there are some cases for which it is not possible to provide in a statement which is general. Hence where it is necessary to speak in general terms, but impossible to do so correctly, the law considers the majority of cases, though it is not ignorant of the element of error. And it is not wrong in so doing: for the error is not in the law nor in the lawgiver but in the nature of the case, the matter of action being necessarily of this incalculable kind. Hence when the law speaks in general terms, and a case arises upon it which is not included in the general rule, it is right in such a case, where the lawgiver's provision is defective or erroneous in consequence of its generality, to rectify the defect by deciding as the lawgiver himself would do if he were with us, and as he would have done in legislating had he known the circumstances. Wherefore ὑπὸ ἐπιεικὴς is δίκαιον, and better than one sort of δίκαιον, that is, not better than the general statement of δίκαιον but better than the erroneous decision to which its generality leads. Thus ὑπὸ ἐπιεικὴς is a correction of law where it fails by reason of its generality. Indeed this is the reason why all things are not determined by law, viz. that there are some cases for which it is impossible to lay down laws, so that special ordinances become necessary: for where the thing to be measured is indefinite the rule is indefinite also, as for example the leaden rule which is used in Lesbian architecture:
τὸ σχῆμα τοῦ λίθου μετακινεῖται καὶ οὗ μένει ὁ κανὼν,
§ 8 καὶ τὸ ψήφισμα πρὸς τὰ πράγματα. τι μὲν οὖν ἐστὶ τὸ ἐπιεικὲς, καὶ ὁτι δίκαιον, καὶ τίνος βέλτιον δίκαιον, δῆλον. φανερὸν ὃ ἐκ τούτου καὶ ὁ ἐπιεικῆς τίς ἐστιν' ὁ γὰρ τῶν τοιούτων προαιρετικὸς καὶ πρακτικός, καὶ ὁ μὴ ἀκριβο-5 δίκαιος ἐπὶ τὸ χείρον ἄλλ' ἐλαττωτικὸς, καίσερ ἔχων τὸν νόμον βοηθῶν, ἐπιεικῆς ἐστι, καὶ ἡ ἔξως αὐτὴ ἐπιεικεία, δικαιοσύνη τις οὖν καὶ οὐχ ἐτέρα τις ἔξως.

11 § 10 περὶ μὲν οὖν δικαιοσύνης καὶ τῶν ἄλλων ἡθικῶν ἀρετῶν διωρίσθω τὸν τρόπον τούτων.

as the leaden rule is not rigid but adapts itself to the form of the stone, even so the special ordinance adapts itself to the circumstances of the case.

Thus we see what τὸ ἐπιεικὲς is, as well as that it is δἰκαίον, and what sort of δἰκαίον it is to which it is superior. And from this it is plain also what the ἐπιεικὴς is: one who deliberately chooses and does what is ἐπιεικὲς, one who does not stand upon his rights wrongfully but puts up with a smaller share though the law is on his side, is ἐπιεικὴς, and the ἔξις thus indicated is ἐπιείκεια, which is a sort of δικαιοσύνη, not a different ἔξις.

So much may be said by way of description of δικαιοσύνη and the rest of the moral virtues.
NOTES.

[In quoting the *N. E.*, the *E. E.*, and the *M. M.* I have given the chapters and sections of Bekker’s Oxford Edition (1837): in quoting the *Politics* and the *Rhetoric* I have given the chapter, the page, and the line of Bekker’s small Berlin Editions (1855 and 1843 respectively): with these exceptions all references are to the large Berlin Edition.]

1 § 1. περὶ δὲ δικαίωσιν, κ.τ.λ.] In this sentence the questions to be considered in the first half of the book are concisely stated. Cf. 5 §§ 17—19, where the author recapitulates the results thus far attained, and declares that the questions proposed at the outset have been adequately answered.

§ 2. μέθοδον] The ‘method’ comprises the enumeration of the views entertained by the vulgar and by individuals in regard to the subject discussed, the criticism of those views, and the development of an original theory based upon the preliminary investigation. This process, “which, when performed between two disputants, Aristotle calls *dialectic debate,*” is opposed to the strictly “didactic and demonstrative procedure: wherein the teacher lays down principles which he requires the learner to admit, and then deduces from them, by syllogisms constructed in regular form, consequences indisputably binding on all who have admitted the principles.” Grote’s *Aristotle* i. 67, 68: see also i. 300 sqq., 378 sqq. The method above described, for which we are prepared in *N. E.* i. 4 § 4, 8 § 6, pervades both the Nicomachean and the Eudemian treatise, though it may be thought perhaps that its steps are more precisely discriminated in the latter. Cf. *N. E.* vii. = *E. E.* vi. 1 § 5 δεὶ δ’, ὠσπερ ἐπὶ τὼν ἁλλων, τιθέντας τὰ φαινόμενα καὶ πρῶτον διαπορίζοντας οὐτω δεικνύναι μᾶλθα μὲν πάντα τὰ ἐνδοξὰ περὶ ταῦτα τὰ πάθη, εἰ δὲ μὴ, τὰ πλείστα καὶ κυριώτατα: ἐὰν γὰρ λύηται ς τὰ δυσχερὰ καὶ καταλείπηται τὰ ἐνδοξὰ, δεδειγμένον ἀν εἰῃ ἰκανόν.
§ 3. πρακτικοί] "Muretus vertit propensi ad agendum, cum reliqui vertant aperi vel idonei." Zell. From a comparison of E. E. ii. 1 § 23 and ii. 5 § 1 it would appear that these two possible meanings are here to be combined. Cf. Rhet. i. 9. p. 30. 4. Hence the words καὶ ἄφ' ἦς δικαιοπραγὸνται καὶ βούλονται τὰ δίκαια are to be regarded as an explanation of ἄφ' ἦς πρακτικοὶ τῶν δικαίων εἰσί. The definition of which these words form a part is only a rough, popular definition temporarily and provisionally accepted (διὸ καὶ ἡμῖν πρῶτον ὡς εὖ τύπῳ ὑποκείσθω ταῦτα). Cf. 5 § 17, where in recapitulating his results the author is careful to introduce the phrase κατὰ προαιρέσεως, by which his own definition is distinguished from the popular one of the present passage. Thus the use here of the word βούλονται ("cf. Plat. Gorg. 460 b,c," Fritzsche) instead of the Aristotelian προαιρέονται is quite appropriate, not, as has been suggested, an Eudemian inaccuracy.

9 §§ 14—16.] On the position of these sections (and of 9 § 17 which I have introduced after § 9 of the present chapter) see Introduction. On dislocations in the text.

dόναι τῷ χερί τὸ ἄργυρον] The remark in which these words occur applies to virtuous actions as well as to vicious ones. A virtuous action does not necessarily imply a virtuous ἔξεις, any more than a vicious action a vicious ἔξεις. The example alleged is a liberal action which does not necessarily proceed from ἔλευθερία. Williams translates "to actually deliver a bribe," supposing that vicious actions only are exemplified.

ὦδι ἔχοντας] Cf. N. E. ii. 3 § 3. 'It is not easy, nor does it rest with ourselves at a given time to do a particular act in a given ἔξεις, because time and practice are necessary to the attainment of the ἔξεις in question, whether virtuous or vicious.' So Mich. Ephes. χρόνου γὰρ χρεία καὶ συνασκῆσεως καὶ μαθῆσεως πρὸς τὴν τῶν ἔξεων κτήσιν.

9 § 15. οὐδὲν ὄνται σοφῶν εἶναι] For the phraseology cf. Met. 1. 2. p. 982. a. 10, a place which also resembles the present passage in being part of a collection of ὑπολήψεις or popular notions.

ἀλλὰ πῶς πραττόμενα καὶ πῶς νεμόμενα] On the accentuation of the indefinite πῶς when it is used emphatically see Schwegler on Met. iii. 4 § 42.

tούτο δὲ πλέον ἐργον ἦ τὰ ὑγιενὰ εἶδόναι] I. e. the knowledge of δίκαια is more difficult of attainment than that of νόμιμα, just as the knowledge of τὰ ἰατρικὰ is more difficult of attainment than that of
(what Plato calls) τὰ πρὸ ιατρικῆς. This is somewhat curtly expressed in the statement that 'to know δίκαια is more difficult than to know τὰ ἔγγεια.' In other words, he who depends upon law for his conception of what is just, no more knows what is just than the apprentice knows surgery, if he understands the application of remedies, but does not know when they are to be applied. Zell appositely cites M. M. ii. 3 § 5 sqq., q.v. See also N. E. x. 9 § 21 and Plat. Phaedr. 268 b, c. 269 α.

πῶς δὲ νεώμαι] Dependent upon εἰδέναι repeated from the preceding clause.

9 § 16. δὲ αὐτὸ δὲ τοῦτο] Sc. οὐτε ἑπὶ ἑαυτοῦ οἰονται εἴναι τὸ ἀδικεῖν, the fundamental error which lies at the root of all the misconceptions discussed in 9 §§ 14—16.

τοῦ δίκαιου] The δίκαιος here spoken of is the man of universal justice: hence the notion, that τοῦ δίκαιου ἑστὶν οἴθεν ἦττον τὸ ἀδικεῖν, is tested in the case of ὁ ἀνδρείος as well as in that of ὁ δίκαιος, the man of particular justice.


αλλὰ τὸ δειλινέων, κ.τ.λ.] For the form of the sentence cf. 9 § 15 supra, ἀλλ' οὐ ταύτ' ἔστι, κ.τ.λ.

αλλὰ τὸ ἐδέ] ἐδέ = ιατρικῶς, or as the Paraphrast puts it, ἐξεν ιατρικὴν ἑχοντα: cf. N. E. ii. 4 §§ 1, 2 ἀπορήσει δ' ἂν τις, πῶς λέγομεν ὅτι δεί τὰ μὲν δίκαια πράττοντας δίκαιοις γίνεσθαι, τὰ δὲ σώφρονα σώφρονας: εἰ γὰρ πράττοντι τὰ δίκαια καὶ τὰ σώφρονα, ἦδη εἰσὶ δίκαιοι καὶ σώφρονες, ὥσπερ εἰ τὰ γραμματικὰ καὶ τὰ μονικά, γραμματικοὶ καὶ μονικοί. ἦ οὖν ἐπὶ τῶν τεχνῶν οὐτως ἦχε; ἐνδέχεται γὰρ γραμματικῶν τι πουήσαι καὶ ἀπὸ τίχης καὶ ἄλλου ὑποβεθεῖν. τότε οὖν ἐσται γραμματικὸς, ἓν καὶ γραμματικὸς τι πουήσῃ καὶ γραμματικός: τοῦτο δ' ἐστι τὸ κατὰ τὴν ἐν αὐτῷ γραμματικὴν.

1 § 4. οὐδὲ γὰρ τὸν αὐτὸν, κ.τ.λ.] A reference to this doctrine seems appropriate, if not necessary, after the last of the sections which I have interpolated from ch. 9. This was felt by Mich. Ephes., who says in his comment upon 9 § 16 ἐδὲ τὸ ἀπὸ ἐξεσὶς αἰδίκου τὰ αἰδίκα ποιέν τὸ ἀδικεῖν ἐστίν, οὐ μόνον οὐ μόνον τὸν δίκαιον ἀδικεῖν ἀλλὰ καὶ ἀδύνατον. οὗ γὰρ ἐπεν ἀρχόμενος τοῦ βεβλίου, αἳ μὲν ἐπιστήμην τῶν ἐναντίων εἰσὶν οἰκετὶ δὲ καὶ αἰ ἑξεις. The passage before us may be paraphrased as follows: 'the δίκαιος cannot ἀδικεῖν, because he has not got the appropriate ἑξεις: for although an ἑπιστήμην or a δύναμις (i.e. the δύναμις μετὰ λόγου of Met. ix. 2. p. 1046. b. 2) includes τὰ ἐναντία (and therefore, as we shall see, ἐναντίαι ἑξεις), a
given $\epsilon\epsilon\iota$ does not enable its possessor to conform to the contrary $\epsilon\epsilon\iota$; for example, the healthy man cannot do what is characteristic of ill-health (ἀπό τῆς ύγειας οὐ πράττεται τά ἐναντία, ἀλλὰ τὰ ύγεια μόνον). That the knowledge of a thing includes the knowledge of its contrary is a Platonic maxim: cf. Plat. Phaed. 97 D ἐκ δὲ δὴ τοῦ λόγου τοῦτον οὐδὲν ἀλλο σκοπεῖν προσήκειν ἀνθρώπῳ καὶ περὶ αὐτοῦ καὶ περὶ τῶν ἄλλων, ἀλλὰ ἡ τὸ ἀριστόν καὶ τὸ βελτιστόν. Ἀναγκαῖον δὲ εἶναι τὸν αὐτόν τοῦτον καὶ τὸ χείρον εἰδέναι. ἡ τῆς αὐτῆς γὰρ εἶναι ἐπιστήμην περὶ αὐτῶν, and Charm. 166 e. The doctrine is referred to by Aristotle, Anal. Pr. 1. p. 48. b. 4. i. p. 50. a. 19. ii. p. 69. b. 9. "The opinion that justice implies its contrary, as if it were an art," says Grant, "would be a consequence of the Socratic doctrine that justice is knowledge. Plato saw what this doctrine led to and drew out the paradoxical conclusion, Ῥεπ. p. 334 A. Ἱππ. Min. pp. 375, 6. The Aristotelian theory that justice is a moral state ($\epsilon\epsilon\iota$) sets the difficulty at rest."

δυνάμεων] With the Aristotelian use of this word cf. Plato's transi
tional employment of it in Politi. 304 D sqq.

$\epsilon\epsilon\iota \delta \ η \ ἐναντία τῶν ἐναντίων οὐ] Rassow (Forschungen p. 95) after Muretus reads $\epsilon\epsilon\iota \ οὐ \ αὐτῇ; Spengel (on Rhét. ii. 19) $\epsilon\epsilon\iota \ η \ ἐναντία. I cannot see that any alteration is necessary. See Translation.

§ 5. πολλάκις μὲν οὖν, κ.τ.λ.] 'It follows from what has been said that, though one of two contrary $\epsilon\epsilon\iota$ does not give the power of doing acts characteristic of the other, the knowledge of one $\epsilon\epsilon\iota$ includes the knowledge of the other. Furthermore, $\epsilon\epsilon\iota$ may be known from their υποκείμενα.' These statements are introduced as corollaries of the doctrine of § 4, whilst they materially promote the argument by justifying the joint and simultaneous consideration of δικαιοσύνη, δικαια, δικαιον, οδικον.

ἀπὸ τῶν υποκειμένων] 'As we might say 'from its facts,' the υποκείμενα being the singular instances in which a general notion is manifested. The meaning is, that τὰ δίκαια are to δικαιοσύνη as good symptoms are to good health." Grant. It would appear how
ever from the statement subsequently made—that 'τὸ εὐεκτικὸν is τὸ ποιητικὸν πυκνόττος ἐν σαρκ'—that τὰ υποκείμενα include not merely manifestations and symptoms of the $\epsilon\epsilon\iota$ in question, but also its causes and conditions. In fact the υποκείμενα of ύγεια (to take a particular example) are τὰ ύγεια in the various kindred senses of φυλακτικα, ποιητικα, σημαντικα, and εὐεκτικα τῆς ύγειας. For these senses of ύγεια cf. Met. ill. 2. p. 1003. a. 34. x. 3. p. 1061. a. 5.
Theor. i. 15. p. 106. b. 35. The word υπόκειμενα is similarly used to mean "res singulas notioni subjectas" (Bonitz) in Met. i. 2. p. 982. a. 23. In order to avoid including 'things which produce good condition' amongst the υποκειμενα of ειεξια, Zell, after Muretus, takes ευκτικα to mean "corpora ipsa bene habita." See however the passage which Zell himself quotes for another purpose from Τορ. v. 7. p. 137. a. 3 οίον έπει ομοιως έχει λατρός τε πρός τό πουητικός υγιειας είναι καί γυμναις (not the athlete, but the trainer) προς τό πουητικός ειεξιας, κ.τ.λ., whence it would appear that τό πουητικόν πυκνότητος εν σαρκί (and therefore τό ευκτικόν) is that which produces ειεξια, not that which exhibits it.

εάν τε γαρ η ειεξια, κ.τ.λ.] Cf. Polit. viii. (v.) 8. p. 210. 3 ειπερ εχομεν δε ου φθείρονται αι πολιτειας, εχομεν καί δε ου σώζονται των γαρ εναντιων ταναιτη πουητικα, φθορα δε σωματη εναντιων. See also Polit. viii. (v.) 11. p. 223. 17. Here as in other places τε γαρ means no more than γαρ οι και γαρ: see Shilleto on Demosth. F. L. 391 (critical note), and Berlin Index s. v. τε. (Cf. x. 7 § 2, where the editors, not understanding this use of τε γαρ, have placed a comma, instead of a full stop, after ότιον to the destruction of the argument. Rassow's Forschungen p. 134.) Of course ειεξια must not be confounded with υγιεια: ειεξια is "bona corporis habitudo," not "bona constitutio": see Zell.

§ 6. ος ει το πολυ] This qualifying phrase is introduced to meet such cases as that of φιλειν, which in the sense of τοις χειλεσιν ασπαζεθαι has no correlative: cf. Τορ. i. 15. p. 106. b. 2, quoted by Mich. Ephes. on πολλαις above.

ει το δικαιον, και το αδικον και η αδικια] So Lb: Kb Pb read ει το αδικον και η αδικια: Hαι Mnb Ob ει το δικαιον και το αδικον. This last reading is adopted by Bekker. But in § 5 it has been stated (1) that if we know one of two εναντιαι ειεξι we can infer the other, and (2) that if we know τα υποκειμενα we can infer the corresponding ειεξι, and the example derived from γυμναισικη (cf. ΙΙ § 7) is framed accordingly. It would seem then that the statement of § 6 has reference to both pairs of correlatives, and therefore that we should prefer the reading of Lb, which unites that of Kb Pb on the one hand and that of the remaining MSS. on the other. For an application of the principle here laid down cf. Polit. viii. (v.) 9. p. 214. 4 ει γαρ μη ταυτον το δικαιον κατα πασας τας πολιτειας, αναγκη και της δικαιοσυνης ειναι διαφορας.

§ 7. λαυβανει] The subject to λαυβανει is η όμωνυμια ("the equi-
vocation') supplied from τὴν ὁμωνυμίαν ('the equivocal uses'): cf. the words immediately following—καὶ οὐχ ὄστερ ἐπὶ τῶν πόρρω δήλη μᾶλλον [sc. έστιν η ὁμωνυμία]. See also Τόρ. vi. p. 139. b. 28 λανθανόσεϊ τῆς ὁμωνυμίας. Anal. Post. ii. p. 97. b. 30 αἱ ὁμωνυμίαι λανθάνουσι μᾶλλον. For διὰ τὸ σύνεγγυς εἶναι τὴν ὁμωνυμίαν cf. Phys. vii. 4. p. 249. a. 23 εἰς τε τῶν ὁμωνυμίων αἱ μὲν πολὺ ἀπέ- χωσαί, αἱ δὲ ἔχοντα τινα ὁμοιότητα, αἱ δ' ἔγγις τί γένεις τί ἀναλογία, διὸ οὐ δοκοῦσιν ὁμωνυμίαι εἶναι οὖσαί. For the words καὶ οὐχ ὄστερ, k.t.l., constructed independently of the preceding clause with a finite verb of their own, viz. ἐστι understood, cf. Plat. Epist. vii. 333A ἔτομον γὰρ εἶναι τούτων γενομένων πολὺ μᾶλλον δουλόσασθαι Καρ- χριστίνους τῆς ἐπι Γέλωνος αὐτοῖς γενομένης δουλείας, ἀλλὰ οὐχ ὄστερ τῶν τοιναντίον τὸ πατὴρ αὐτοῦ φόρον ἐτάξατο φέρειν τοῖς βαρβάροις, and other places quoted by Heindorf on Gorg. 522 A, and in the Index of the Berlin Aristotle. The words δήλη μᾶλλον, which Spengel would transpose, seem to me to be rightly rendered by Grant "com- paratively plain."

κλεῖς] Cf. de spiritu p. 484. b. 21 ἐπὶ δὲ παρὰ ταῦτ' ἐπὶ συναφῆς καὶ συγκλείσεως χάριν, οὖν ἦ κλεῖς: ὅθεν ἔστω καὶ τούνομα.

§ 8. καὶ ὁ ἄνισος] These words, which after Trendelenburg I have bracketed, but which Bekker retains, cannot be said to destroy the sense, as they might be taken as an explanation of ὁ πλεονέκτης. But they are certainly awkward, especially as the same idea is intro- duced with a justificatory explanation in § 11. See Trendelenburg's Historische Beiträge zur Philosophie ii. 354. I conceive that the scribe, not noting that the word πλεονέκτης suggested ὅσος as its correlative, bridged the apparent gap by anticipating § 11.


ἀ ἐστὶ μὲν ἀπλῶς ἀεὶ ἄγαθα, τοι δ' οὐκ ἂν] ὑπ. Ε. ι. 3 § 3 τοιαύτην δὲ τινα πλάνην ἔχει καὶ τάγαθα διὰ τὸ πολλῶς συμβαίνειν βλάβας ἀπ' αὐτῶν· ἡ γὰρ τινες ἀπόλυτον διὰ πλαῦτον, ἐτέροι δὲ δι' ἀνδρείαν. Cf. Plat. Men. 88 α λασα. Τὸ ἀπλῶς ἄγαθα ἀρα ἄγαθα βιοῦσαν τοις μὲν εἰ διακείμενον ὑγιείᾳ εἶναι ἐστι τὰ κατ' ἀλήθειαν τοις ὅτα, τοῖς
§ 10. 

§ 11. 

§ 12. 

The reference is to § 8.
NOTES.

πάντα τὰ νόμματε ἐστὶ πως δίκαιον] Even οἱ κατὰ τὰς παρεκβεβηκτήμας πολιτείας νόμοι, which are ἀπλῶς οὐ δίκαιοι (Polit. III. 11. p. 78. 7), are πῶς δίκαιοι.

§ 13. ἡ τοῦ κοινῆς συμφέροντος, κ.τ.λ.] Spengel proposes to omit either ἡ τοῖς ἀρίστοις or κατ' ἀρετὴν ἡ. Rassow is certainly right in preferring to omit ἡ τοῖς ἀρίστοις, and probably right in reading ἡ κατ' ἀρετὴν; vide Crit. comment. The laws which aim at τοῦ κοινῆς συμφέροντος πάσων are those of the ὁρθαὶ πολιτείαι, in which the government is administered by the one, the few, or the many, with a view to the common good; the laws which aim at τοῦ τοῖς κυρίοις συμφέροντος are those of the παρεκβάσεις, in which the governing class regards only its interest. Polit. III. 7. p. 69. 22 ἐπεὶ δὲ πολιτεία μὲν καὶ πολιτείασ σημαίνει ταῦτα, πολιτείασ δὲ ἐστὶ τὸ κύριον τῶν πόλεων, ἀνάγκη δὲ εἶναι κύριον ἢ ἕνα ἢ ὀλίγους ἢ τοὺς πολλούς, ὅταν μὲν ὁ ἐς ἢ οἱ ὀλίγοι ἢ οἱ πολλοὶ πρὸς τὸ κοινὸν συμφέρον ἄρχωσι, ταῦτα μὲν ὁρθάς ἀναγκαῖον εἶναι τὰς πολιτείας, τὰς δὲ πρὸς τὸ ἴδιον ἢ τοῦ ἴδιος ἢ τῶν ὀλίγων ἢ τοῦ πλῆθους παρεκβάσεις. The words ἡ κατ' ἀρετὴν ἢ κατ' ἀλλὸν ταῦτα τρόπον τοιοῦτον indicate the different principles which in different states determine the possession of political power. Polit. vi. (iv.) 8. p. 159. 15 δοκεῖ δὲ ἀριστοκρατία μὲν εἶναι μάλιστα τὸ τῶς τιμᾶς νεξεμίζοντος κατ' ἀρετὴν· ἀριστοκρατίας μὲν γὰρ ὁρος ἀρετῆς· ὁλιγαρ-χίας δὲ πλῆθος, δῆμου δὲ ἐλευθερία. For the general sentiment cf. § 17 and viii. 9 § 4. 10 § 2. See Rassow’s Forschungen pp. 76, 77, whence this note is in the main derived.

ὡστε ἐνα μὲν τρόπον δίκαιαι, κ.τ.λ.] ‘So that in one sense we call that just which produces and preserves happiness and its parts. But the law also prescribes the doing of acts characteristic of the several virtues’: cf. 2 §§ 10, 11 where νόμμα which promote virtue through education are distinguished from νόμμα which enforce the different virtues.

§ 14. τὰ κατὰ τὰς ἄλλας ἀρετὰς] The article, which Rassow (Forschungen p. 60) restores on the authority of Lb, though perhaps not indispensable, is certainly an improvement.


τελεία δ’ ἐστὶν, κ.τ.λ.] Bekker after the MSS. reads καὶ τελεία μάλιστα ἀρετῆς, ὧν τῆς τελείας ἀρετῆς γρηγορίας ἐστὶν. τελεία δ’ ἐστὶν, ὧτι ὁ ξένος, κ.τ.λ. But from the opening words of this §, as well as from the argument generally, it is clear that the phrase πρὸς ἔτερον does
not explain τελεία, but differentiates δικαίωσιν from τελεία ἀρετῆ ἀπλῶς. This being so, it follows that the words ὅτι τῆς τελείας ἀρετῆς χρησίς ἐστιν do not justify the statement καὶ τελεία μάλιστα ἀρετῆ, and that the words ὅτι ο ἔχων αὐτῆν, κ.τ.λ. do not justify the statement τελεία ὅ ἐστιν. Trendelenburg (Beiträge ii. 356) substitutes ὅτι τελεία τῆς ἀρετῆς χρησίς ἐστιν for ὅτι τῆς τελείας ἀρετῆς χρησίς ἐστίν, whilst Ueberweg (Grundriss i. 189) inserts τελεία after χρησίς ἐστί, supposing the word to have been dropped in consequence of its occurrence at the beginning of the next sentence. I presume that they agree in understanding ἡ χρησίς with τελεία ὅ ἐστιν, otherwise they have not met the difficulty raised at the outset of this note. Now this subaudition appears to me excessively awkward, especially as αὐτῆν seems to indicate that ἡ δικαίωσιν is the subject of τελεία ὅ ἐστιν. I conjecture therefore that either τελεία in τελεία ὅ ἐστιν, ὅτι, κ.τ.λ. has taken the place of κρατίστῃ, or that καὶ τελεία μάλιστα and τελεία ὅ ἐστιν have been transposed. In either case the sentences succeeding the proverbial hexameter amplify and explain the statements already made, that justice is ἀρετῆ τελεία, and that it is κρατίστῃ τῶν ἀρετῶν. On the whole I am in favour of the second of the above alternatives, and have altered the text accordingly. The sentence τελεία ὅ ἐστιν ἀρετῆ ὅτι τῆς τελείας ἀρετῆς χρησίς ἐστιν is thus a justification of the statement that αὐτῆ ἡ δικαίωσιν ἀρετῆ ἐστι τελεία, whilst the sentence καὶ τελεία μάλιστα ὅτι ο ἔχων αὐτῆν, κ.τ.λ. repeats in a more definite form the substance of the sentence καὶ διὰ τούτο πολλάκις, κ.τ.λ. In other words, this sort of justice is (1) τῆς τελείας ἀρετῆς χρησίς, (2) πρὸς ἔτερον, and therefore not only (1) τελεία, but also (2) τελεία μάλιστα. The statement in 2 § 10, that ἡ κατὰ τήν ὅλην ἀρετὴν τεταγμένη δικαιώσιν is τῆς ὅλης ἀρετῆς χρησίς πρὸς ἅλλον, shows clearly what is meant by τελεία ἀρετῆ. Cf. Rhet. 1. 9. p. 29. 30 ἀνάγκη δὲ μεγίστας εἶναι ἀρετάς τὸς τῶν ἅλλως χρησιμώτατα, ἐπερ ἐστιν ἡ ἀρετὴ δύναμις εὐφρενική, διὰ τούτο τούς δικαίους καὶ ἀνδρείους μάλιστα τιμῶσιν ἡ μὲν γὰρ ἐν πολέμῳ ἡ δὲ καὶ ἐν εὐφρενὶ χρῆσιμος ἅλλος. The phrase ὅτι τῆς τελείας ἀρετῆς χρησίς ἐστιν [sc. ἡ δικαιώσιν] is strange, since χρησίς is almost equivalent to ἐνέργεια (Berlin Index, s. v.), and a εῖς can hardly be identified with an ἐνέργεια; but cf. 2 § 10, quoted above. Apparently in this place δικαιώσιν is the practice of the virtue, not the virtue itself. Aristotle would hardly have expressed himself so loosely. For the sentiment cf. Polit. iv. (vii.) 2. p. 97. ἡ ἐφ’ ἐκάστης γὰρ ἀρετῆς οὐκ ἐίναι πράξεις μᾶλλον τῶν ᾨδότων ὁ τοῦτ ἡ καὶ πράττουσι καὶ πολιτευομένοις.

NOTES.

§ 17. ἀλλότριον ἀγαθὸν] Plat. Rep. 343 c. ἢ κοινωνία] Bekker is mistaken in saying that Ηᵃ Nᵇ read κοινον. On the strength of Bekker's statement Michelet admits this reading into his text, commenting thus: "ἡ ἀρχοντι ἢ κοινον referendum est ad duplex civitatum genus, quod Aristoteles Polit. III. 7 exponit...Κοινωνία non esset diversum ab ἀρχοντι, cum ii, penes quos summa imperii est, participes sint civitatis (κοινωνία τῆς πόλεως. Α' nobis stat Michael Ephesius." The alteration is unnecessary. The words ἢ ἀρχοντι ἢ κοινωνία may be paraphrased: 'either that of the governing class in the case of a παρεκβεβηκνια πολιτεία, or that of his fellow-citizens in the case of a πολιτεία ὀρθή.' See note on § 13. Michelet's reference to the Latin translation of Mich. Ephes. ("si populus administrat, reipublicae") is not justified by the Greek original of the commentary.

§ 18. ὁ καὶ πρὸς αὐτὸν καὶ πρὸς τοὺς φίλους] The first καὶ means 'even', i.e. 'not merely towards his neighbour but'; not 'both,' because friends are looked upon as part of the man himself (πρὸς δὲ τὸν φίλον ἔχειν ὁπερ πρὸς ἑαυτὸν, ἐστὶ γὰρ ὁ φίλος ἄλλος αὐτὸς IX. 4 § 5), and therefore cannot be identified with the ἐτέρον. See Rassow's Forschungen p. 61. Nötel (Quaest. Aristot. Spec. p. 10) would omit the first καὶ and the second πρὸς.

ἀλλ' ὁ πρὸς ἐτέρον] So Rassow I. c. with the countenance of Ηᵃ Nᵇ Oᵇ. Bekker with the remaining MSS. omits the article.

§ 19. ἡ ἀρετῆ] This seems to be an Eudemian phrase: cf. E. E. II. 1 § 14 ἡ τούτου ἀρετῆ ὅπλα τὸς μόριον τῆς ἀληθῆ ἀρετῆς.

§ 20. ἔστι μὲν γὰρ, κ.τ.λ.] Cf. de anima II. 12. p. 424. a. 25. III. 2. p. 425. b. 25. p. 427. a. 7. de somnii i. p. 459. a. 15. E. N. VI. 8 § 1 (all quoted by Trendelenburg, Beiträge II. 356), as well as the references in the Berlin Index, s. v. ἐναι p. 221. a. 50. Trendelenburg is most certainly right in taking ἀπλώς, not (as Bekker takes it) with ἀρετῆ, but with τοῦτος ἐξὶς: "Inwiefern sich jene Gesinnung und Fertigkeit (ἐξίς), welche dem Gesetz überhaupt angemessen ist, auf einen Andern bezieht, ist sie Eignigkeit; inwiefern sie eine solche Gesinnung und Fertigkeit schlechthin ist, Tugend. Das ἀπλώς steht dem πρὸς ἐτέρον entgegen, wie p. 1129. b. 26 αὕτη μὲν οὖν ἡ δικαιο-

§ 1. τῆν ἐν μέρει ἀρετῆς δικαιοσύνην—ἀδικίας τῆς κατὰ μέρος] For
the equivalence of ἐν μέρει and κατά μέρος; see Waitz Organ. i. 375, and Eucken über den Sprachgebrauch des A. ii. p. 24 sq.

§§ 2—5. Nötel, supposing these §§ to contain three distinct arguments,—the second (§ 4) and the third (§ 5) being introduced by the word ἐτι,—remarks that the third argument (§ 5) is identical with the first (§§ 2, 3): "Si quid uideo aliud nihil his urbis (ἐτι περὶ μὲν ταλλα, κ.τ.λ.) efficitur, nisi luceri cupiditatis non proprium esse nomen, sed idem, quod ipsius est improbitatis universae. Quid uero? Nonne id iam prima argumentatione satis atque abunde dictum est? Aliam uero sententiam ex istis urbis equidem elicere non possum. Atque si ipsa uocabula diligentius inspicimus, uidentus exempla, quae hoc loco usurpantur, iam omnia in eis, quae praeecedunt, exstare." Quaest. Aristot. Spec. p. 11. He proposes to meet the difficulty by excising the third argument (§ 5). I think that this measure is unnecessary. The author wishes to establish two propositions: (1) that there is such a thing as partial or particular injustice, (2) that its motive is gain. The first of these propositions is proved in § 2, and affirmed in § 3. The ἐτι at the beginning of § 4 introduces the second of the two propositions, which is proved in § 4, and affirmed in the words δὴ λογο ἃρα ὦτι διὰ τὸ κερδαίνειν. Finally the argument of § 2 is restated in § 5, with the substitution of the emphatic words ei δ' ἐκέρδανεν for ὅταν δὲ πλεονεκτῇ, so as to mark both points simultaneously. If this interpretation is the true one, it is clearly unnecessary to read with Spengel (Aristot. Stud. i. 40) δῆλον γὰρ ὦτι in place of δῆλον ἃρα ὦτι.

§ 6. συνώνυμοι] Both ἡ ὅλη ἄδικια and ἡ ἐν μέρει ἄδικια are ἑναρχή πρὸς ἔτερον; hence the word ἄδικια is used, in reference to the ἕτερον in question, συνώνυμοι, not ὁμωνύμοι. See Trendelenburg's Elem. Log. Aristot. p. 116.

§ 7. παρὰ τὴν ὅλην ἁρετὴν] So the MSS.: but cf. § 6 ὡστε φανερὸν ὦτι ἐστὶ τις ἄδικια παρὰ τὴν ὅλην ἄλλη ἐν μέρει, and § 10 ἡ μὲν οὖν κατὰ τὴν ὅλην ἁρετὴν τεταγμένη δικαιοσύνη καὶ ἄδικια; whence it would appear that the phrases admissible are (1) παρὰ τὴν ὅλην δικαιοσύνην, and (2) παρὰ τὴν κατὰ τὴν ὅλην ἁρετὴν τεταγμένην. Hence I should like with Spengel (who also suspects ἁρετῆς in 2 § 1) to expunge ἁρετῆν.

§ 9. ἐτεὶ δὲ τὸ ἄνισον καὶ τὸ πλέον οὐ ταύτων ἀλλ' ἔτερον ὡς μέρος πρὸς ὅλον (τὸ μὲν γὰρ πλέον ἀπαν ἄνισον, τὸ δ' ἄνισον οὐ τὰν πλέον), καὶ τὸ ἄδικον καὶ ἡ ἄδικια οὐ ταύτα ἀλλ' ἔτερα ἑκείνων, τα μὲν ὡς μέρη τὰ δ' ὡς ἄλλα: μέρος γὰρ αὕτη ἡ ἄδικια τῆς ὅλης ἄδικίας, ὁμοίως δὲ καὶ ἡ δικαιοσύνη τῆς δικαιοσύνης. ὡστε καὶ περὶ τῆς ἐν μέρει δικαιο-
NOTES.

σύνης καὶ περὶ τῆς ἐν μέρει ἀδικίας λεκτέων, κ.τ.λ. So reads Bekker. In a paper in the Journal of Philology 1872, iv. 318, I proposed with Spengel to omit the parenthetical sentence τὸ μὲν γὰρ πλέον ἀπαν ἄνισον, τὸ δὲ ἄνισον οὗ πάν πλέον, understanding after ταὐτόν, τὸ παράνομος, and after ἔτερον, τὸ παράνομον. This mode of treating the passage seemed at least better than that adopted by Mich. Ephes., whose note runs thus: εὖ ἀναλόγου τινός δείκνυε τὴν διαφοράν τῆς τε μερικῆς ἀδικίας καὶ τῆς ὀλης ἀδικίας καὶ τῆς μερικῆς δικαιοσύνης καὶ τῆς ὀλης, δινάμει λέγον, ὡς τὸ πλέον πρὸς τὸ ἄνισον οὕτως ἡ μερική δικαιο-

σύνη πρὸς τὴν ὀλην δικαιοσύνην. On further consideration however I have come to the conclusion that Trendelenburg is certainly right in accepting the correction of Muretus—ἐπεὶ δὲ τὸ ἄνισον καὶ τὸ παράνομον οὗ ταὐτὸν ἀλλ' ἔτερον ὡς μέρος πρὸς ὀλὸν' τὸ μὲν γὰρ ἄνισον ἀπαν παράνομον, τὸ δὲ παράνομον οὗ ἀπαν ἄνισον καὶ τὸ ἀδίκον, κ.τ.λ. Indeed it would seem that this reading, which gives a perfect sense, has just as much support in the MSS. as the nonsense which has been preferred to it. If I am not mistaken Pb has retained intact or almost intact a double reading from which the other MSS. have variously diverged. The text in this MS. is as follows ἐπεὶ δὲ τὸ ἄνισον καὶ τὸ παράνομον [πλέον] οὗ ταὐτὸν ἀλλ' ἔτερον ὡς μέρος πρὸς ὀλὸν τὸ μὲν γὰρ ἄνισον ἀπαν παράνομον τὸ δὲ παράνομον οὗ ἀπαν ἄνισον τὸ μὲν γὰρ πλέον ἀπαν ἄνισον οὗ πάν πλέον καὶ τὸ ἀδίκον, κ.τ.λ. The words which I have enclosed in brackets are clearly second readings. Now Kb retains both readings in the first clause, but in the parenthetical sentence which follows exhibits only the second of the two readings. On the other hand Mb giving only the second reading, and Ob hesitating between the first and second readings in the first clause, agree in retaining the double reading in the second clause, but differ in the words by which the two readings are connected. Lb and Nb however consistently prefer the second reading in both clauses, and this consistency has secured to their text a preference to which it was not entitled by its merits. The inferior MSS. which I have had an opportunity of consulting exhibit similar varieties of text. Thus Par. 1853, 2023, Ambros. H. 113, and the New College MS., have the first reading in the first clause, the double reading in the second: Par. 1856, 2024, have the first reading in the first clause, the second in the second; the translatio vetus has with unimportant deviations the second reading in the first clause, both readings in the second: Par. 1417, 1855, Ambros. B. 95, G. 86, have the second reading in both clauses: finally whereas Par. 1852 has the first reading in the first
clause, and the second in the second, and Ambros. A 62 has the
second reading in both clauses, these two MSS. agree in the absurd
confusion το μεν γαρ ἄνισον ἄπαν ἄνισον. I conceive then that all
our MSS. are based upon a MS. which had the double reading, and
I have no hesitation in preferring in both clauses the first reading
to the second, since (1) the distinction between the two kinds of
justice depends, not upon the distinction between ἄνισον and πλέον,
but upon that between παράνομον and ἄνισον in which πλέον is
included, and (2) Bekker's reading is after all inconsistent with itself,
as τὸ ἄνισον and τὸ πλέον are related to one another, not ὡς μέρος
προς ὅλον, but ὡς ὅλον προς μέρος. In the foregoing statement of
the readings it has not been mentioned that, instead of ὡς μέρος προς
ὁλον, Kb gives ὡς μέρος καὶ προς ὅλον. As καὶ is manifestly super-
fluous, it would seem that here again we have a double reading. If
so, all the extant MSS. are derived from one in which the text ran thus:
ἐπεὶ δὲ τὸ ἄνισον καὶ τὸ παράνομον [πλέον] ὡς ταὐτὸν ἀλλ’ ἔτερον
ὡς μέρος καὶ [προς] ὅλον: τὸ μεν γαρ ἄνισον ἄπαν παράνομον τὸ δὲ
παράνομον οὐκ ἄπαν ἄνισον. [τὸ μεν γαρ πλέον ἄπαν ἄνισον τὸ δ’
ἄνισον οὐ τὰν πλέον’] καὶ τὸ ἀδίκον, κ.τ.λ.

οὕτω] I have removed the full stop which Bekker places after
dικαιοσύνης, as οὕτω clearly introduces the apodosis of the sentences
which precede.

§ 10. διοριστέον] Rassow (Forschungen, p. 93) conjectures ἀφορι-
στέον.

σχεδὸν γὰρ, κ.τ.λ.] Universal δίκαια and ἀδίκα, being respec-
tively τὰ νόμιμα and τὰ παράνομα, may be ascertained by a reference
to the particular virtues and vices: for, as we have seen in 1 §§ 13, 14,
law is concerned (1) with the direct encouragement of the
particular virtues which together make up universal virtue, and the
direct discouragement of the particular vices which together make up
universal vice, and (2) with the indirect encouragement of the par-
ticular virtues, and the indirect discouragement of the particular
vices, by means of educational enactments.

§ 11. περί παιδείαν τὴν προς τὸ κοινῷ] The education which fits a
man to perform his duties as citizen of a particular state.

περί δὲ τῆς καθ’ ἐκαστὸν, κ.τ.λ.] 'Whether it is the business of
πολιτική or of some other science to provide that education which
makes the individual a good man, must be determined hereafter.'
That there is a difference between the education which produces a
good citizen, and that which produces a good man, follows from the
doctrine, enunciated here in anticipation of Polit. iii. 4. p. 63. 5 sqq., that the virtue of the good man and the virtue of the perfect citizen are not in every case (παρά) identical. In Polit. iii. 6. p. 67. 21 Aristotle says more precisely that in some states the two sorts of virtue are distinct, i.e. the virtue of the perfect citizen is not coincident with that of the good man, but that in others the virtue of the good man is identical with that of a citizen who engages in politics, and takes part or may take part alone or in conjunction with others in the administration of public affairs: cf. Polit. iv. (vii.) 14. p. 119. 22. From Polit. vi. (iv.) 7. p. 157. 32 we learn further that it is only in the ἀριστοκρατία (here expressly identified with Aristotle’s perfect polity) that this identity is possible; ἐν μόνῃ γὰρ ἀπλῶς οὗ ἄνθεος ἄνθη καὶ πολιτῆς ἄγαθός ἦστιν· οἱ δ’ ἐν ταῖς ἄλλαις ἄγαθοι πρὸς τὴν πολιτείαν εἰτὶ τὴν αὐτῶν: cf. iii. 18. p. 93. 11. The preliminary question—πότερον ἐτέραν ἢ τὴν ἄντην ἀρετὴν θετέον καθ’ ἢν ἄνθη ἄγαθός ἦστι καὶ πολιτῆς σπουδαῖος;—having been answered in this sense, it follows that in general παιδεία should be πρὸς τὴν πολιτείαν ‘adapted to the particular constitution’ (Polit. i. 13. p. 22. 17. v. (viii.) 1. p. 130. 2 sqq. viii. (v.) 9. p. 215. 29), but that in the ἀριστή τόλις, where the virtue of the perfect citizen is identical with that of the good man, the legislator will endeavour to make his fellow citizens good men (Polit. iv. (vii.) 14. p. 119. 22. cf. iii. 18. p. 93. 11). In any case the state should superintend education, instead of leaving it to the discretion of parents (Polit. v. (viii.) 1. p. 130. 10. N. E. x. 9 §§ 13, 14). I cannot think that Grant’s note upon the present passage accurately represents Aristotle’s views. For the phrase ἄνθρ. ἄγαθος εἶναι see Trendelenburg on de Anim. iii. 4. p. 29. b. 10. With the emphatic παντὶ ‘in all cases’ compare τινὸς ‘in some cases’ in Polit. iii. 4. p. 64. 11 ἀλλ’ ἅρα ἐσται τινὸς ἢ αὐτὴ ἀρετὴ πολίτου τε σπουδαίον καὶ ἄνθρος σπουδαίον;

§ 12. τῆς δὲ κατὰ μέρος δικαιοσύνης, κ.τ.λ.] This classification may be represented thus

<table>
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<tr>
<th>τὸ κατὰ μέρος δίκαιον</th>
<th>τὸ ἐν ταῖς διανομαῖς</th>
<th>τὸ ἐν τοῖς συνναλλάγμασι διορθωτικῶν</th>
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<tr>
<td>τὸ ἐν τοῖς ἐκουσαῖς</td>
<td>τὸ ἐν τοῖς συνναλλάγμασι διορθωτικῶν</td>
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<td>συναλλάγμασι διορθωτικῶν</td>
<td>τὸ ἐν τοῖς ἐκουσαῖς</td>
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<td>τὸ δ. τὸ ἐν τοῖς ἐκουσαῖς</td>
<td>τὸ δ. τὸ ἐν τοῖς ἐκουσαῖς</td>
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<tr>
<td>σ. ὅσα λαθραία ἦστιν</td>
<td>σ. ὅσα βλαία ἦστιν</td>
<td></td>
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</table>

Here τὸ ἐν ταῖς διανομαῖς οὐ τὸ διανεμητικὸν δίκαιον (4 § 2) is that δίκαιον which is exhibited in the distribution of public position,
property, and advantages. In general the author assumes the χρήματα distributed, as well as the τιμαί, to belong to the state (§ 12 and 4 § 2), but it is obvious that his remarks apply also to smaller κοινωνίαι such as companies of merchants or manufacturers. For the political application of the conception of τὸ διανεμητικὸν δίκαιον see especially Polit. iii. 9 and viii. (v.) i, where τὸ ὀλγαρχικὸν δίκαιον and τὸ δημοκρατικὸν δίκαιον are investigated. In these passages we are told that τὸ δίκαιον is τὸ κατ' ἀναλογίαν ἱσον (p. 193. 30) and again that τὸ ἀπλῶς δίκαιον is τὸ κατ' ἄξιαν (p. 195. 15), but that oligarchs and democrats differ in their interpretation of the fundamental formula, the former laying claim to an universal superiority in virtue of their superior wealth, and the latter asserting universal equality in virtue of their equal wealth, which agrees exactly with the above-mentioned passages. This is not inconsistent with Polit. vii. (vi.) 2. p. 179. 11 καὶ γὰρ τὸ δίκαιον τὸ δημοτικὸν τὸ ἱσον ξεχω ἄστι κατ' ἀριθμὸν ἄλλα μὴ κατ' ἄξιαν, since the democratic interpretation converts τὸ κατ' ἄξιαν ἱσον (proportionate equality) into τὸ κατ' ἀριθμὸν (numerical equality). With τὸ ἱσον τὸ ἀντιπεπτοῦσος, which, we are told in Polit. ii. 2. p. 24. 11, σώζει τὰς πόλεις, we are not yet concerned.

τὸ ἐν τοῖς συναλλάγμασι δ.] I.e. the justice which rectifies unjust divisions both voluntary and involuntary. Thus voluntary transactions do not "come under the head of corrective justice" (Grant Edit. 2); it is the rectification of wrong arising out of such transactions with which this sort of justice is concerned, cf. Journal of Philology 1872, iv. 311. In his edition of 1874 Grant accepts this interpretation.


δουλαπατία δολοφονία] Mich. Ephes. appears to have read δουλαπατία δουλοφονία, as he remarks—ὁμοίως καὶ ὁ δοῦλον ἀπατήσας καὶ φονεύσας ἀντάλλαγμα δίδωσιν.

βιαία] Of course αἰκία, κ.τ.λ. are called βιαία from the point of view of the sufferer, not in the sense in which the word is used in N. E. iii. 1.

πήρωσις] Cf. Plat. Laws 874 E.

3 § 2. τὸ πλέον καὶ τὸ ἐλαττον] 'Excess' and 'defect' the two elements of which τὸ ἄναρχον consists.

§ 3. τὸ δίκαιον ἱσον] Polit. iii. 12. p. 78. 16 δοκεῖ δὲ πᾶσιν ἱσον τι τὸ δίκαιον εἶναι, καὶ μέχρι γέ τινος ὀμολογεῖ τοῖς κατὰ φιλοσοφῶς λόγοις ἐν ὅσι διώρισται περὶ τῶν ἥδικων τί γὰρ καὶ τις τὸ δίκαιον, καί
NOTES.

4. dv n tois istor ouiov einai faqin. poiow 8' isotypis esti kai poiow anisotypis, dec me laubainev: cf. also Polit. III. 9. p. 71. 25, quoted by Grant as "a passage from which it is not improbable that the present chapter may be partly taken, though an interpolated reference (kavapter efirrtau proreros en tois eyikois) gives the passage in the Politics a fallacious appearance of having been written later, and of having accepted conclusions from the present book. Far rather it is likely that the conception of 'distributive justice' having been received as a conception from Plato, and farther worked out by Aristotle in his Politics, only became stereotyped into a phrase in the after-growth of his system, at the end of his own life, or in the exposition of his views made by Eudemus." I cannot assent to this theory. Books VIII. and IX. afford evidence that the investigation of justice contained in the original fifth book resembled that contained in the extant Eudemian paraphrase. Why then may we not suppose that the passage in the Politics quotes, not indeed from the Eudemian book, but from a Nicomachean equivalent, and that in the passage before us Eudemus draws upon his ordinary sources of information? Grant also condemns the words otoper en tois eyikois efrirthei proreros in Polit. II. 2. p. 24. 12, and tries to explain away en ois dieiristai peri tov eyikov in Polit. III. 12. p. 78. 17 (quoted above).

§ 4. anagk toun, k.t.a. 'The just, as has been shewn, is (1) meou, (2) istor; it is also (3) pro esti 'relative.' Inasmuch as it is meou, it implies certain extremes between which it lies; inasmuch as it is istor, it implies, as has been said, two things; inasmuch as it is dikaiou, it implies certain persons. Hence the just implies at least four terms, two persons and two things.' "A confusion is made" says Grant with reason, "by the introduction of the idea of meou with regard to justice, which at the present part of the argument was not required." Though irrelevant, the reference to to meou is not, I think, an interpolation; cf. M. M. I. 34 § 7 to de ge istor en diaxietous dousin egninitai to ara proes eteron istor einai dikaiou esti, kai dikaios o toutos an eip. epei ouh istor dikaiosunen en dikaios kai en istor kai en mesoteta, to mev dikaiou en tavis legetai dikaiou, to istor tais istor, to de meou tais meou, woste istor dikaiosunen kai to dikaiou estai kai proes tinas kai en tais. This passage seems to me to prove the substantial integrity of §§ 3, 4. In both places (1) to istor is said to imply two terms, (2) the irrelevant reference to to meou is introduced, and (3) the four terms of the anagkia are obtained by the consideration of dikaiou, firstly as istor, and secondly as dikaiou. But whereas in v. 3 § 4 as read by Bekker,

[kai πρός τι] καὶ τισῶν, we have an abrupt and premature anticipation of the after statement ἡ δὲ δίκαιον, τισῶν, in the corresponding sentence of M. M. 1. 34 § 7 we have the preliminary proposition τὸ ἀρα πρὸς ἔτερον ἵσον εἶναι δίκαιον ἕστι. Hence with Lb I retain καὶ πρὸς τι as the equivalent of πρὸς ἔτερον in the M. M., and omit καὶ τισῶν as a gloss anticipatory of ἡ δὲ δίκαιον, τισῶν. ( Cf. Plat. Phileb. 51 c and d, where πρὸς τι and πρὸς ἔτερον are used indifferently: ταῦτα γὰρ οὖν εἶναι πρὸς τι καλὰ λέγω, καθάπερ ἄλλα, ἄλλ᾽ ἄλλη καλὰ καθ᾽ αὐτὰ περιφέρεια....λέγω δὴ [τὰς] τῶν φθογγὼν τὰς λείας καὶ λαμπράς, τὰς ἐν τι καθαρῶν λείας μέλος, οὐ πρὸς ἔτερον καλᾶς ἄλλ᾽ αὐτὰς καθʻ αὐτὰς εἶναι.) This course is countenanced by the V. A., which, at the end of § 4, where we read ἡ δὲ δίκαιον, τισῶν, has ‘secundum autem quod iustum aliquibus et ad aliquos: ad alios enim est,’ i.e. ἡ δὲ δίκαιον, τισῶν καὶ πρὸς τινας: πρὸς ἔτερους γὰρ ἕστιν; and perhaps by Mich. Ephes., who writes ἡ δὲ δίκαιον τισὶ καὶ πρὸς τινᾶς. τὸ δὲ τισὶ καὶ πρὸς τινᾶς ἕκε παραλληλῶν κείται ταῦταν σημαίνων πρὸς ἄλλους γὰρ τὸ δίκαιον καὶ ἡ δίκαιοσύνη, οὐς θεροῦσι, δίνωσι. Whether the words added by the V. A. belong to the text or not, I am sure that they represent the argument. Recent editors have attempted in spite of M. M. 1. 34 § 7 to connect ἡ μὲν μέσον, τινῶν with the main argument, and with a view to this have allowed themselves considerable licence of conjectural emendation. Thus Spengel (Aristotelische Studien i. 42) reads ἀνάγκη τοῖς τὸ δίκαιον μέσον τε καὶ ἴσον (ὅν) εἶναι (τινῶν) καὶ τισῶν, καὶ ἴσον καὶ τισῶν, ἡ δὲ ἴσον, τισῶν. ἀνάγκη ἀρα τὸ δίκαιον ἐν ἑλαχίστοιο εἶναι τέταρταιν οἷς τε γὰρ δίκαιον τυγχάνει οὖν, δύο ἕστι, καὶ ἐν οἷς: and Münsters ἀνάγκη τοῖν τοιν τὸ δίκαιον μέσον τε καὶ ἴσον ὑν εἶναι καὶ ἐν τισὶ καὶ τισῶν: ἀνάγκη ἀρα τὸ δίκαιον ἐν ἑλαχίστοιο εἶναι τέταρταιν οἷς τε γὰρ δίκαιον τυγχάνει οὖν, δύο ἕστι, καὶ ἐν οἷς τὰ πράγματα δύο. καὶ αὐτῇ ἔσται ἡ ἴσοτης, οἷς καὶ ἐν οἷς.

§ 5. οἷς καὶ ἐν οἷς I conceive that throughout the passage οἷς means the persons, ὡς the things concerned. Cf. Polit. iii. 9. p. 71. 25 οἷον δοκεῖ ἴσον τὸ δίκαιον εἶναι, καὶ ἴσον, ἄλλ᾽ οὗ παύσων ἄλλα τοῖς ἵσοις. καὶ τὸ ἄνισον δοκεῖ δίκαιον εἶναι: καὶ γὰρ ἕστιν, ἄλλοι παύσων ἄλλα τοῖς ἄνισοις. οἷος δὲ τοῦτο ἀφαιρέσθαι, τὸ οἷς καὶ κρίνουσι κακῶς.....πρὸς ἐπεὶ τὸ δίκαιον τισῖν, καὶ δήμηται τοῦτων τρόπων ἐπὶ τε τῶν πραγμάτων καὶ οἷς, καθάπερ εἰρήνη πρὸτερον ἐν τοῖς ἱθύκοις, τὴν μὲν τοῦ πράγματος ἴσοτητα ἀμοιβαίνωσι, τὴν δὲ οἷς ἀμφοτεροί. (Grant assumes that the writer of this book borrows from the Politics. See note on 3 § 3.) Hence in καὶ ἐν οἷς τὰ πράγματα δύο, I have bracketed τὰ πράγματα. That ἐν οἷς τὰ πράγματα does not stand for ἐν οἷς τὰ πράγματα ἑστι, “two shares at least into which the matter
of the action will be divided” (Williams), was understood by Mich. Ephes., who comments thus: τὴν δὲ λέξιν τὴν καὶ ἐν οἷς τὰ πράγ-
ματα, δύο ὑπερβατῶς ἀναγνωστέων, καὶ τὰ πράγματα ἐν οἷς, δύο.
In § 6 I omit the words τὰ ἐν οἷς which appear in all the MSS.
except Kb, and in Bekker’s text, in order that here, as in the sentences
before and after, the persons may take precedence of the things dis-
tributed. The MS. followed by the V. A. added τὰ οἷς after οὕτω
κἀκεῖνα in place of ἐξεῖ. (In M. M. I. 34 § 7 ἐν τισι and τισὶν appear
to have been transposed. Read τὸ μὲν δίκαιον τισὶ λέγεται δίκαιον,
tὸ δ’ ἴσον ἐν τισιν ἴσον.)

§ 6. καὶ ἥ αὐτῇ ἐσται ἴσοτης, οἷς καὶ ἐν οἷς] I. e. where the persons
are equal, the things are equal. The author takes first the case which
is represented by the formula \( \frac{A}{B} = \frac{C}{D} = 1 \), because he has not yet
explained that \( \epsilonί \ η \ ίσοι, \ οὐκ \ ἵσα \ έξονιν. \)

\( \epsilonί \ γάρ \ η \ ίσοι, \ κ.τ.λ. \)] Cf. Plat. Læws 757, together with Isocrat.
(quoted by Stallbaum in his commentary) : also Gorg. 508 a. In
the face of the quotations from Plato it is unnecessary to suppose
with Grant that this “is taken from the saying in Aristotle’s Polit.
ii. ix. 4. Cf. Ib. iii. ix. 15”: though, as might have been ex-
pected, the sentiment recurs again and again in that treatise; cf. ii.
(v.) 3. p. 199. 14. See also Bacon’s Advancement of Learning ii.
(III. 348, Spedding’s edition) “Is not the rule, ‘Si inaequalibus
aequalia addas, omnia erunt inaequalia, an axiom as well of justice as
of the mathematics?”

§ 7. ἐτὶ ἐκ τοῦ κατ’ αξίαν] The statement made in the last § is
now extended to the more general case represented by \( \frac{A}{B} = \frac{C}{D} \),
when \( A \) is not necessarily equal to \( B \), τοῦτο being equivalent to ὅτι
ὡς ἑκάναι ἐξεῖ, οὕτω κἀκεῖνα ἐξεῖ. Here τὸ κατ’ αξίαν includes τὸ κατ’
ἀριθμὸν, as in Polit. viii. (v.) i. p. 195. 14 ὁμολογοῦντες δὲ τὸ ἀπλῶς
ἐμαι δίκαιον τὸ κατ’ ἀξίαν, διαφέρονται, καθάπερ ἐλέξθη πρῶτον, οἱ
μὲν ὅτι, ἐὰν κατά τι ἵσοι ὅσιν, ἄλος ἵσοι νομίζοντι ἐμαι, οἱ δ’ ὅτι, ἐὰν
κατά τι ἄναυοι, πάντων ἁλῶσον ἀξίον ἡκοῦσιν ἡκουτοῦ. But in general the
phrase κατ’ αξίαν is used in a narrower sense, so as to exclude the
case in which the persons are assumed to be equal, this case being
said to be determined κατ’ ἀριθμὸν: cf. Polit. vii. (vi.) 2. p. 179.
\[\text{[NICOMACHEAN] ETHICS V. 3 §§ 7—11.}\]

11 καὶ γὰρ τὸ δίκαιον τὸ δημοτικὸν τὸ ἴσον ἔχειν ἐστὶ κατ' ἀριθμὸν ἀλλὰ μὴ κατ' ἀξίαν. VII. (vi). 6. p. 188. 3 τὰς μὲν οὖν δημοκρατίας ὄλος ἡ πολιτείωσις σώζει τὸν γὰρ ἀντίκειται πρὸς τὸ δίκαιον τὸ κατὰ τὴν ἀξίαν. VIII. (v.) 10. p. 217. 24 κατ' ἀξίαν γὰρ ἐστὶν, ἡ κατ' ἀξίαν ἀρετὴν ἡ κατὰ γένους, ἡ κατ' εὐγενείαν, ἡ κατὰ ταύτα τε καὶ δύναμιν.

τὴν μὲν δὲν ἀξίαν, κ.τ.λ.] Cf. Polit. III. 9. p. 72. 4. VIII. (v.) 1. p. 193. 31. III. (v.) 1. p. 195. 14 (see preceding note). In democracy freedom is the ἀξία, and as freedom does not admit of degrees, all men are equal and τὸ κατ' ἀξίαν ἴσον is resolved into τὸ κατ' ἀριθμὸν ἴσον: in oligarchy either wealth or birth, and in aristocracy excellence, is the ἀξία, and as men possess these qualifications in different degrees, τὸ κατ' ἀξίαν ἴσον, in the narrower sense in which it excludes τὸ κατ' ἀριθμὸν (or τὸ κατὰ ποσὸν N. E. VIII. 7 § 3) ἴσον, constitutes δίκαιον in these politics.

οἱ δὲ εὐγενεῖς] Polit. VI. (iv.) 8. p. 159. 25 ἐπεὶ δὲ τρία ἐστὶ τὰ ἀμφιμεθητόντα τῆς ἴσοτητος τῆς πολιτείας, ἑλευθερία πλοῦτος ἀρετῆς (τὸ γὰρ τέταρτον, δ καλούσων εὐγενεῖαν, ἀκολουθεῖ τοῖς δυσίν' ἡ γὰρ εὐγένεια ἑστὶν ἀρχαῖος πλοῦτος καὶ ἁρετῆς), φανερῶν, κ.τ.λ. VIII. (v.) 1. p. 194. 14 εὐγενεῖς γὰρ εἶναι δοκοῦσιν οίς ὑπάρχει προγόνων ἀρετῆς καὶ πλοῦτος. Thus the εὐγενείς is one whose ancestors have been distinguished either by merit or by wealth (which implies merit of some sort in its possessor); but as Aristotle had not much faith in the γενναιότης of εὐγενεῖς (Rhet. II. 15), i.e. in their preserving the virtues of their ancestors, we may infer that he had no particular respect for oligarchy founded on birth.

§ 8. Euclid. Elem. v. Def. 3 λόγος ἴστι δύο μεγεθῶν ὁμογενῶν ἡ κατὰ πηλικότητα πρὸς ἀληθαὶ ποιά σχέσεως. Def. 6 τὰ δὲ τῶν αὐτῶν ἔχοντα λόγον μεγεθῆ, ἀνάλογον καλεῖσθο. Def. 8 ἀνάλογα δὲ ἐστὶν ἡ τῶν λόγων ταυτότης. Def. 9 ἀνάλογα δὲ ἐν τριῶν ὅροις ἑλαχίστους ἴστιν. It will be observed (1) that the author's definition of ἀναλογία is equivalent to Euclid's def. 8, which, with def. 6, modern mathematicians agree in condemning: (2) that the definition is here regarded as an arithmetical, not as a geometrical, definition of proportion: (3) that in this definition he anticipates Barrow's remark that ἰσότητα would be an improvement upon ὁμοιότης or ταυτότης: (4) that he differs from Euclid in accounting a continued proportion a proportion of four terms at least: and (5) that the phraseology of this § and § 4 confirms the text of Euclid v. def. 9, in which Peyrard and Camerer would substitute ἑλαχίστη for ἑλαχίστοις; cf. also Nicom. Gerasen. II. 21 § 3.
§ 9. διηρημένη—συνεχής] These two kinds of proportion are called by Nicom. Gerasenus ii. 21 §§ 5, 6 συνημμένη and διεξευμμένη respectively. Throughout §§ 9, 11, 12, where I have given ordinal numbers, most of the editors write cardinals (α, β, γ, δ). In order to avoid the arithmetical absurdity (1 : 2 = 3 : 4) thus produced, I proposed in the *Journal of Philology* 1872, iv. 310 to write (with Fritzscbe) Α, Β, Γ, Δ: but on further consideration I am convinced that πρῶτον, δευτέρον, κ.τ.λ. should be substituted. The otherwise strange phrases α α ὀρος, τοῦ τοῦ ὀρου in §§ 11, 12 suggest this alteration, and it is confirmed by several MSS., Hα and Kβ throughout §§ 9, 11, 12, and Pβ and Nβ in §§ 9, 12, writing ordinals in full, whilst Pβ pr. man. gives sometimes ordinals in full, sometimes α β γ δ with superposed marks which may perhaps represent the terminations of ordinals, cf. Bast *Comment. Palaeogr.* p. 850. Michael Ephesius and Averroes seem to have had ordinals. But in § 9 there is a further difficulty. What is the meaning of the phrases ἢ τοῦ πρῶτου, τὴν τοῦ δευτέρου, κ.τ.λ.? Can they mean 'the line which we take for our first term,' 'the line which we take for our second term'? Mich. Ephes. comments as follows—τὸ δὲ τῆς λέξεως τῆς οἴνων ὡς ἢ τοῦ πρῶτου προσ τὴν τοῦ δευτέρου τοιοῦτον ἑστιν, ὡς ἢ τοῦ πρῶτου ὀρου σχέσις τοῦ ὄκτω πρὸς τὸν δευτέρον τὸν δ (καὶ τὴν τοῦ δευτέρου τοῦ δ), ὡς οὖσα ἢ τοῦ δευτέρου τοῦ δ πρὸς τὴν τοῦ τρίτου τοῦ β. But is not this a misuse of the word σχέσις? Cf. Eucl. *El.* v. def. 3, quoted above. At any rate we may safely reject the alternative suggestion of Grant that στιγμή is to be supplied, as well as his theory that the proportions are algebraical quantities.

§ 10. διήρηται γαρ ὀμοίως, οἷς τε καὶ α] Polit. iii. 9. p. 71. 31 διήρηται τῶν αὐτῶν τρόπων ἐπὶ τε τῶν πραγμάτων καὶ οἷς.

§ 11. ἐναλλάξ] Euclid *Elem.* v. def. 13 ἐναλλάξ λόγος ἐστὶ λῆψις J.
§ 12. ἡ ἄρα τοῦ πρῶτον ὁρον, κ.τ.λ.] I.e. (to take a simple case) let A and B be the wealth of two citizens in a plutocracy, and let C and D be the shares which are justly assigned to them in a distribution of property won in war. Thus $A : B$ represents their relation before the distribution, $A + C : B + D$ their relation after it. The distribution being ex hypothesi a just one and their position relatively to one another consequently remaining unaltered,

$$\frac{A + C}{B + D} = \frac{A}{B}.$$ 

Hence as here $A$, $B$, $C$, $D$, are said to be in geometrical ἀναλογία, i.e. proportion, geometrical ἀναλογία is the rule of distributive justice.

σύνεσεσ = Euclid's σύνθεσις: σύνθεσις λόγου ἐστὶ λῆψις τοῦ ἦγομένου μετὰ τοῦ ἐπομένου ὡς ἐνὸς πρὸς ἄλλο τὸ ἐπόμενον. v. def. 15. Cf. v. prop. 17, 18.

§ 14. ὁ μὲν γὰρ ἀδικῶν πλέον ἔχει, κ.τ.λ.] In this case, as will be seen hereafter, corrective justice steps in to restore the balance.

§ 15. ἐν ἀγαθῷ γὰρ λόγῳ, κ.τ.λ.] Cf. I § 10.

4 § 1. τὸ δὲ λοιπὸν ἐν τὸ διορθωτικόν] Vide supra 2 §§ 12, 13. Corrective justice is the justice which rectifies wrong arising out of a σωφάλλαγμα, whether the person wronged was or was not in the first instance a voluntary agent. Thus to take an example of a ‘voluntary’ transaction: A borrows money from B (who is here ἐκὼν) and does not fulfil his engagement to repay the loan at a certain time; corrective justice takes from A the proper amount and restores it to B. Again in an ‘involuntary’ transaction, e.g. when A slanders B (who is here ἀκων), corrective justice secures to the injured person compensation for the loss which he has sustained. Although in his note upon 2 §§ 12, 13 Grant appears to accept this interpretation, his note upon the present passage stands as it did in his second edition. “The term ‘corrective justice’ is itself an unfortunate name, because it appears only to lay down principles for restitution, and therefore implies wrong. Thus it has a tendency to confine the view to ‘involuntary transactions,’ instead of stating what must be the principle of the just in all the dealings between man and man.” Apparently Grant forgets that it is the original transaction which
is said to be either voluntary or involuntary, and that it is the rectification of wrong arising out of the original transaction with which corrective justice is concerned. Again in his next note Grant remarks that "τὸ διαρθρωτικὸν δίκαιον implies not merely 'regulative,' but strictly 'remedial justice.'" I do not think that it means regulative justice at all. Mich. Ephes. appears to have read τὸ δὲ λοιπὸν εἴδος in place of τὸ δὲ λοιπὸν ἐν.

§ 2. τὸ μὲν γὰρ διανεμητικῶν, κ.τ.λ.] Grant supposes this remark to be founded upon Polit. iii. 9. p. 74. 3.

§ 3. 'A and B being equal in the eye of the law, διαρθρωτικῶν δίκαιον is the arithmetical mean between A's position unjustly augmented and B's position unjustly impaired.'

καὶ χρήσαι ὡς ἰσότος] These words (if they are not interpolated) are parenthetical, εἰ δὲ μὲν ἀδικεῖ, κ.τ.λ. being necessarily connected with πρὸς τοῦ βλαβέου τὴν διαφορὰν μόνον βλέπει.

ἀδικεῖ—ἀδικεῖται—ἐβλαψεν—βέβλαπται] The tenses are thoroughly appropriate. When A has done a wrong to B, A is said ἀδικεῖν and B is said ἀδικεῖσθαι until compensation is made. Thus ἀδικεῖν expresses the resultant state rather than the commission of wrong. The aorist ἐβλαψε is appropriate to the doer of harm, because the question asked in his case is 'did he inflict harm? and the perfect βέβλαπται to the sufferer of harm because the question in his case is 'has he sustained harm?'


ἀλλὰ πειράται τῇ ἤμια, κ.τ.λ.] I.e. πειράται τῇ ἤμια ἵσαζεν τὸ κέρδος ἀφαιρῶν αὐτὸκ. 'He endeavours to equalize the unjustly augmented advantages of the one (τὸ κέρδος) and the unjustly impaired advantages of the other (τὴν ἤμιαν) by taking from the former and giving to the latter.' [So Münscher Quaest. Crit. p. 70.] Mich. Ephes. wrongly takes ζημία to mean the penalty by the imposition of which the δικαστική restores equality.

§ 5. λέγεται γὰρ, κ.τ.λ.] 'Strictly speaking these words κέρδος and ζημία apply only to cases in which the one seeks the restitution of property wrongfully appropriated by the other: but they may be used in an extended sense; for example, the satisfaction which A
derivest from striking $B$ may be regarded as a $κέρδος$, and the injury which $B$ suffers may be regarded as a $ξημία$. Originally however, as we are told in §13, these words applied to neither of these cases, but only to the profit and loss of commerce and of other transactions not interfered with by law.' Thus §13 is not (as is commonly supposed) a repetition of §5: vide infra.

§ 6. ἄλλ' ὅταν γε μετρήθη, κ.τ.λ.] 'But the words $ξημία$ and $κέρδος$ are not applicable until the wrong done and suffered comes to be estimated by the $δικαστής$.' So I understand these words, not at all agreeing with Trendelenburg, Beiträge III. 426, 427 "Wenn nun das Leiden abgeschätzt worden, dann wird das $κέρδος$ des Schlagenden zur $ξημία$ und der Nachtheil des Geschlagenen zu einem $κέρδος$, wodurch die Gleichheit hergestellt wird"; and not altogether agreeing with Rassow, Forschungen p. 122 "Nach meiner Ansicht ist zu übersetzen: aber erst dann nennt man das eine $ξημία$, das andere $κέρδος$, wenn das Erlittene gemessen ist. Es macht z. B. einen Unterschied, ob eine Misshandlung durch Beleidigung provoziert worden ist oder nicht, oder, um ein von Aristoteles unten (§ 4) gebrauchtes Beispiel zu benutzen, es kann darauf Rücksicht zu nehmen sein, dass der Gemisshandelte eine obrigkeitliche Person ist."

§ 7. καὶ $ξητούσι, κ.τ.λ.] Polit. III. 16. p. 90. 28 ὡστε δήλον ὅτι τὸ δίκαιον $ξητούσι τὸ μέσον $ξητούσι· ὃ γὰρ νόμος τὸ μέσον. Fritzsche compares Polit. vi. (iv.) 12. p. 167. 3 διαίρεσις δ’ ὧ μέσος, and Thuc. iv. 83 ἀτάμος ὃν Βρασίδα μέσῳ δικαστῇ ἐπιτρέπει. $μεσίδιον$ [The phrase ἀρχοντι $μεσίδιο$ is to be found in Polit. viii. (v.) 6. p. 206. 13, but the commentators know of no instance in which the word is equivalent to $δικαστής$. "Camerarius commonefacit nos verbi $μεσίδιον$ sui."

§ 8. δίὰ διαίρεσι] δίὰ διαίρειν is 'to divide into two equal parts,' "cf. Eucl. Elem. i. 10. 1. 9. III. 30." Trendelenburg Beiträge III. 428.

§ 9. The restoration of the true sequence of thought in this § is due to Rassow, Forschungen p. 30.


§ 10. <τοῦ> ἀφ' οὗ] Bekker, who reads ἀφ' οὗ with the MSS., is mistaken in saying that Οβ has το ἀφ' οὗ. "Articulus (το) est procul
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dubio omittendus aut refingendus in τοῦ" (Zell). It is clearly necessary to insert τοῦ.

§ 12. αὐτὸν ὧν ΑΑ ΒΒ ΤΤ, κ.τ.λ.] I.e. the lines designated ΑΑ, ΒΒ, ΤΤ. "Statt einfach den Buchstaben hinzuzufügset έστιν τοῦ, wird sehr oft gesagt έστι τὸ ἐφ᾽ οὐ (ὁ) τῷ 'das, woran Α,' wobei der Artikel τό auch sehr oft fehlt." Eucken über den Sprachgebrauch des Α. ii. 53. Cf. Waitz Organ. i. 308. But what are we to say to τοῦ ἐφ᾽ οὖν ΤΔ, which is found in all the MSS. except O, and retained by all the editors? Plainly we require either τοῦ ἐφ᾽ οὖν ΤΔ, or τοῦ ἐφ᾽ οὖν ΤΔ, or simply τοῦ ΤΔ. I prefer τοῦ ἐφ᾽ οὖν ΤΔ as nearest to τοῦ ἐφ᾽ οὖν ΤΔ, and I am confirmed in my choice by finding that O has this reading. The genitive and the dative appear to be used indifferently in such phrases. It will be observed that the whole lines are described as ἦν ΑΑ, κ.τ.λ., and the segments of them as τοῦ ΑΕ, κ.τ.λ. Thus έστι ΑΑ is what Euclid would call έστι ΑΑ γραμμή, τοῦ ΑΕ what he would call τοῦ ΑΕ ἁρμόμενα. In the following figure ΤΔ = ΤΖ = ΑΕ. It is strange that this is not expressly stated in the text.

A———E———A'
B———B'———
Δ———Γ———Γ'

έστι δὲ καὶ ἐπὶ τῶν ἄλλων, κ.τ.λ.—τοιοῦτον] This sentence appears again in the next chapter § 9. In the passage before us it has no meaning whatever, so far as I can see. Mich. Ephes. (if the Aldine text and the Parisian version are to be trusted) placed it here; but his explanation is derived from ch. 5.

§ 13. ἐλπίσωδε δὲ, κ.τ.λ.] I have already pointed out that this § is not a mere repetition of § 5. The author now remarks that the terms profit and loss do not originally belong to corrective justice, or to any form of it, but to commerce. That this is his meaning is clear from the words ἐν οἷς ἄλλως ἀδειαν ἐδόκειν ὧν νόμος. Similarly § 14 is a justification of the use of the phrase ξένει τὰ αὐτῶν in the concluding sentence of § 8. Properly speaking, this phrase is used of one who has neither increased nor diminished his means: but (like ξημα and κέρδος) it is sometimes used in matters of corrective justice, ὅταν λαίβωσι τὸ ἴδον, i.e. when property wrongfully appropriated by another has been restored, or when satisfaction has been made for injury to person or to honour. Thus §§ 13, 14 contain purely philological remarks upon the phraseology of the subject, conveniently
introduced at the end of this chapter before another matter is opened. Cf. the remark about the word δικαίωμα at the end of ch. 7.

§ 14. αὐτὰ δὲ αὐτῶν γένηται] The editors all read δὲ αὐτῶν, and most take these words in connection with αὐτὰ. "Nemo interpretum haec verba intellexit," says Michelet. "Felicianus vertit: sed sua cuique per se ipsa evaserint; Argyropylus: sed sua per se ipsa sunt facta; Lambinus: sed paria paribus respondent. Cum § 13 dixisset, nomina κέρδος et ζημία orta esse ex contractibus voluntariis, iam § 14 proponit, ca nomina translatas esse ad obligationes ex delicto, ita ut in iis solis usurpentur. Verte: ubi vero neque plus neque minus habent, praeertquam quae per se ipsos facta sint, etc." Rassow (Forschungen p. 94) proposes to insert τὰ before δὲ αὐτῶν, and to translate "das, was man durch seine eigene Arbeit besass." Grant would construe "'but result in being themselves by means of reciprocity,' i.e. by mutual giving and taking, έαυτών being equivalent to ἀλλήλον." Finally, as I learn from a note to Williams' translation, Professor Chandler reads δὲ αὐτῶν, and translates "But when, by buying and selling (δὲ αὐτῶν), men have got neither more nor less than they had at first, but exactly the same." Agreeing with Professor Chandler in his rendering of πλέον, ἑλαττον, and αὐτά (sc. τὰ εἰς ὅρχής), I take δὲ αὐτῶν γένηται to mean "comes into their possession.' If we can say δὲ αὐτῶν εἶναι 'to be in their possession' (Polit. vii. (vi.) 4. p. 182. 28. viii. (v.) 1. p. 194. 23. 6. p. 206. 2, (see Eucken über den Sprachgebrauch des A. ii. 38,) surely δὲ αὐτῶν γένηται must also be admissible. The sentence thus means, as it ought to do, 'But when people get what is their own, they are said to have what is their own.' Cf. Polit. viii. (v.) 7. p. 208. 26 μόνον γὰρ μόνον τὸ κατ' ἀξίαν ἤσον καὶ τὸ ἔσχεν τὰ αὐτῶν. Otherwise I had thought of ὅταν δὲ μήτε πλέον μήτ' ἑλαττον ἀλλ' αὐτὰ δὲ δεὶ αὐτῶν γένηται, comparing for the supposed corruption § 12, where K b has οὐ διάγειν for οὐ δεῖ ἄγειν, and for the genitive with γένεσθαι Lys. 16, 34 ἐγένετο ὁ Εὐμάρης οὗτος Νικοκλέων (Kühner's Gr. Gr. ii. 316) and Plat. Philib. 27 c. With Rassow I have placed a colon instead of a full stop after νόμος, and instead of a colon, a full stop after κερδαινείν.

τῶν παρὰ τὸ ἐκούσιον] This is not inconsistent with 2 § 13 and 4 § 1, because, whether the original transaction was ἐκούσιον or ἐκούσιον, the result must have been παρὰ τὸ ἐκούσιον in regard to the person injured, else there would be nothing to rectify.

5. 'The Pythagoreans resolved justice into τὸ ἀντιπεποιηθός (re-
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taliation). This definition does not adequately represent either distributive or corrective justice; but the just in commerce may be defined as τὸ ἀναλογικόν, if by τὸ ἀναλογικόν is understood, not ἀναλογικόν κατ’ ἴσοτητα (retaliatiation), but ἀναλογικόν κατ’ ἴσολον (reciprocal proportion), the formula being $A : B :: D : C$, which proportion is attained by cross-conjunction ($κατὰ διάμετρον σὺζευγίον$).

The following extract from Grant’s commentary will serve to recall the usual interpretation of this chapter:

"‘Now the joining of the diagonal of a square gives us proportionate return.’ The joining of the diagonal gives each producer some of the other’s work, and thus an exchange is made, but the respective value of the commodities must be first adjusted, else there can be no fair exchange. What, then, is the law of value? It is enunciated a little later (§ 10). δεῖ τοῦν—τροφῆν. ‘As an architect (or a farmer it may be) is to a shoemaker, so many shoes must there be to a house or to corn.’ That is, the value of the product is determined by the quality of the labour spent upon it. The sort of comparison here made between the quality of farmer and shoemaker seems connected with a Greek notion of personal dignity and a dislike of ἑανασία.”

In my opinion ch. 5 should be read in close connection with ch. 2—4, the passage as a whole being an attempt at once to connect and to distinguish three kinds of particular justice. In order to connect these three kinds of particular justice, the author regards them each as ἀναλογικὸν τι: in order to distinguish them, he represents each by a special and appropriate kind of ἀναλογία, the word ἀναλογία being employed in the larger of the two senses recognized by the Greek mathematicians, and therefore including arithmetical proportion which is, strictly speaking, a μεσότητις. Cf. Nesselmann die Algebra der Griechen pp. 210—212, where it is shown from Nicomachus Gerasenus and Iamblichus, that, though properly ἀναλογία meant geometrical proportion (all other proportions being μεσότητες), ἀναλογία and μεσότητις are frequently used synonymously for any kind of proportion. I shall henceforth use the word proportion as an equivalent for ἀναλογία in its extended meaning.

Premising that in the earlier part of ch. 3 particular justice has been made to consist in τὸ ἴσον, and that it has been afterwards explained that the ἴσοτης spoken of is ἴσοτης λόγον, or ἀναλογία, § 8, ‘between the persons and the things, according to some standard’ (πρὸς τι), §§ 5, 6, I proceed to state as briefly as possible the substance of the investigation of distributive, corrective, and commercial
justice. In the course of my summary, it will, I hope, appear, that
the purpose of the author is merely to translate into the language of
proportion the following proposition: 'Particular justice is attained
in distribution, correction, and barter, when the parties are, after the
transaction, in the same position relatively to one another, as they
were before it.' What constitutes identity of relative positions, the
author does not ask. The investigation is in fact introduced in order
to justify the statement made in 3 § 8, ἔστιν ἀρα τῷ δικαίου διάλογον τι, just as the list of virtues is introduced in ii. 7 to justify the definition
of virtue. But though the author's principal aim is to show that the
just in distribution, in correction, and in commerce is διάλογον τι, he
thinks it worth while to enter into detail and to distinguish them,
because Plato had taken one kind of proportion, ἡ ἴσοτης ἡ γεωμε-
τρική, as the rule of justice (Gorg. 508 λ, Laws 757 λ, b: cf. Plutarch
Symp. viii. 2 § 2), whilst the Pythagoreans had endeavoured to reduce
all justice to retaliation, τὸ ἀντιπεπονθός, a phrase which may be inter-
preted by reference to proportion.

1. The first of the three kinds of particular justice, distributive
justice, in the distribution of property or honour secures to the indi-
vidual a share proportioned to his desert. Desert is differently esti-
imated in different cases: for example, in a democracy freedom con-
stitutes desert, in an oligarchy wealth or birth, in an aristocracy ἀρετή.

Thus distributive justice assigns to the persons concerned shares
such that the position of the persons relatively to one another is not
altered by the distribution, but it does not determine what consti-
tutes alteration of relative position.

Let \( A, B, C, D \) be proportionals, so that \( A : B :: C : D \). Hence
alternando \( A : C :: B : D \), and componendo \( A \) taken together with
\( C : B \) taken together with \( D :: A : B \), which last proportion exactly
represents distributive justice as above described. Or, as the author
expresses it, distributive justice consists in the conjunction or com-
position of \( A \) and \( C, B \) and \( D \), \( A, B, C, D \) being proportionals (ἡ
ἀρὰ τοῦ πρῶτον ὄρον τῷ τρίτῳ καὶ ἡ τοῦ δευτέρου τῷ τετάρτῳ συζευγία τῷ
ἐν διανομῇ δικαίων ἕστι 3 § 12), since by such conjunction the position
of the two parties, relatively to one another, is not altered, whether,
as in democracy, \( A \) and \( B \) are equal, and therefore \( C \) and \( D \), or,
as in oligarchy and aristocracy, a difference is assumed between the
persons, which therefore necessitates a difference in the shares
assigned to them. Distributive justice then may be represented by
the formula

\[
A + C : B + D :: A : B.
\]
But mathematically when $A$ taken together with $C$ is to $B$ taken together with $D$ as $A$ is to $B$, $A$, $B$, $C$, $D$ are said to be in geometrical proportion. Hence distributive justice is a geometrical proportion.

At this point I would call attention to 3 §§ 11, 12: ὄστε καὶ τὸ ὀλον πρὸς τὸ ὀλον ὁπερ ἡ νομὴ συνδύαζει· καὶ οὕτως συντεθη, δικαίως συνδύαζει. ἡ ἀρα τοῦ πρῶτον ὄροι τῷ τρίτῳ καὶ ἡ τοῦ δευτέρου τῷ τεταρτῷ σύζεβοις τὸ εἰ διανομῇ δίκαιον ἐστί· καὶ μέσον τὸ δίκαιον τοῦτο ἔστι τοῦ παρά τὸ ἀνάλογον. Here σύζευσι seems to mean what in the language of proportion is called σύνθεσις (cf. Eucl. v. Def. 15), our 'componendo;' the more familiar word being employed in preference to the technical one, because, according to strict usage, σύνθεσις can hardly be applied to the union of persons and things.

2. Corrective justice, the function of which is to remove inequality after it has arisen, deprives the gainer of his unjust gain, and restores to the loser his unjust loss, the words 'gain' and 'loss' being used in an extended sense. The author does not limit this kind of justice to the correction of ἀκούσια συναλλάγματα, but says expressly, 2 §§ 12, 13, 4 § 1, that it is also concerned with ἐκούσια συναλλάγματα (πράσις, ὄνη, κ.τ.λ.), i.e. with the correction of voluntary transactions in which the balance has been disturbed. Cases of such disturbance will hereafter present themselves.

Now when one man has appropriated what belongs to another, the latter has as much less, as the former has more, than his just right. Hence the former is in excess of the latter by twice the amount by which the former is in excess, or the latter in defect, of his just right. Manifestly justice is attained when the unjust gain of the one is taken from him and restored to the other.

But what we have called the just right of both is an arithmetical mean between the excessive position of the one and the defective position of the other. Corrective justice is therefore represented by an arithmetical proportion in which the positions of the two parties, after the wrong and before the correction of it, are the extremes. Of course, as the author points out in 5 § 4, it may be necessary, in estimating the loss of the injured person, to take into account his superior position. It is not necessary to take into account the wrong done to the state, because we are now considering injustice of the particular kind, which consists in unfairness,—not universal injustice, which consists in the violation of law.

3. At the beginning of ch. 5 the author criticizes the Pythagorean theory that justice consists in τὸ ἀντιπεπονθός, i.e. τὸ ἀντιπεπονθός
to κατ' ισότητα, or retaliation, and objects that it does not apply either to distributive, or to corrective, justice. In commercial transactions however τὸ ἀντιπεπονθός is the bond of society: but the ἀντιπεπονθός which regulates commercial transactions is, not τὸ ἀντιπεπονθός τὸ κατ' ισότητα (retaliation), but τὸ ἀντιπεπονθός τὸ κατ' ἀναλογίαν (reciprocal proportion). Now ἣ κατ' ἀναλογίαν ἀντίδοσις is secured by ἢ κατὰ διάμετρον σχέσεις, i.e. the conjunction of $A$ and $D$, $B$ and $C$. For example, let $A$ be a builder, $B$ a shoemaker, $C$ a house, and $D$ a shoe. If $A$ and $B$ agree that a house and a shoe are of equal value, barter may take place without altering the position of $A$ and $B$ relatively to one another: or in the symbolism of ch. 3,

$$A + D : B + C :: A : B,$$

whence

$$A : B :: D : C.$$

But as barter does not take place between persons of the same trade, the transaction will be in general more complicated, $C$ and $D$ not being of equal value. In general then $B$ will give to $A$ $x$ shoes in return for his house. Hence commercial justice is represented in general by the proportion

$$A + xD : B + C :: A : B,$$

whence as before

$$A : B :: xD : C.$$

Now when $A : B :: xD : C$, $A$ and $C$, $B$ and $xD$, are said to be reciprocally proportional (ἀντιπεπονθέναι). Hence commercial justice is represented by reciprocal proportion, τὸ ἀντιπεπονθός τὸ κατ’ ἀναλογίαν.

It will be observed (1) that in this explanation of ch. 5 I have followed exactly the method of interpretation adopted in ch. 3; (2) that according to my view the author not only limits the application of τὸ ἀντιπεπονθός to commercial transactions, but also gives a new meaning to the phrase by the addition of the words τὸ κατ’ ἀναλογίαν; (3) that I conceive the author to say no more than that ‘$A$ and $B$ exchange on equal terms if $xD$ is equivalent to $C$, $x$ having been determined by the haggling of the market.’

Thus, as I understand the author, he justifies in ch. 3—5 the assertion made in 3 § 8, that τὸ δίκαιον τὸ ἐν μέρει is ἀνάλογον τε, and assigns kinds of proportion to the several kinds of particular justice. In so doing he shows controversially (1) that the γεωμετρική ισότης of Plato does not include all the varieties of particular justice, and (2) that the Pythagorean theory of τὸ ἀντιπεπονθός (retaliation) is appli-
cable only to commercial transactions, and to them only if by τὸ ἀντιπεπωθὸς is meant τὸ ἀντιπεπωθὸς τὸ κατ' ἀναλογίαν (reciprocal proportion). On the other hand he has not attempted any investigation of the laws of value, and is wholly innocent of the theory "that the value of the product is determined by the quality of the labour spent upon it." Economically, he contents himself with the statements that barter presumes mutual demand, and that the terms of the barter must be settled before, not after, the needs of the two parties are satisfied.

Before proceeding to comment upon the chapter in detail, it will be convenient to notice some other passages in which τὸ ἀντιπεπωθὸς plays a part.

(1) While in barter A and B exchange on equal terms wares, C and xD, which are equal in value, when proportion is used to express the claims of the superior and the inferior in friendship, A and B, and therefore C and D, would seem to be unequal; but friendship is reduced to a simple case of barter on equal terms, if we assume that the inferior is entitled to the greater amount of assistance, the superior to the greater amount of respect. Thus unequal friends barter assistance and respect, precisely as the shoemaker and the weaver barter wares. *N. E.* ix. § 1. viii. 7 § 2. 8 § 1. 11 §§ 1 sqq. 14 § 2. Cf. Plat. *Euthyphr.* 15 λ.

(2) It follows that a good man will not be on terms of friendship with a superior, unless the superior in rank is also superior in merit, because otherwise the inferior will not feel for the superior that love and regard by which alone he can requite superior services. *N. E.* viii. 6 § 6.

(3) As however friendship in general assumes equality of persons, quantitative equality (τὸ κατὰ ποιότητα) is the primary rule of friendly intercourse, i.e. the same service which A at one time renders to B, B at another time renders to A, proportionate equality (τὸ κατ' ἀξίαν, cf. *Polit.* v. 1. p. 195. 8) being of secondary importance. In justice, on the contrary, proportionate equality ranks first, quantitative equality second. *N. E.* viii. 7 § 3. (Geometrical proportion is said to be κατὰ ποιότητα, arithmetical proportion κατὰ ποσότητα, cf. Nicomach. Gerasen. ii. 21 § 5. *Polit.* viii. (v.) 3. p. 198. 3.) Thus arithmetical proportion takes precedence of reciprocal proportion as the rule of friendship, because friends are in general equals and exchange actually equal services: if however the friends are unequal, the rule of friendship is proportionate, qualitative, equality, i.e. that kind of geometrical proportion which is called reciprocal.
(4) Manifestly in barter \( \frac{A}{B} = \frac{xD}{C} = 1 \),
the formula \( A : B :: xD : C \) being preferred to \( A : B :: C : xD \) only
because the former proportion represents the relations of \( A \) and \( B \)
after the exchange, the latter their relations before it. Now from
these two proportions which represent the relations of \( A \) and \( B \)
before and after the exchange, we obtain the proportion
\[ A : B :: B : A. \]

Accordingly the author of the *Magna Moralia*, I. 34 § 11, substitutes for
the Eudemian theory the simple statement that just exchange takes
place ‘when the farmer is to the builder, as the builder is to the
farmer’, i.e. when the offers of the two have been equated by the
ordinary process of higgling.

(5) Finally in *Polit.* II. 2. p. 24. 10 we are told that the members of
the social union are diverse, διότερ τὸ ἰσον τὸ ἀντιπεπονθὸς σώζει τὰς
πόλεις, ὡσπερ ἐν τοῖς ἱθυκοῖς εἴρημαι πρότερον: i.e. the citizen, as we
shall see in 6 § 7, renders τιμὴ καὶ γέρας to the magistrate in return
for his services.

§ 1. ὁδεῖ ἐς τῶν, κ.τ.λ.] For the Pythagorean doctrine see M. M.
I. 34 §§ 13—15, and Alexand. on *Metaph.* I. 5. p. 985. b. 26 (quoted by
Zeller, i. 360) τῆς μὲν γὰρ δικαιοσύνης ἠδον ὑπολαμβάνοντες εἶναι τὸ
ἀντιπεπονθός καὶ ἰσον, ἐν τοῖς ἀριθμοῖς τοῦτο εὐφύσκοντες οὐ, διὰ τοῦτο
καὶ τὸν ἴσακις ἰσον ἀριθμὸν πρῶτον ἔλεγον εἶναι δικαιοσύνην.……..τούτον δὲ
οὶ μὲν τὸν τέσσαρα ἔλεγον,….οἱ δὲ τὸν ἐννέα. See also *Theol.* Arith.
p. 28 (Ast), where the Pythagorean definition of justice is said to be
dύναμις ἀποδόσεως τοῦ ἰσον καὶ τοῦ προσήκοντος, ἐμπεριεχομένη ἀριθμοῦ
tετραγώνων περισσοῦ μεσότητα. In spite of Alexander I.c. the ἀντιπε-
πονθὸς of the Pythagoreans seems to have been, not reciprocal pro-
portion, but, as our author expressly states, simple retaliation.

The wording of this opening sentence is rather strange, ὀρίζωντο
γὰρ ἀπλῶς, κ.τ.λ. being wholly superfluous. Is it possible that the
words καὶ τὸ ἀντιπεπονθὸς εἶναι ἀπλῶς δικαίον are interpolated, and
that the text should stand thus—ὁδεῖ δὲ τῶν ὁσπερ οἱ Πυθαγορεῖοι
ἔφασαν· ὀρίζοντο γὰρ ἀπλῶς, κ.τ.λ.? I omit ἄλλῳ, (which Bekker
inserts at the end of the sentence on the authority of K b Pb only,) because it is grammatically impossible to combine it with ἀντιπεπο-
νθὸς. Grant, who translates “retaliation on one’s neighbour,” seems
to forget that ἀντιπεπονθὸς expresses the notion of retaliation, not
actively, but passively. I suspect that ἄλλῳ is a corruption of ἄλλως
prefixed to one of the double readings which in the following sentence
NOTES.

are preserved by P\textsuperscript{b}, and therefore may have occurred in the common progenitor of P\textsuperscript{b} and K\textsuperscript{b}.

§ 3. καὶ τοι—γένοιτο] "Zwingerus hunc § transposuit post vocabula ἀντιπεπονθὸς ἄλλῳ methodo, ut dicit, iubente, etsi contra omnium codicum auctoritatem." (Zell.) This change seems to me wholly unnecessary.

τὰ τ\' ἐρεῖ \[ τὰ κ\' ἐρεῖ, the reading of the MSS., can hardly be right. The line is quoted also by Seneca, \textit{de morte Claud.} 14.

§ 4. πολλαχοὶ γὰρ διαφορεῖ] The inapplicability of this theory to cases of distributive justice is assumed as obvious. There is more to be said for its applicability to corrective justice, and therefore the author is careful to show that even here the Pythagorean principle is inadequate.

§ 5. ἐτι τὸ ἐκούσιον, κ.τ.λ.] I.e. the principle of retaliation ignores the important distinction between wrongs done voluntarily and wrongs done involuntarily, of which more hereafter.


κατ' ἀναλογίαν καὶ μὴ κατ' ἴσοτητα] I.e. the \textit{ἀντιπεπονθὸς} which regulates commercial transactions is not, as the Pythagoreans think, τὸ \textit{ἀντιπεπονθὸς} τὸ κατ' ἴσοτητα, 'retaliation,' but τὸ \textit{ἀντιπεπονθὸς} τὸ κατ' ἀναλογίαν, 'reciprocal proportion.' For, as will appear presently, commercial justice is represented by the formula \( A : B :: D : C \); and when \( A : B :: D : C \), \( A \) and \( C \), \( B \) and \( D \), are said by the Greek geometers \textit{ἀντιπεπονθεῖαι} 'to be reciprocally proportional.' Vide Euclid vi. 15 ἐστω ἵσα τριγώνα τὰ \( \Delta \) \( \Gamma \), \( \Delta \) \( \Gamma \), μίαν μιᾶ ἴσην ἐχοντα γωνίαν τὴν ὑπὸ \( \Delta \) \( \Gamma \) τὴν ὑπὸ \( \Delta \) \( \Gamma \). λέγω ὅτι τῶν \( \Delta \) \( \Gamma \), \( \Delta \) \( \Gamma \) τριγώνων \textit{ἀντιπεπόνθαι} αἱ πλευραὶ αἱ περὶ τῶν ἴσας γωνίας, τούτεστιν ὅτι ἐστὶν ὡς ἡ \( \Gamma \) \( \Delta \) πρὸς τὴν \( \Delta \) \( \Delta \) \( \Delta \), ἡ \( \Gamma \) \( \Delta \) πρὸς τὴν \( \Delta \) \( \Delta \). See also Simson's Def. 2 of Bk. vi. "Two magnitudes are said to be reciprocally proportional to two others, when one of the first is to one of the other magnitudes as the remaining one of the last two is to the remaining one of the first." Cf. Aristot. \textit{Mech.} 3. p. 850. a. 39. δ ὁν \( \tau \) τὸ κυνοῦμενον βάρος πρὸς τὸ κυνοῦν, τὸ \( \mu \) \( \mu \) \( \mu \) πρὸς τὸ \( \mu \) \( \mu \) \( \mu \) \( \alpha \)τιπεπόνθεν.

Grant objects that this passage is inconsistent with \textit{Polit.} ii. 2. p. 24. 11. "For while \textit{Pol.} ii. ii. 4 says that 'equal retaliation pre-
serves the State,' *Eth. Nic.* v. v. 6. says that 'Retaliation is a bond of union provided that it be on principles not of equality, but of proportion.' In fact the remarks on Retaliation in the *Ethics* have all the appearance of being a development and improvement of those in the *Politics.*' Vol. 1. p. 51. The inconsistency is merely apparent. Grant forgets that ἀντιπεποθῶς κατ' ἀναλογίαν καὶ μὴ κατ' ἴσοτητα is an ἱσον just as much as ἀντιπεποθῶς κατ' ἴσοτητα, since every ἀναλογία is an ἴσοτης λόγον. In fact τὸ ἱσον τὸ ἀντιπεποθῶς

in *Polit.* ii. 2 is identical with ἀντιπεποθῶς κατ' ἀναλογίαν here: cf. § 8 ἐὰν οὖν πρῶτον ὃ, κ.τ.λ. It will be observed that in the place in the *Politics* the statement τὸ ἱσον τὸ ἀντιπεποθῶς σώζει τὰς πόλεις rests upon the statement that the πόλεις, being an organised unity, has diverse reciprocating elements, just as in the present passage the doctrine of τὸ ἀντιπεποθῶς τὸ κατ' ἀναλογίαν rests upon the diversity of reciprocating professions, § 9, and as in viii. 7 §§ 2, 3 τὸ κατ' ἀείων is introduced to regulate friendship between persons in diverse positions. Moreover in *Polit.* ii. 2. p. 24. 17 an example is introduced which at once reminds us of the chapter before us. So far from seeing any inconsistency, I should rather infer from the passage in the *Politics* (as from that in viii.), that the lost Nicomachean discussion of τὸ ἀντιπεποθῶς corresponded in the main with that which has been preserved in this Eudemian book.

§ 7. διὸ καὶ Χάριτων, κ.τ.λ.] 'If the citizens are so completely subjected to one or more individuals that they cannot requite any evil which is done to them, they are rather slaves than citizens: if they do not requite good, there is no reciprocity to bind the citizens together.'

§ 8. ἐὰν ἔν τοῦτοι καὶ τοὺς καταρχαί τὴν ἴμηρατος καταρχαί καὶ τὰς ἀνταποδοσίας τῶν ἐνεργησίων, ἐνεργησία ἀνθυποτήτως τῆς ἐνεργησίας καὶ τῶν ἀνθυποτήτων τῶν ἐνεργησίων, ἀνθυποτητοῦ τῆς γάρ, κ.τ.λ.] Mich. Ephes. tries to show that these lessons are implied in the conventional attitude of the Χάριτων.
the older commentators and by Grant to mean the junction of the diagonals $AD, BC$ in the square $ABDC$, by Williams to mean the junction of one diagonal of a parallelogram, the sides of which are the lines $A, B, D, C$.

Architect ($A$)  Shoemaker ($B$)

House ($C$)  Shoes ($D$)

But (1) $\epsilon\phi$ A, κ.τ.λ. are lines, not, as in Grant’s figure, points: for if we take points for our proportionals, what is the use of introducing the notion of proportion at all? (2) in Williams’ figure, which avoids the former objection, $D$ and $C$ are made equal to $A$ and $B$, i.e. the shoes and the house to the architect and the shoemaker respectively, whereas it is clear that the shoes should be equal to the house, the architect to the shoemaker: (3) the junction of the diagonal is called in Greek $\epsilon\pi\iota\epsilon\nu\xi$, not $\sigma\iota\epsilon\nu\xi$; vide Euclid passim: (4) the editors fail to show why ‘the junction of the diagonal’ is mentioned, whereas the author says expressly that $\eta$ κατά διάμετρον $\sigma\iota\epsilon\nu\xi$ produces τὴν ἀντίδοσιν τὴν κατ’ ἀναλογίαν, and implies that $\eta$ κατὰ διάμετρον $\sigma\iota\epsilon\nu\xi$ and the proportion $A : B :: D : C$ are both of them ways of representing the operation of barter; compare § 8 with § 12.

Now it seems reasonable to assume that $\sigma\iota\epsilon\nu\xi$ is used here in the same sense as in 3 § 12, and that if $\sigma\iota\epsilon\nu\xi$ in the last-named passage means the ‘composition’ of $A$ and $C$, $B$ and $D$, $\eta$ κατὰ διάμετρον $\sigma\iota\epsilon\nu\xi$, ‘cross-conjunction,’ means the ‘composition’ of $A$ and $D$, $B$ and $C$.

‘Cross-conjunction’ then will give us the proportion

$$A + D : B + C :: A : B,$$

whence $A : B :: D : C$ as in § 12.

This interpretation is confirmed by E. E. vii. 10 §§ 9, 10, where we are told that in an unequal friendship the ἕπερέχων conceives his claims to be represented by the formula $ως αὐτὸς πρὸς τὸν ἐλάττων ὠντω τὸ παρὰ τοῦ ἐλάττονος γινόμενον πρὸς τὸ παρ’ αὐτοῦ, but that the ἕπερε-
χόμενος τοῦ αὐτὸν στρέψει τὸ ἀνάλογον καὶ κατὰ διάμετρον συζεύγησιν. That is to say, if $A$ and $B$ are the persons, $C$ and $D$ their claims, $A$, the superior in rank, thinking himself entitled to superior advantages, argues that $\frac{A + C}{B + D} = \frac{A}{B}$, or $A = \frac{C}{D}$; on the other hand $B$, the inferior, holding that 'noblesse oblige,' maintains that $\frac{A + D}{B + C} = \frac{A}{B}$, or $A = \frac{D}{C}$. These opposing views are reconciled here in the same way as in the Nic. Eth. (see above, introductory note upon this chapter): i.e. the ἑπερεχόμενος is held to be entitled to superior service, the ἑπερέχων to superior respect; and consequently κέρδος and τιμή must be bartered against one another, just as the house and the shoes are bartered in commerce. In this way equality is effected.

[εφ’ οί A] See note on 4 § 12. Here, and again in § 12, the terms of the proportion are specified, but the example is not worked out; may we infer that the treatise was supplemented by extempore additions? Cf. Anal. Prior. 1. 46. p. 52. a. 16.

[τὸν αὐτὸν] Bekker reads τὸ αὐτὸν, taking no notice of the reading of the MSS.

[ἐὰν οὖν πρῶτον, κ.τ.λ.] 'If the article offered by the shoemaker is equal in value to the article offered by the builder, and then the exchange is effected, the demands of commercial justice will be satisfied. Otherwise the transaction is not equal and does not hold, because the article offered by the one may be, and in this case is, more valuable than the article offered by the other.' For example (1) a husbandman goes into the market with a bushel of corn and a shoemaker with a pair of shoes. If the husbandman and the shoemaker agree that the bushel of corn is κατ’ ἀναλογίαν equal to the pair of shoes (ἐὰν οὖν πρῶτον ὑ τὸ κατὰ τὴν ἀναλογίαν ἵσον), in other words that the bushel of corn is equal in value to the pair of shoes, and then the articles are exchanged (εἴτε τὸ ἀντιπρωτοῦσα γένηται), the justice of commerce is satisfied. But if (2) a builder offers a house whilst the shoemaker offers only one pair of shoes, the market-value of the house being more than one pair of shoes, an exchange on this basis will not be equal and permanent. Hence the shoemaker must offer several pairs of shoes, the number of pairs being determined by the higgling of the market.

[οὐδὲ συμμετείχει] 'The settlement is not a final one': for one of the two parties will be obliged to have recourse to corrective justice in order to obtain his rights.
§ 9. ἐπὶ τῶν ἄλλων τεχνῶν] See note on 4 § 12. ‘The statement already made in regard to the arts of the builder and the shoemaker holds generally of all the arts.’ (The remark is hardly necessary, but cf. Polit. i. 9. p. 13. 22 τῶν αὐτῶν δὲ τρόπον ἔχει καὶ περὶ τῶν ἄλλων κτημάτων. III. 11. p. 76. 20 ὁμοίως δὲ τούτῳ καὶ περὶ τὰς ἄλλας ἐμπερίας καὶ τέχνας.) ‘They would fall into disuse if there were no exchange, and in order that an exchange may take place, some method of equalizing unequal wares is required, exchange being between members of different trades or professions, whose wares are necessarily unlike.’

ἀνυροῦντο γὰρ ἀν, κ.τ.λ.] This sentence is written and punctuated by the editors thus: ἀνυροῦντο γὰρ ἀν, εἰ μὴ ἐποίει τὸ πωιόν καὶ ὅσον καὶ ὅσον, καὶ τὸ πᾶσχον ἐπασχὲ τούτῳ καὶ τοσότου καὶ τοιοῦτον, and is understood to mean “for they would have been destroyed if there had not been the producer producing so much, and of a certain kind, and the consumer (τὸ πᾶσχον) consuming just the same quantity and quality” (Grant). Accepting this interpretation I formerly suggested (Journal of Philology 1872, iv. 318), the insertion of δ before ἐποίει, a conjecture which Rassow had anticipated. But on further consideration I find myself wholly unable to harmonize the sentence, as it is ordinarily punctuated and interpreted, with the main argument. It is true that “the arts would perish if there were no demand for their products:” but how does this tend to prove the necessity and importance of the principle of proportionate exchange? Moreover the terms ποιόν and πᾶσχον (which as Grant himself says “may probably have some reference to the ἄντιπεπονθός”) imply that the reciprocity of the transaction is what we are here concerned with. The sense required is then ‘for the arts would fall into disuse if the article manufactured by A and received in exchange by B were not somehow equated with the article manufactured by B and received in exchange by A.’ Cf. § 10 τούτῳ δ’, εἰ μὴ ἵσα εἶπ πῶς, οὐκ ἐσται. This meaning I try to get by changing the punctuation, and making τοῦτο the subject, instead of the object, of ἐπασχέ: ἀνυροῦντο γὰρ ἀν, εἰ μὴ ἐποίει τὸ ποιόν, καὶ ὅσον καὶ ὅσον καὶ τὸ πᾶσχον (subaud. πάσχει), ἐπασχὲ τοῦτο (i.e. τὸ ποιόν) καὶ τοσότου καὶ τοιοῦτον· οὐ γὰρ, κ.τ.λ. ‘for the arts would perish, if the producer did not produce, and did not in return for his produce receive from the recipient of it an exact equivalent, quantity and quality being taken into account; [an equivalent, not an article precisely similar,] because two of a trade have no occasion to exchange their wares.’ Rassow, understanding the drift of the passage as I do, and admitting that it would be
clearer if for ἐπασχε we had ἀντεποιεῖ or ἀνταπεδόδου, nevertheless thinks the insertion of ὅ the only change which is necessary: "Man muss nur bedenken, dass, wie es bei dem ἀντιεπονθὸς nöthig ist, beide Theile geben und empfangen, dass also das ποιεῖν auch ein πάσχον und das πάσχον auch ein ποιεῖν ist." Forschungen p. 18.

I should have thought that he would have found further change necessary, either (with Trendelenburg) the omission of τὸ before πάσχον, or the substitution of τὸ ποιεῖν, or the substitution of ἐποίει for ἐπασχε. I do not of course pretend that the text naturally and properly bears the meaning which I have endeavoured to extract from it; but rather suspect that there is a lacuna after ἐποίει, and that the sentence ought to run in some such way as this: ἀνγροῦτο γὰρ ἀν, εἰ μὴ ἐποίει <τὸ πάσχον ὅσον καὶ ὅσον ποιεῖ> τὸ ποιεῖν, καὶ ὅσον καὶ ὅσον καὶ τὸ πάσχον, ἐπασχε τοῦτο καὶ τοσοῦτον καὶ τοσοῦτον.

§ 10. διὸ πάντα συμβλητα, κ.τ.λ.] From this point the chapter abounds in repetitions. Nötel (Quaest. Aristot. Spec. p. 28) would condemn §§ 11, 12. Rassow again finds in §§ 10—16 three distinct statements of the same matter; the first being contained in § 10 διὸ πάντα συμβλητα—οίκ ἐσται, the second in §§ 11—14 δεὶ ἄρα ἐνὶ τινι—μένειν μάλλον, and the third in §§ 14—16 διὸ δεὶ πάντα—πέιτε κλίναi. The difficulty is also discussed by Imelmann, Observat. Crit. p. 35 sqq. Certainly the chapter would gain in perspicuity if §§ 11—16 were rejected. The remarks upon currency, both as to thought and as to expression, recall Plat. Rpf. II. 371 b. Laws XI. 918 b. Polit. 289 e.

§ 11. ἢ οὐκ ἐσται ἄλλαγγ] These words apply to the former of the two cases mentioned (εἰ μὴθιν δόειτο; ἢ οὐχ ἢ αὐτῇ to the latter (ἡ μὴ ὁμοιώσως).


§ 12. εἰς σχῆμα δ' ἀναλογίας, κ.τ.λ.] I have materially altered the punctuation of this sentence which is usually printed thus: εἰς σχῆμα δ' ἀναλογίας οὐ δεὶ ἄγειν, ὅταν ἀλλαίξωσι: εἰ δὲ μὴ, ἀμφοτέρας ξέει τὰς ὑπεροχὰς τὸ ἐπερον ἄκρον. ἀλλ' ὃταν ἔκωσι τὰ αὐτῶν, οὐτὸς ἦσοι καὶ κοινοὶ, ὃτι αὐτῇ ἢ ἰσότητι δύναται ἐπ' αὐτῶν γίνεσθαι. γεωργὸς A, κ.τ.λ. As I understand this difficult passage, it is a warning that the terms of the bargain must be determined by the ordinary process of higgling, before the exchange takes place, that is, during the continuance of the mutual demand, cf. § 11: e.g. A must arrange with B, before the transfer is effected, how many pairs of shoes the latter is to give him in return for a house. If A
accepts one pair of shoes on account, trusting that \( B \) will subsequently make up to him the market value of the house, and \( B \) takes advantage of \( A \)'s negligence, it is no longer an affair of commercial justice, but of corrective justice, which, as has been pointed out in \( 2 \) §§ 12, 13 and in \( 4 \) § 1, plays a part in the rectification of voluntary transactions such as \( \pi\rho\alpha\sigma\iota\varsigma, \omega\nu\eta, \delta\alpha\nu\epsilon\iota\mu\omicron\sigma\varsigma, \epsilon\gamma\gamma\omicron\omicron, \chi\rho\varsigma\iota\varsigma, \pi\varphi\alpha\kappa\alpha\tau\alpha\theta\iota\kappa\eta, \mu\omicron\sigma\theta\omicron\omicron\omicron\varsigma\), as well as in the rectification of involuntary transactions such as \( \kappa\lambda\omicron\omicron\nu\eta, \mu\omicron\chi\epsilon\iota\alpha, \kappa\tau\lambda\). In the case supposed \( A \) has now got one pair of shoes only, whilst \( B \) has got a house worth \( x \) pairs of shoes, and \( x - 1 \) pairs of shoes into the bargain. Hence \( A \) has \( x - 1 \) pairs of shoes less than his just right, \( B \) has \( x - 1 \) pairs of shoes more than his just right. Thus \( B \) has the advantage of \( A \) to the extent of \( 2 (x - 1) \) pairs of shoes: in the language of our author ‘\( B \) has both superiorities.’ If then the time for arranging the terms of the bargain is allowed to pass by, the two parties to the transaction are to be regarded as two extremes, one of which exceeds the mean by as much as the mean exceeds the other: the reciprocal proportion of commercial justice must therefore be supplemented by the arithmetical proportion of corrective justice. The words \( \tau\omicron \varepsilon\tau\rho\omicron\nu \acute{\alpha} \kappa\rho\omicron \) point unmistakeably to this interpretation, since \( A \) and \( B \) cannot possibly be regarded as extremes in the proportion \( A : B :: D : C \). For \( \delta\tau\alpha n \xi\chi\omicron\omicron\omicron \tau\omicron \alpha\nu\tau\omicron \) the commentators refer to \( 4 \) §§ 8, 14, forgetting that, whereas by corrective justice each recovers his own, commercial justice is attained when each surrenders his own (cf. § 8 \( \delta\alpha \ldots\ldots \alpha\nu\tau\omicron \acute{\epsilon}\kappa\iota\nu\rho \ \mu\epsilon\tau\alpha\delta\iota\delta\omicron\omicron\omicron \tau\omicron \nu \alpha\nu\tau\omicron \)). It seems to me clear that in the present passage these words are antithetical to \( \delta\tau\alpha n \ \acute{\alpha} \lambda\lambda\acute{\alpha} \zeta\omicron\omicron\omicron \tau\omicron \alpha\nu \), and mean ‘before they have delivered up their respective wares.’ H. Richards anticipates me in referring to \( 4 \) §§ 10—12 for the explanation of \( \acute{\alpha} \mu\varphi\omicron\omicron\epsilon\omicron\acute{\alpha} \tau\omicron\varsigma \ \upsilon\pi\rho\omicron\chi\acute{\alpha} \varsigma \) and \( \tau\omicron \varepsilon\tau\rho\omicron\nu \acute{\alpha} \kappa\rho\omicron \) (\( \text{Journal of Philology} \) 1872, iv. 150), but interprets otherwise.

\[ 13. \ \omicron\kappa \ \acute{\alpha} \lambda\lambda\acute{\alpha} \tau\omicron\nu\omicron\tau\omicron, \ \omicron\sigma\pi\epsilon\rho, \ \kappa\tau\lambda\].\] Bekker reads \( \acute{\epsilon}\gamma\acute{\alpha}\omicron\omicron\omicron \gamma \omicron \omicron \) with \( K^b \), and places a comma after \( \omicron\nu\nu \omicron \). We must then construe: ‘whereas when \( B \) wants what \( A \) has, wine for example, they exchange; that is, \( A \) gives it to him in return for the privilege of exporting corn.’ But (1) the separation of the words \( \omicron\nu\nu \omicron\nu\nu \) from \( \delta\delta\omicron\omicron\omicron \tau\omicron\omicron \), which this reading involves, is surely an unnecessary complication of a sentence already harsh enough; and (2) I conceive that the weight, as well as the bulk, of the MS. authority is against \( \acute{\epsilon}\gamma\acute{\alpha}\omicron\omicron\omicron \gamma \omicron \omicron \). For \( \omicron\sigma\pi\epsilon\rho \) with \( \acute{\alpha} \lambda\lambda\acute{\alpha} \tau\omicron\nu\omicron\tau\omicron \) understood from \( \omicron\kappa \ \acute{\alpha} \lambda\lambda\acute{\alpha} \tau\omicron\nu\omicron\tau\omicron \) in the main sentence, ‘as they do when,’ ‘whereas they do exchange when,’ see

7—2
Berlin Index. In the present instance the construction is all the harsher because διδόντες belongs grammatically to both the parties concerned, whereas in sense it refers only to one of them. For αὐτὸς used to distinguish the person chiefly thought of from the other person concerned (τις), cf. 8 § 3 ὀσπέρ εἰ τίς λαβὼν τὴν χείρα αὐτοῦ, κ.τ.λ. The same illustration of exchange occurs in Polit. 1. 9. p. 14. 3 οὖν οἶνον πρὸς ἄτιτον διδόντες καὶ λαμβάνοντες. ἔξαγωγή is commonly translated here 'an export': but the passages referred to in the Berlin Index seem to show that it is 'the privilege of exporting.' Cf. Theophr. περὶ ἀλαζονειᾶς.

§ 14. μὴ δὲν δεῖται] Apparently the subject of δεῖται is τίς supplied from δεῖται τίς.
δεῖ, κ.τ.λ.] Rassow's conjecture, ἀκε γὰρ τοῦτο φέροντι ἐσται λαβεῖν, is tempting.

§ 15. οἰκία, κ.τ.λ.] 'The house A and the bed Γ are, τῇ ἀληθείᾳ, incommensurable; but their values may be compared πρὸς τὴν χρείαν, and expressed in minas. Now if the house is worth 5 minas and the bed 1, 5 beds = 1 house: and in primitive times, before currency was invented, the terms of the contract were formulated in this way.'

§ 16. ἡ κλίνα] Rassow (Forschungen p. 94) conjectures ἡ κλίνα: "denn das unpersönliche διαφέρει hat entweder einen indirecsten Fragewort oder Infinitive nach sich." I have allowed the text to stand, thinking that διαφέρει is used personally, its subject being the whole phrase ἡ κλίνα, κ.τ.λ., and that in that phrase a participle, not an infinitive, is suppressed.

§§ 17—19. In these sections the investigation of the questions proposed in 1 § 1 is concluded, and its results are summarized. It remains in the second half of the book to distinguish particular kinds of δίκαιον and ἀδίκον, to investigate δίκαιον and ἀδίκον as exhibited by individuals, to discuss certain supplementary ἀπορίας, and to determine the relations subsisting between justice and ἔπιεικεία.

ἡ δὲ δικαιοσύνη, κ.τ.λ.] With Rassow I have inserted τίς after μεσότης (Kb Lb Pb), and δὲ after αὐτῶν (Kb Lb Ob Pb), and substituted ἄλλας for πρότερον (Kb Lb Pb). For the form of the sentence cf. 10 §§ 3, 6.

ὁτί μέσου ἐστὶν] The original theory of ἀρετῇ as a μεσότης is here virtually admitted to be a failure so far as justice is concerned. Nevertheless in the E. E. II. 3 § 4 κέρδος, ζημία, and δίκαιον stand side by side with ἀσωτία, ἀνελευθερία, ἐλευθεριότης.
kai ὀσπερ, κ.τ.λ.] See Introduction, On dislocations in the text.

§ 18. τοῦ ἵσου τοῦ κατ' ἀναλογίαν] This genitive is not anacoluthic, as it belongs to the main sentence, and is regularly governed by διανεμητικός.

η ὄ δικια τοῦντιόν, κ.τ.λ.] I. e. ἡ 6 ὄ δικια τοῦντιόν [ἐστι καθ' ἤν ὄ δικως λέγεται πρακτικός κατὰ προαιρέσειν] τοῦ ὄ δικου.

ἐπὶ δὲ τῶν ἄλλων, κ.τ.λ.] 'The statement made in the preceding sentence, that ἐφ ἄυτοῦ the unjust man assigns an unduly large share of what is advantageous and an unduly small share of what is harmful, from the nature of the case does not apply ἐπὶ τῶν ἄλλων, i.e. when he does not himself take a share in the distribution.'

II §§ 7, 8. See Introduction, On dislocations in the text. In § 7 I have bracketed καὶ ὀσπερ—γυμναιτικῆ [vide supra, 5 § 17], and added εν ois 6 ὄ δικια—ἀδικία from 6 § 4. If I am right in making the second of these alterations, perhaps I ought to go a step further and write γὰρ for δὲ. The sense of the passage is as follows: ἀδικεῖσθαι and ἀδικεῖν are both bad, because, as has been shown, they are deviations from the mean; but ἀδικεῖν is the worse of the two, since it implies κακία, κακία which is either τελεία καὶ ἄπλως (if the act is ἐκ προαιρέσεως), or nearly so (if the act, though not ἐκ προαιρέσεως, is ἐκούσιον). Of course ἀδικεῖσθαι may be κατὰ συμβεβηκός the greater evil, because of its possible results.' Cf. E. E. II. 10 §§ 18, 19 for the distinction between προαιρέτων and ἐκούσιων, of which we shall hear more in the sequel. For the doctrine that it is worse ἀδικεῖν ἣ ἀδικεῖσθαι, see Plat. Gorg. 469 c, 508 b.


6 § 4.] 'Hitherto we have been considering τὸ ἁπλῶς δίκαιον, i.e. that which is characteristic of the virtue called δικαιοσύνη, irrespective of the κοινωνία in which it is exhibited. Our statements are therefore true καθόλου,—of a trading company or a household as well as of a πόλις—though our illustrations have been drawn for the most part from the political κοινωνία. We must now say something of δίκαιον as it presents itself in different κοινωνίαι: and of these species of δίκαιον, τὸ πολιτικὸν δίκαιον, i.e. the δίκαιον of a community of free and equal citizens, is the most perfect representation of τὸ ἁπλῶς δίκαιον [and moreover concerns us most nearly, as this treatise is preparatory to a treatise on politics]. Other species of δίκαιον are τὸ διεσποτικὸν, τὸ πατρικόν, and τὸ οἰκονομικόν, which differ from τὸ
πολιτικῶν δίκαιων in so far as (1) master and slave, (2) father and son, (3) husband and wife are not ἐλέεθεροι καὶ ἱσοί ἢ κατ’ ἀναλογίαν ἢ κατ’ ἀριθμοῦν possessing definite rights secured to them by law. Of the three relations the last exhibits the nearest approach to τὸ πολιτικῶν δίκαιων.

It will be seen that in dealing with the three imperfect or καθ’ ὁμοιότητα δίκαια Eudemus takes a purely legal view, recognizing no rights except those which are embodied in law, and no law except written law. Hence it has been supposed by some that the three καθ’ ὁμοιότητα δίκαια are not included in τὸ ἀπλῶς δίκαιων, and consequently that τὸ ἀπλῶς δίκαιον is identical with τὸ πολιτικῶν δίκαιον. This is surely a mistake. In so far as there is a δίκαιον between father and son, the statements made about τὸ ἀπλῶς δίκαιον are true of it; τὸ ἀντιπεπονθὸς at any rate is very fully realized in this relation, since father and son, like unequal friends (N. E. ix. § 1), or magistrate and citizen (Polit. ii. 2. p. 24. 13), barter protection and honour. Hence ὅταν γονεῖς μὴ τέκνα ἀτομερὴ ἢ δεῖ τοὺς γεννήσας, γονεῖς δὲ νόεν ὅ ἔντο τοῖς τέκνοις, μόνιμοι ἢ τῶν ποιοῦντων καὶ ἐπιεικῆς ἔσται φιλία (viii. 7 § 2). Moreover there are other relations in which δίκαιον is more perfectly realized than in the more or less one-sided relations of the household. Thus a trading company and an ἔρων αἰτοῦνται governed by law, and consequently have their respective δίκαια, which are not identical with τὸ πολιτικῶν δίκαιων: cf. omnino N. E. viii. 9 §§ 4—6.

I cannot therefore assent to the statement of Rassow that τὸ ἀπλῶς δίκαιον and τὸ πολιτικῶν δίκαιον are different expressions for the same thing (Forschungen p. 123). Again I cannot allow that there is any force in the criticism of Trendelenburg: “according to the traditional arrangement of the text the words δεὶ δὲ μὴ λανθάνειν, κ.τ.λ. are preceded by two chapters and a half in which the distributive and corrective justice of the state are discussed at length: the warning that we must not overlook τὸ πολιτικῶν δίκαιον is therefore in this place unmeaning” (Beiträge iii. 418). It is quite true that in the preceding chapters τὸ ἀπλῶς δίκαιον has been constantly regarded in its political form, because reference to some particular kind of δίκαιον was necessary, and political δίκαιον afforded the most convenient examples. But nothing has been said which is not capable of application to other forms of δίκαιον. Now, however, we may proceed to distinguish the several species of τὸ ἀπλῶς δίκαιον, and to contrast the most important species, viz. πολιτικῶν δίκαιον, with the δίκαια of the household.

ἡ κατ’ ἀναλογίαν ἢ κατ’ ἀριθμόν] Equality may be either actual or
proportionate. Thus it may be assumed that all free men are καὶ ἄριθμῶν ἢσοι, and therefore that in distributions of conquests and of offices all should share alike. Again in an aristocracy, (and in βασιλεία, the limiting case of ἀριστοκρατία, where the claims of a single person are in virtue of his superior merit superior to those of all the rest put together,) τὸ καὶ ἀναλογίαν ἢσον is the principle assumed, regard being had to differences in merit. (See note on 3 § 7.) But when the citizens are not ἢσοι either καὶ ἀναλογίαν οἱ καὶ ἄριθμῶν, as in a δεσποτεία, there cannot be said to be πολιτικῶν δίκαιων; still even in this case there is a sort of δίκαιων καὶ ὁμοίωτητα, an undefined δίκαιον like that which is exhibited in the relation of master and slave.

The chief passages in the Politics which bear upon the subject of these §§ are the following:

III. 9. p. 71. 21. It is generally assumed that τὸ δίκαιον consists in τὸ ἢσον, but τὸ ἢσον is differently interpreted. Hence the distinction between τὸ ἀληθευτικὸν δίκαιον and τὸ δημοκρατικὸν.

III. 12. p. 78. 15. What constitutes a claim to political privileges? There is something to be said for all the kinds of excellence which are exhibited in the sphere of the state.

III. 17. p. 91. 31. Different sorts of πολιτικῶν δίκαιων are recognized, which are φύσει. There is however no δίκαιον καὶ ὁμοίωσις in τυραννίς and the other παρεκβάσεις, because these are παρὰ φύσιν.

VII. (VI.) 2. p. 179. 11 and p. 180. 21. τὸ δημοτικὸν (οἱ δημοκρατικῶν) δίκαιον consists in τὸ ἢσον ἢκεῖν καὶ ἄριθμόν.

VIII. (VI.) 3. p. 181. 9. An ἀληθευτικὸν δίκαιον is recognized.

VIII. (V.) 9. p. 214. 4. τὸ δίκαιον is not the same in all polities. There are therefore different sorts of δίκαιοςφύση, and the would-be politician must possess that sort which is appropriate to the constitution of the state.


ἐν ὅσον—πᾶσιν ἄδικα] Zell rejects these words. Münstcher, with whom I so far agree, thinks that they are wrongly given in this place. See Introduction, On dislocations in the text. I take the sentence ἐστὶ γὰρ δίκαιον, κ.τ.λ. to be a justification of the preceding remarks about πολιτικῶν δίκαιων: 'for there is δίκαιον where there is law, and law exists where ἄδικα is recognized, δίκη, the administration of law,
being the discrimination of the just and the unjust, where by the
unjust is meant the distribution to oneself of too large a share of
what is ἀπλῶς good, and too small a share of what is ἀπλῶς evil.'
Thus there is a δίκαιον πολιτικόν in a democracy, because all the
members of a democracy are subject to law based upon a certain
theory of right and wrong. But between a tyrant, properly so
called, and his subjects there is no δίκαιον πολιτικόν, because there is
no law to determine their mutual rights and relations, and where there
is no law there is no polity: cf. Polit. vi. (iv.) 4. p. 154. 28 ὅπως γὰρ μὴ νόμοι ἀρχουσιν, οὐκ ἔστι πολιτεία. δεὶ γὰρ τὸν μὲν νόμον
ἀρχειν πάντων, τῶν δὲ καθ’ ἔκαστα τὰς ἀρχὰς καὶ τὴν πολιτείαν κρίνειν.
For the argument as a whole cf. Polit. i. 2. p. 4. 19 ἡ δὲ δικαιοσύνη πολιτικὸν ἡ γὰρ δίκη πολιτικῆς κοινωνίας τάξεις ἔστιν ἡ δὲ δίκη τοῦ
δικαίου κρίσις.

I have written πρὸς αὐτοὺς for πρὸς αὐτοῖς in the first clause of this
sentence.

§ 5. διό, κ.τ.λ.] This question τότερον συμφέρει μᾶλλον ὑπὸ τοῦ
αρίστου ἀνδρὸς βασιλείσθαι ἡ ὑπὸ τῶν ἀριστῶν νόμων is discussed
by Plato in the Politicus 293 E sqq. and in the Laws ix. 874 e—
875 d, and by Aristotle in the Politics iii. 15. p. 87. 3—17 and iii.
16. p. 93. i—32. p. 91. 8—18. See also Polit. iii. 11. p. 77. 31.
For the phraseology cf. omnino Polit. iii. 10. p. 75. 1 (where
however emendation is necessary) and iii. 16. p. 90. 1 τὸν ἀρα
νόμον ἀρχεῖν αἱρέσιτερον μᾶλλον ἡ τῶν πολεμῶν ἐνα τινά. These
passages would seem to countenance the reading of ΜνίQ, ἀλλὰ τὸν
νόμον, which is preferred by Susemihl (Bursian’s Jahresbericht 1874—
75, p. 368); but the change is not necessary, as λόγον may mean the
formula contained in the law; cf. Polit. iii. 15. p. 87. 12 ἀλλὰ μὴν
κακεῖνον δεὶ ὑπάρχειν τὸν λόγον τῶν καθόλου τοῖς ἀρχουσιν.
Plat. Polit. 294 C παρὰ τὸν λόγον ὁν αὐτοὺς [i. e. ὁ νόμος] ἐπέταξεν. Grant in his
note on § 4 renders τὸν λόγον "the impersonal reason," this can
hardly be right.

ὅτι ἐαντῷ τοῦτο ποιεῖ] ‘Because a man rules in his own interest :’
cf. Polit. iii. 7. p. 70. 11 ἡ μὲν γὰρ πολιτεία ἐστὶ μοναρχία πρὸς τὸ
συμφέρον τὸ τοῦ μοναρχοῦντος.
ὁ ἀρχεῖ] ‘The magistrate who executes the law.’ There is
a certain awkwardness in the close proximity of ὁ ἀρχεῖ (meaning
no more than the executive magistrate) and ἀρχεῖν (in the sense of
κύριον εἶναι); but cf. Polit. vi. (iv.) 4. p. 154. 28, quoted above on
§ 4. I have marked οὗ γὰρ νέμει—πρύτερον as a parenthesis, thinking
with Grant that μυσθός ἄρα τις, κ.τ.λ. is the apodosis of ἐπεί δὲ οὐδὲν αὐτῷ πλέον εἶναι δοκεῖ (cf. Bonitz Aristot. Stud. I. ii. 28): ‘The administrator is the guardian of what is just, and therefore of what is equal: and, seeing that it is assumed that in the distribution he takes no more than his due, compensation for his services must be given him in the shape of honour and dignity, otherwise he becomes a tyrant.’

§ 6. ἐπεί δὲ οὐδὲν, κ.τ.λ.] ‘But since he does not seem to gain at all.’ Grant. Rather, I think, ‘but since it is assumed that he does not profit in the distribution.’

δὲ ἑτέρῳ πονεῖ] The modern editors except Cardwell and Michelet read πονεῖ, and Bekker takes no notice of the reading πονεῖ which is to be found in every one of the MSS. which I have consulted. It may perhaps be thought at first sight that ἑαυτῷ τούτῳ πονεῖ in the preceding § justifies δὲ ἑτέρῳ πονεῖ: but a little consideration will show that though the two datives are in themselves precisely similar, τούτῳ πονεῖ, which represents ἀρχεῖ, is no justification of πονεῖ in § 6 in the sense of “acts,” for so it is understood by Grant, Williams, &c. On the other hand nothing could be more suitable than πονεῖ, and in Polit. II. 5. p. 28. 24 (αὐτῶν δὲ αὐτῶις διαπονούντων τὰ περὶ τὰς κρίσεις πλέον ἢν παρέχοι δικουλίας) we have authority for the conjunction with it of a dative of the person interested.


§§ 8, 9. ‘There are in the household δίκαια which are analogous to the above-mentioned δίκαια of the state. Of these domestic δίκαια that which appears in the relation of husband and wife corresponds more nearly than τὸ δεσποτικὸν and τὸ πατρικὸν to the πολιτικὸν δίκαιον of § 4, and is the true οἰκονομικὸν δίκαιον.’

δεσποτικὸν δίκαιον, the δίκαιον which appears in the relationship of master and slave, and πατρικὸν δίκαιον, that which appears in the relationship of father and son, correspond rather to the δίκαιον τι καὶ καθ’ ὁμοιότητα of a tyranny, because here too ἀδικία is impossible on the part of the superior, and therefore law has no place. Cf. Polit. I. 12. p. 19. 16 ἐπεί δὲ τρία μέρη τῆς οἰκονομικῆς ἤν, ἐν μὲν δεσποτικῇ,


περὶ ἃς εἶρηται προτέρον, ἐν δὲ πατρικῇ, τρίτων δὲ γαμηκὴ καὶ γὰρ γυναικὸς ἀρχὴν καὶ τέκνων, ὡς ἐλευθερῶν μὲν ἄμφοτὲν, οὐ τὸν αὐτὸν δὲ τρόπον τῆς ἀρχῆς, ἀλλὰ γυναικὸς μὲν πολιτικὸς τέκνων δὲ βασιλικῶς. (See the whole of this chapter.)

κτῆμα] 'slave.' Cf. Polit. i. 4. p. 6. 7.

ἐως ἄν ἣ πηλικον καὶ χωρισθῇ.] With ΚᵇΡᵇΝᵇΟᵇ, the V.A., Münsscher, and the Berlin Index, I have omitted μῆ (which in all the editions stands before χωρισθῇ), translating ἐως 'until' instead of 'whilst.' Cf. M. M. i. 34 § 18 ὤστερ γὰρ μέρος τι ἐστι τοῦ πατρὸς ὁ νῦς, πλῆν ὅταν ἐδέρη λάβῃ τὴν τοῦ ἀνδρὸς τάξιν καὶ χωρισθῇ [ὑπ'] αὐτοῦ.

§ 9. ἡ] 'are, as we said before.' sc. § 4.

οἰκονομικὸν] In Polit. iii. 6. p. 68. 25 however οἰκονομικῇ as an epithet of ἀρχῇ is used comprehensively to include all three relations.

7 § 1. ὅσον τὸ μνᾶς λυτροῦσθαι.] The editors point out that this passage is inconsistent with Herodot. vi. 79 ἄπονα δὲ ἐστὶ Πελοποννησίου δύο μναί τεταγμέναι κατ' ἄνδρα αἰχμαλωτον ἐκτίνων, and vi. 77 χρῶς δὲ ἐλευθὴν σφαίρας δύμνεος ἀποτιμηρίσμενοι. But, as Blakely remarks, the prisoners in the latter case being the Chalcidian Hippobotae, two minae "may be considered as the ransom of a man-at-arms, not of an inferior soldier." One mina then may have been the ransom of men of the lowest rank.

ἡ τὸ ἀγα, κ.τ.λ.] On the strength of Herodot. ii. 42 ὅσοι μὲν δὴ Διὸς Ἡθβαίων ἰδρύται ἢ ὅ ἡ νομοῦ τοῦ Θεβαίον εἰσὶ, οὗτοι μὲν νων πάντες ὅιον ἀπεχόμενοι ἀγας θύσαι. Muretus proposed to read αἴγα Διο θύειν ἀλλὰ μῆ πρόβατα. Cf. N. E. ix 2 § 6. de Mirabilibus 844. a. 35. (In Athen. iv. 138 ἥθουσα δὲ ἐν ταῖς κοπίσσαι αἴγας ἀλλὰ δ' ὀδινὲν ἰερεῖον Ζεὺς is not the divinity honoured.) But the addition of Δι without explains the awkward antithesis of the singular αἴγα and the plural δύο πρόβατα. Is it possible that ἀλλὰ μῆ is a corruption of μιᾶν ἢ?

τὸ θύειν Βρασίδα.] The editors quote Thuc. v. 11.

§§ 2, 3. 'Some think that all δίκαια are determined by convention, because τὸ μὲν φύσει ἀκίνητον, τὰ δὲ δίκαια κινούμενα ὀρθῶν. (This last statement, that τὰ δίκαια vary, though not true without qualification, is true in a manner. It is positively untrue πάρ' τοὺς θεῶς; but παρ' ἡμῖν, although there is a φύσει δίκαιον, every δίκαιον is variable.) In spite of what they say, there is a φύσει δίκαιον, as well as a νόμῳ δίκαιον.' I conceive τοῦτο δ' οὐκ ἔστι—κινητὸν μὲντοι πάντων to be a parenthetical explanation of the author's views about
his opponents’ minor premiss, which he practically concedes. That is to say, the fact that δίκαια differ in different places (κινούται), and are therefore capable of arbitrary variation (κινητά), does not disprove the existence of an eternal, natural δίκαιον to which the before-mentioned δίκαια more or less conform. Hence δίκαια may be divided into (1) φύσις δίκαια, i.e. those which represent the eternal, natural δίκαιον, and (2) νόμος or συνθήκη δίκαια, which are wholly independent of it. “Ein unveränderliches Gerechte gibt es freilich unter Men-
schen nicht, wohl aber bei den Göttern. Dagegen ein Gerechtes, welches sich dem Menschen allenthalben durch eigene Kraft, wenn auch nicht mit unwiderstehlicher Nothwendigkeit aufdrängt, besteht allerdings.” Hildenbrand’s Rechts-
und Staatsphilosophie p. 306. After the parenthesis the author resumes the main argument with a flat denial of their conclusion, leaving it to be understood that he demurs to their major—to φύσει ἀκύνητον. If the sentence is not broken up in this way, the words ἀλλ’ ὑμως seem strangely out of place.

δοκεῖ δ’ ἐνώψις, κ.τ.λ.] Cf. Plat. Laws x. 889 ε καὶ δὴ καὶ [sc. φασιν] τὰ καλὰ φύσει μὲν ἀλλὰ εἶναι νόμῳ δὲ ἔτερα· τὰ δὲ δίκαια οὖν εἶναι τὸ παράταν φύσει, ἀλλ’ ἀμφισβητοῦνται διατελεῖν ἀλλήλοις καὶ μετατιθημένοις ἀλιὰ τάτα· ἀ δ’ ἄν μεταθoνται καὶ ὅταν, τότε κύρια ἔκαστα εἶναι, γεγονόμενα τέχνη καὶ τοῖς νόμοις, ἀλλ’ οὐ δὴ τινὶ φύσει. See also [Plat.] Mūnos 315 α—316 β, quoted by Grant, and Ν. E. 1. 3 § 2.

§ 4. φύσει γάρ, κ.τ.λ.] Nature intends the right hand to be stronger than the left, but all men may become ambidextrous. In place of παύτας Bekker without remark reads τῶν; but as παύτας is found so far as I know in all the MSS. and gives a good sense, I have, with Fritzsche (who compares Μ. Μ. ii. 34 § 21) and Zell, restored it to the text.

§ 5. ὑπονται—πωλοῦτων] sc. οἱ ἐμποροι.

ὁμοίως δὲ καὶ, κ.τ.λ.] Human δίκαια [as opposed to the eternal, natural δίκαιον] differ, inasmuch as the πολιτεία to which they belong are all deviations from the one perfect πολιτεία.

§ 6. Each law stands to the variety of action included under it in the relation of universal to particulars: cf. Politi. 11. 8. p. 44. 2 καθόλου γὰρ ἀναγκαῖον γραφήναι, αἱ δὲ πράξεις περὶ τῶν καθ’ ἔκαστον εἶσιν. This § and that which follows serve as a transition to another part of the inquiry—the justice and injustice of the individual.
§ 7. αὐτὸ δὲ τοῦτο] The editors write τὸ αὐτὸ δὲ τοῦτο in spite of the best MSS. Is the article necessary? ‘This very thing when realized in fact is called an ἀδίκημα: until it is realized, it is only an ἀδίκον.’ This statement is qualified in § 2, where we are told that every ἀδίκημα until it is committed is an ἀδίκον: but not every ἀδίκον when it is committed is an ἀδίκημα, because, to be an ἀδίκημα, an act must be ἐκοινων.

καλεῖται, κ.τ.λ.] “It is not improbable,” says Grant, “that Eudemus here is correcting the phraseology of Aristotle, who at all events in his Rhetoric, i. 13 § 1, uses δικαίωμα as the opposite of ἀδίκημα, merely to denote a just action.” See Cope on Rhet. i. 3 § 9. I have enclosed this sentence within marks of parenthesis to show that the original argument is continued in καθ' ἐκαστὸν δὲ, κ.τ.λ.

ἔστερον] I.e. in the Politics, which treatise was evidently intended to include a book or books περὶ νόμων.

§ 2.] See note on 7 § 7.

§ 3. πρότερον] The reference is to E. E. ii. 9 § 3 ὅσα μὲν οὐν ἑφ' ἀνωτὸ δὲν μὴ πράττειν πράττει μὴ ἀγνοῦν καὶ δὲ αὐτὸν, ἐκοινὼς ταύτ' ἀνάγκη εἶναι, καὶ τὸ ἐκοινῶν τοῦτ' ἐστὶν ὅσα δ' ἀγνοοῦν καὶ διὰ τὸ ἀγνοεῖν, ἀκόν, rather than to N. E. iii. 1 § 20 οὗτοι ὀ' ἀκοινών τοῦ βία καὶ δι' ἀγνοίαν, τὸ ἐκοινῶν δόξειν ἄν εἶναι οὗ ἡ ἀρχὴ ἐν αὐτῷ εἴδοτι τὰ καθ' ἐκαστα ἐν οἷς ἡ πράξις. Throughout this chapter we are reminded of the Eudeman, rather than of the Nicomachean, investigation of τὸ ἐκοινῶν.

μήτε δὲν] Before or after this phrase Bernays (Symb. Philol. Bonn. i. 304) would add μήτε δ', comparing § 6. Would not this addition necessitate the further addition of δὲ τύπτει καὶ before τίνα in the next clause? The list of particulars whereof ignorance is possible is not always given in full: even in E. E. ii. 9 §§ 1, 2, where we should have expected the lists to be complete, we have in one place εἴδοτα ἡ ὅν ἡ ὁ ὅν ἔνεκα, and in another ἄγνοοντι καὶ ὅν καὶ φ' καὶ δ'.

οὗ <ἔνεκα>] Bekker’s addition of ἔνεκα appears to be necessary.


ὅν οὐθέν, κ.τ.λ.] So E. E. ii. 8 §§ 4, 5 καθόλου δὲ τὸ βίαιον καὶ τὴν ἀνάγκην καὶ ἐπὶ τῶν ἀφίκων λέγομεν: καὶ γὰρ τὸν λίθον ἁνα καὶ τὸ πέρ κατὸ βία καὶ ἀναγκαζόμενα φέρονται φαμέν. ταύτα δ' ὅταν κατὰ τὴν φύσει καὶ καθ' αὐτὰ ὀρμήν φέρηται, οὗ βίας, οὗ μήν οὗδ'
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ёкоусиа лёгетаи, ἀλλ' ἀνώνυμος ἡ ἀντίθεσις. ὅταν δὲ παρὰ ταυτὴν, βία φαμέν. Rassow however (Forschungen p. 95) corrects ὄν οὐθὲν οὔτ' ἐφ' ἡμῖν οὔθ' ἐκούσιον ἑστιν, and Spengel (Aristot. Stud. I. 43) ὄν οὐθὲν ἐκούσιον ἑστιν.

§ 4. διὰ φόβου] Cf. Ν. Ε. III. i §§ 4—6, where the conclusion is the same, though somewhat differently expressed.

§ 5. τῶν δὲ ἐκούσιων, κ.τ.λ.] Here, as in Ε. Ε. ii., actions are classified as

άκούσια

ἐκούσια { ἀπροαἱρετα

 Cf. E. E. II. 10 § 19 ἀρα δ' ἐκ τούτων φανερῶν καὶ ὅτι καλῶς διορίζονται οἱ τῶν παθημάτων τὰ μὲν ἐκούσια τὰ δ' ἀκούσια τὰ δ' ἐκ προνοιας νομοθετοῦνται: ἐι γὰρ καὶ μη διακριβοῦται, ἀλλ' ἀποτοναι γέ της ἀληθείας. ἀλλά περὶ μὲν τούτων ἐρώτημεν ἐν τῇ περὶ τῶν δικαίων ἐπισκέψει. In Ν. Ε. III. i § 13 οὐχ ἐκούσια are interpolated between ἀκούσια and ἐκούσια.

§ 6. τριῶν δὲ οὐσῶν, κ.τ.λ.] The three sorts of βλάβη are ἀτύχημα, ἀμάρτημα, and ἀδίκημα; but ἀδίκημα is afterwards subdivided into simple ἀδίκημα, and ἀδίκημα which implies ἀδίκια in the doer. If we further include ὅσα βίαια καὶ μη ἐφ' αὐτῷ, we have the following classification:

{ (α) τὰ βίαια καὶ μη ἐφ' αὐτῷ

άκούσια

{ (β) τὰ μετ' ἀγνοιας, ὅταν παραλόγως ἢ ἀτυχήματα

βλάβη γένεται, (ὅταν ἢ ἄρχη) ἔξωθεν ἢ τῆς ἀγνοιας

{ (γ) τὰ μετ' ἀγνοιας, ὅταν μη παραλόγως ἢ ἀμαρτήματα

ἀνέν δὲ κακίας, (ὅταν ἢ ἄρχη) ἐν αὐτῷ ἢ τῆς ἀγνοιας

ἐκούσια

{ (δ) ὅταν εἰδῶς μὲν μη προβουλεύσεις δὲ ἢ ἀδικήματα

(ε) ὅταν ἐκ προαιρέσεως, (ἐκ προνοιας) ἢ ἀδικήματα which imply ἀδίκια in the doer

The ἀγνοια here mentioned is of course ignorance of the circumstances of the act (τὰ καθ' ἐκαστα), not ignorance of rules (τὰ καθόλου): cf. E. E. II. 9 §§ 1, 2. Ν. Ε. III. i § 15. According to the above Eudemian list the act of the μεθών is ranked under (γ), that of the θυμὸν ποιῶν under (δ), and that of the ἐπιβουλεύσας under.
(e). In the Rhet. i. 13. p. 47. 29 ἐστὶ δ' ἀνυχήματα μίαν ὅσα παράλογα καὶ μη ἀπὸ μοχθηρίας, ἀμαρτήματα δὲ ὅσα μη παράλογα καὶ μη ἀπὸ πονηρίας, ἀδικήματα δὲ ὅσα μίτε παράλογα ἀπὸ πονηρίας τ' ἐστίν, (γ) and (δ) of the Eudemian list are classed together as ἀμαρτήματα: and in the same way in N. E. iii. 1 § 14 the act of the μεθύσων and the act of the ὀργιζόμενος are mentioned together as instances of ὅσα μη δι' ἁγνοιαν ἀλλ' ἁγνοίων. Thus the θυμὸν ποιῶν according to Aristotle acts ἁγνοὶ τοιούτου ὅποιον: according to Eudemus, εἴδως μὲν οὐ προβουλεύσας δε. For this difference of statement Eudemus prepares us in ii. 9 § 3 ἐτέλεσα δὲ τὰ ἐπίστασαι καὶ τὸ εἰδέναι διπτόν, ἐν μὲν τὸ ἔχειν ἐν δὲ τὸ ἁρπαγμὸν τῇ ἐπιστήμῃ, ὃ ἔχων μη κρύφομεν δὲ ἐστὶ μὲν ὡς δικαίως <ἀν> ἁγνοίων λέγοιτο, ἐστὶ δ' ἐσ τοιούτου, οἷον εἶ δι' ἀμέλειαν μὴ ἔχρητο. In the Rhet. ad Alexander. (c. 4. p. 24. 4. c. 36. p. 79. 27 Spengel) ἀδίκων is said to be coextensive with τὰ ἐκ προοίμιας, ἀμαρτία with τὰ δι' ἁγνοιαν, and ἄνευχα with τὰ δὲ ἐτέρων τυχόν ἢ δυνά τύχον: but here τὰ δι' ἁγνοιαν is equivalent to Aristotle's ὅσα ἁγνοὶ ἀλλὰ μη δι' ἁγνοιαν. In M. M. i. 34 § 25, (γ), (δ), and (ε) of Eudemus's list are roughly thrown together under the title of ἀδίκημα: see note on § 7. The Eudemian terminology seems to be based upon that of Attic law: see Antiphon, passim.

ἁμαρτήματα] here includes ἀνυχήματα as well as ἀμαρτήματα in the narrower sense in which the word is used in § 7.

[5] So Rassow Forschungen p. 61, on the authority of K. Although the lists of particulars of which a man may be ignorant are not always the same, (see note on § 3,) it is reasonable to expect consistency in such a passage as the present, where the list occurs three times in the space of five lines. In E. E. ii. 9 §§ 1, 2 the particulars are as here, ὅν, ὅ, ὅ, and ὃν ἐνεκα, ὃς being suppressed and ὅν doing duty for the περὶ τῆς ἐν τίνι of N. E. iii. 1 § 16.

§ 7. ἁμαρτάνει μὲν γάρ, κ.τ.λ.] It is plain that this sentence ought to restate the distinction already drawn between ἀτίχυμα and ἁμαρτήματα: but it is difficult to see how ὅταν ἡ ἀρχὴ ἐν αὐτῷ ἡ τῆς αἰτίας—so the MSS. except ἨνΜb (which have κακίας), and all the editors—can be equivalent to μη παραλόγως, and ὅταν ἔχωθην ἐπαραλόγως. Moreover, ἡ ἀρχῃ τῆς αἰτίας is a strange phrase. Hence I have supposed ΑΗΤΙΑΣ to be a corruption of ΑΓΝΟΙΑΣ, and I find the strongest possible confirmation of my conjecture both in the N. E. and in the M. M. Cf. N. E. iii. 5 § 8 καὶ γάρ ἐπ' αὐτῷ τὸ ἁγνοῖν κολάζοντος, ἢ ἄν αἰτιος εἶναι δοκῇ τῆς ἁγνοίας, οἷον τοῖς μεθύσασθαι διπλὰ τὰ ἐπιτίμα: ἡ γάρ ἀρχῇ ἐν αὐτῷ κύριος γάρ τοῦ μη μεθυσθήναι, τούτῳ
NOTES.

I I I

§ 8. eidoi] Thus ο ϑυμό ποιών is accounted eidoi. In the N. E. III. 1 § 14 he is classed with the μεθύνων as an ἄγνοιαν: έτερον δ’ έσοκε καὶ τό δε’ ἄγνοιαν πράττειν τοῦ ἄγνοιαν ποιεῖν: ο γὰρ μεθύων ἡ ὀργίζομενος οὔ δοκεῖ δε’ ἄγνοιαν πράττειν, ἀλλὰ διὰ τι τῶν εἰρημένων, οὐκ eidoi δέ, ἀλλ’ ἄγνοιαν. See note on § 6.

οἷον ὅσα τε, κ.τ.λ.] Thinking that the second ὅσα is the subject of συμβαίνει, I expunge the commas which Bekker places after πάθη and φυσικά. If the first ὅσα were the subject of συμβαίνει, τοῖς ἀνθρώποις would be unmeaning and superfluous. On the other hand these words are positively necessary to complete the sense of ὅσα ἀναγκαία ἡ φυσικά. Cf. § 12 διὰ πάθος δὲ μήτε φυσικόν μήτ’ ἀνθρωπικόν. See also Polit. III. 10. p. 75. 3 ἔχοντά γε τά συμβαίνοντα πάθη περὶ τήν ψυχήν. v. (viii.) 7. p. 142. 32 ο γὰρ περὶ ἐνίας συμ-
βαίνει πάθος ψυχάς ἰσχυρώς, τούτο ἐν πάσαις ὑπάρχει, τῷ δὲ  ἵπτων 
διαφέρει καὶ τῷ μᾶλλον, οἷον ἔλεος καὶ φόβος, ἐτί ἐνθονασιμόσ. Βγ 
ψυχικά πάθη Eudemus means ὅσα κοινά πάσι καὶ ἐφ' ὅσον κοινά: 
the ἀναγκαία πάθη, which are a species of the ψυχικά πάθη, include 
ἐπιθυμίαι αἱ περὶ τὴν τροφήν, κ.τ.λ. Opposed to the ψυχικά καὶ 
ἀνθρωπικά πάθη are the θηριώδη καὶ νοσηματώδη πάθη, which in the 
developed form of ἔξεις are described in Ὁ.Ε. ν. VII. 5. See Ὁ.Ε. ν. VII. 
6 § 2 ἐτί ταῖς ψυχικῶν μᾶλλον συγγνώμη ἀκαλούθειν ὀρέξεις, ἐπεὶ καὶ 
ἐπιθυμίαις ταῖς τοιαύταις μᾶλλον ὅσα κοινά πάσι καὶ ἐφ' ὅσον κοινά· 
ὁ δὲ θυμὸς ψυκτικότερον καὶ ἡ χαλεπότητι τῶν ἐπιθυμιῶν τῶν ὑπερ-
βολῆς καὶ τῶν μὴ ἀναγκαίων. VII. 4 § 2 ἀναγκαία μὲν [sc. τῶν 
τοιούτων ἡδονῆς] τὰ σωματικά. λέγω δὲ τὰ τοιαύτα, τὰ τε περὶ τὴν 
τροφήν καὶ τὴν τῶν ἀφροδισίων χρείαν, καὶ τὰ τοιαύτα τῶν σωματικῶν περὶ 
τὴν ἀκαλοσίαν ἔθεμεν καὶ τὴν σοφοστίνην. VII. 6. § 6 ὥσπερ γὰρ ἐφητα 
κατ' ἄρχας, αἱ μὲν [sc. τῶν ἐπιθυμιῶν] ἀνθρωπικά εἰσι καὶ ψυχικαί, καὶ 
τῷ γένει καὶ τῷ μεγέθει, αἱ δὲ θηριώδεις, αἱ δὲ διὰ τηρώσεως καὶ νοσήματα. 
(In Ὁ.Ε. ν. III. 11 § 1 the distinction between ἀναγκαίαι καὶ 
ψυχικαὶ ἐπιθυμίαι is not recognized.)

οὗ γὰρ διὰ μοχθηρίαν ἡ βλάβη] After these words I have intro-
duced 6 §§ 1, 2. See Introduction, On dislocations in the text.

6 § 1. ἡ ὀντω μὲν οὐδὲν διώίσει,...ἀταν δὲ ἐκ προαιρέσεως, ἀδικος 
καὶ μοχθηρός;) I conceive that these clauses, of which the first belongs 
to 6 § 1, the second to 8 § 9, are to be read in close connection with 
one another, the intervening sentences being parenthetical. 'Or 
shall we say that it is not (as the question thus expressed assumes) 
the doing of certain acts, but the spirit of the doer, which makes 
him ἀδικος καὶ μοχθηρός P' Cl. 8 § 11 infra.

6 § 2. διὸν οὗ κλέπτης, ἐκλέγει δὲ] On the authority of Ὁb Ἐb I 
have written οὗ κλέπτης in place of οὐδὲ κλέπτης, which is hardly 
intelligible even if with Münzscher we expunge οὐδὲ μοχθ, ἐμοίξεστε 
δὲ, so that οὐδὲ may introduce an example supplementary to the one 
already discussed. As Bekker's text stands, οὐδὲ cannot bear its 
proper meaning.

8 § 9. διὸ καλῶς, κ.τ.λ.] 'Hence the law is right in not accounting 
tὰ ἐκ θυμοῦ to be ἐκ προοια, because it is ὁ ἀργύς who ἄρχει, not ὁ 
θυμὸς ποιων. Indeed it is a legal maxim that it is only an issue of fact 
on which it may be argued that one or other of the two parties is 
necessarily πονηρός [μὴ λανθανέτω δ' ὅτι ἀναγκαίων ἐν ταύτῃ τῇ ἀμφισ-
βητήσει μόνη τὸν ἑτέρων εἶναι πονηρόν' οὗ γὰρ ἑστιν ἄγνοια αἰτία, ὥσπερ
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ην εἰ τίνες περὶ τοῦ δικαίου ἀμφισβήτησεν Ῥήτ. III. 17. p. 143. 7],
whilst in the case of τὰ ἐκ θυμοῦ, done ἐπὶ φανομένη ἀδικίᾳ, the
issue is not one of fact (περὶ τοῦ γενέσθαι), but one of justice (περὶ
toῦ ποτέρως δίκαιον). Hence the angry man may plead ignorance.
On the other hand ὁ ἐπιβουλεύσας, i.e. the man who deliberately
attacks his neighbour, [whether by way of revenge or otherwise,]
cannot plead ignorance (οὐκ ἀγνοεῖ), and therefore must be punished
as an offender ἐκ προνοιας. Thus the difference between the θυμῷ
ποιῶν and the ἐπιβουλεύσας is that the one can plead that he thought
he had been wronged, the other cannot.' But what is the ἄγνοια
which in Rhetoric III. 17, quoted above, is said to be an αἰτία
or excuse in the ἀμφισβήτησις περὶ τοῦ δικαίου and not to be so
in the ἀμφισβήτησις περὶ τοῦ γενέσθαι? Clearly not ignorance of
the act done in anger, else the question περὶ τοῦ γενέσθαι would
have to be discussed, but ignorance or mistake about the supposed
provision. Similarly in the passage before us, the θυμῷ ποιῶν may
plead ἄγνοια, not of his own action, for we have seen in § 8 that he
is εἰδὼς μὲν μὴ προβουλεύσας δὲ, but of the φανομένη ἀδικίᾳ which
he mistakes for a real ἀδικίᾳ. On the other hand the ἐπιβουλεύσας,
who takes time to retaliate, cannot plead ἄγνοια of this sort. The
action of the θυμῷ ποιῶν may be traced to the assumption, in this
case false, that he had been wronged, whilst the ἐπιβουλεύσας has
had time to consider the matter, and therefore cannot plead mistake
as an excuse. For example, Α, wrongly thinking himself to have
been injured by Β, strikes him in the heat of passion. Here Α is
εἰδὼς in respect of his own act, but ἄγνοιῶν in respect of the supposed
injury. Hence his act is not held by the law to be ἐκ προνοιας. If
however Α broods over his supposed wrong before he retaliates, he
can no longer plead that he supposed himself to have been unjustly
tried by Β, because he has had time to discover his mistake. His
act is therefore ἐκ προνοιας. Cf. Antiphon p. 126 τῶν γὰρ ἐπιβουλεύ-
σατα κελεύει [sc. ὁ νόμος] φονέα εἶναι.

The conclusion is then that the law is right in drawing a line
between ἀδικήματα done in the heat of passion and ἀδικήματα done
by way of revenge after an interval, the θυμῷ ποιῶν being entitled to
plead that he supposed himself to have provoked, the ἐπιβουλεύσας
not being entitled to do so. This result agrees very well (allowance
being made for differences in the use of the words ἐκούσην and
ἀκούσῃ) with Plato Lysis IX. 867 Α ὁ μὲν τῶν θυμῶν φυλαττὼν καὶ οὐκ
ἐκ τοῦ παραχρήμα ἐξαίφνης ἀλλὰ μετὰ ἐπιβουλής ὑστερον χρόνον τιμω-
ροῦμενος ἐκούσην οὐκεν, ὁ δὲ ἀταμενέως ταῖς ὄργαναι καὶ ἐκ τοῦ παρα-
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[NICOMACHEAN] ETHICS V. 8 § 9—9 § 1.

χρήμα εὐθὺς χρόμουνος ἀπροβοηθεῖτος ὁμοίως μὲν ἀκούσιω, ἐστὶ δὲ ὀδὸν ὁμοίως αὐτῷ παντάπασιν ἀκούσιοι ἀλλ’ εἰκὸν ἀκούσιον...βέλτιστον μὴν καὶ ἀληθέστατον εἰς εἰκόνα μὲν ἄμφω θεία, τερεύν ἐν δὲ αὐτῷ χωρίς τῇ ἐπιβουλῇ καὶ ἀπροβοηθεῖ, καὶ τοῖς μὲν μετ’ ἐπιβουλῆς τε καὶ ὀργῇ κτείνας τῶν τιμωρίας χαλεπωτέρας, τοῖς δὲ ἀπροβοηθεῖτος τε καὶ ἐξαίφνυς προσέρας νομοθετεῖν. Bywater (Journal of Philology 1874, v. 115) anticipates me in referring to the Latin for the explanation of the phrase ὁ ἐπιβουλέος; but I fancy that he takes the remarks made about ὁ θυμὸς ποιών to apply also to ὁ ἐπιβουλέος, as I did myself in a paper in the same journal (1876, vi. 109). Mich. Ephesiós, the Paraphrast, and most of the editors seem to take ὁ μὲν and ὁ δὲ to be the two persons concerned in a quarrel, and ὁ ἐπιβουλέος to be equivalent to ὁ προκατάρτης.

On the ἀμφισβητήσεις or στάσεις (ὅτι οὐ γέγονεν, ὃτι οὐκ ἐβλαψεν, ὅτι οὐ τοσοῦδε, ὃτι δικαῖος: otherwise, στοχαστική, ὁρική, ποιότητος) vide Rhet. iii. 17. p. 143. 1, and Cope’s Introduction pp. 355, 397. That cases where the issue is περὶ τοῦ στόρου δικαίων are not to be accounted ἐκ προνοίας is assumed in Polit. vi. (iv.) 16. p. 176. 20 περὶ τῆς τῶν ἐκ προνοίας, καὶ περὶ τῶν ἀκούσιον, καὶ ὅσα ὀμολογεῖται μὲν ἀμφισβητεῖται δὲ περὶ τῶν δικαίων, τέταρτον δὲ ὅσα τοῖς φεύγοντι φόνον ἐπὶ καθοῦ ἐπιφέρεται.

§ io. ὡν] This relative has no expressed antecedent. Should we read ὄν γὰρ ὧσπερ <ἄ> ἐν τοῖς συνάλαγμασι; For the sense cf. Rhet. iii. 17 quoted above.

ἀν μὴ διὰ λήθην αὐτὸ δρῶσιν] I think that the subject of δρῶσιν is ὁ τε ὀργίσας καὶ ὁ ὀργισθεὶς, who do not raise the issue of fact unless they do it through forgetfulness, i.e. the forgetfulness which results from anger. These words are commonly understood to refer to the two parties concerned in a συνάλαγμα, “ubi sieri non potest quin eorum altern qui ita controversiatur pravus sit, nisi forte oblivio intercessit” (Victorius on Rhet. iii. 17): but (1) why is αὐτὸ δρῶσιν in the plural? and (2) what precise idea do these words convey? According to my interpretation they stand for περὶ τῶν γενέσθαι ἀμφισβητοῦσιν.

§ ii. ἄδικε καὶ κατὰ ταῦτ’ ἥδη, κ.τ.λ.] All the editions with which I am acquainted place a full stop, or at least a colon, after ἄδικε, thus completely destroying the sense. It is clear from the parallel statement in regard to ὁ δίκαιος and ὁ δικαίοπραγῶν which succeeds, and indeed from the whole argument of the passage, that if a man παρὰ τὸ ἀνάλογον ἥ παρὰ τὸ ἱσον βλάπτει another ἐκὼν, he ἄδικε,
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but if a man παρὰ τὸ ἀνάλογον ἢ παρὰ τὸ ἴσον βλάπτει another προελά-
μενος, he ἀδικεῖ καὶ ἀδικός ἐστιν. Hence the words ἀδικεῖ καὶ κατὰ
tαύτ' ἣδη τὰ ἀδικήματα ὃ ἀδικῶν ἀδικος must be closely connected
together, κατὰ ταύτ' ἣδη τὰ ἀδικήματα representing ἂν ἐκ προαιρέσεως
βλάψῃ. The words οὐκοτάν παρὰ τὸ ἀνάλογον ἢ ἢ παρὰ τὸ ἴσον do not
refer exclusively to ὁ ἀδικῶν who is also ἀδικος, and therefore cannot
constitute the distinction required: they are, in fact, part of the de-
finition of τὸ ἐν μέρει ἀδικον. Cf. 4 §§ 2, 3, where it is stated that τὸ
ἀδικον τὸ ἀντικείμενον τῷ διανεμητικῷ δικαίῳ is παρὰ τὸ ἀνάλογον, and
that τὸ ἐν τοῖς συναλλάγμασιν ἀδικον is ἄνισον κατὰ τὴν ἀριθμητικήν
ἀναλογίαν, i.e. in the language of the passage before us παρὰ τὸ ἴσον.

[δικαιοπραγγ] After this word I have substituted a comma for a
full stop.

§ 12. τῶν δ' ἀκούσιων] These words answer to τῶν δὲ ἐκουσίων
in § 5: but it must be observed that the ἀκούσια of the present section
include actions which do not appear at all in the foregoing classifi-
cation. The ὁσα μη μόνον ἄγνοοιτες ἄλλα καὶ δὲ ἄγνοιαν ἀμαρτάνοντι
are the ἄντυχματα of § 7: the ὁσα μη δὲ ἄγνοιαν, ἀλλ' ἄγνοοιτες μὲν
dιὰ τᾶδος δὲ μὴτε φυσικον μητ' ἀνθρωπικον are neither the ἀμαρτήματα
nor the ἄντυχματα of §§ 7, 8, but acts characteristic of the inhuman
πάθη: see note on § 8 οἷον ὁσα τε, κ.τ.λ. and compare vii. 5. The
acts in question are ἀκούσια because the perpetrators of them are not
responsible agents, but they are not συγγραμμονικα, because they are
even more detestable than ordinary vicious acts. (It may be worth
while to note that τὰ ἔξω τῶν ὅρων τῆς κακίας are in vii. 5 classified as
θηριώδη καὶ νοσηματωδή, τὰ νοσηματωδή being subdivided into τὰ
φύτευ τα ἔξω.) Thus, as the πάθη here spoken of are such as are
ἀμαρτήματα, it is a mistake to say that "the word
[ἀκούσιων] is used less sternly here than it is by Aristotle in Eth. iii. i
§ 21, &c., where acts of passion are excluded from the class of the
involuntary." The acts done διά θυμόν ἢ δι' ἐπιθυμίαν of which
Aristotle speaks in the passage cited come under the head of ὁσα
tε διὰ θυμόν καὶ ἀλλα πάθη ὁσα ἀναγκαία ἢ φυσικα συμβαίνει τοῖς
ἀνθρώπισοι § 8, and as we have seen (see note on § 6) are reckoned
by Eudemus ἐκούσια. Mich. Ephes. and the Paraphrast similarly
misconceive the passage.

ἀνθρωπικῶν] I think that the passages cited in the Berlin Index
favour ἄνθρωπικόν rather than ἀνθρώπινον. See especially N. E. vii.
6 § 6, quoted above on § 8.

9 §§ 1—7. The first of a series of ἀπορίας is investigated: τότεπον
'It might be thought that as ἀδικεῖν and δικαιοπραγεῖν are πάν ἐκοίσιον, so ἀδικεῖσθαι and δικαιοώσθαι are either πάν ἐκοίσιον or πᾶν ἀκούσιον. But no such symmetrical determination is possible: for δικαιοώσθαι is sometimes ἐκοίσιον, sometimes ἀκούσιον. Further, it may be asked τὸτέρον ὁ τὸ ἀδικὸν πέπονθως ἀδικεῖται πᾶς; No: for in order that A may be said ἀδικεῖν, B ἀδικεῖσθαι, A must be ἐκὼν and B ἄκον. If A is ἄκον and B ἐκὼν, or both ἄκων, or both ἐκῶν, A may be said ἀδίκα πράττειν but not ἀδικεῖν, B may be said ἀδίκα πάσχειν but not ἀδικεῖσθαι. That A must be ἐκὼν we have assumed in the preceding chapter: that B must be ἄκων is necessary in order that there may be that contest of wills which we suppose when we say that A ἀδικεῖ B. 'Thus in either of the two alternatives contemplated by Phegeus in the quotation from Euripides Alcmaeon cannot be said ἀδικεῖν nor his mother ἀδικεῖσθαι.' The meanings here put upon the words ἀδικεῖν and ἀδικεῖσθαι are precisely those put upon them by the orators, with whom ἀδικεῖν is 'to owe compensation,' ἀδικεῖσθαι 'to be entitled to compensation.' It will be observed that in § 4 the author assumes that he will hereafter answer the question πῶς ἔθεσκα ταὐτὸν αὐτὸν ἀτέκτον ἀδικεῖν; in the negative. The results of these §§ are briefly summarized in the Rhet. i. 13. p. 46. τὸ ἐστὶ νῦν τὸ ἀδίκεισθαι τὸ χαμένος τὰ ἀδίκα πάσχειν... ἀνάγκη τῶν ἀδικουμένων βλάπτεσθαι καὶ ἀκούσιος βλάπτεσθαι. I have in §§ 1—3 departed from Bekker's punctuation on several occasions.

§ 1. µητέρα, κ.τ.λ.] Bekker reads with the MSS. κατέκτα and ἡ θέλουσαν, placing a comma at the end of the first, and a colon at the end of the second, line. Nauck, Wagner, and others have altered κατέκτα into κατέκταν, and inserted ὁν before θέλουσαν, placing a full stop after λόγος, and a note of interrogation after ὁν ἐκών. They suppose that these lines are part of a conversation between Alcmaeon and Phegeus in the 'Alκραϊν ὁ διὰ Ψωφίδος, a tragedy which is also referred to in Α. Ε. iii. 1 § 8. Mich. Ephes. says that these lines are from the Bellerophon; see Ellis's remarks in the Journal of Philology 1872, iv. 271. Adopting in the main the emendations above mentioned, I have further written ἡ ὁν ἐκούσαν in place of the ἡ ὁν θέλουσαν of the editors. Cf. Eur. Hippol. 319 φίλος μ' ἀπόλλανεν ὁν ἐκούσαν ὁν ἐκόην, quoted by the commentators.

[οστερ καὶ τὸ ἀδικεῖν πάν ἐκοίσιον] Nötel thinks that these words, which are repeated immediately afterwards, should be omitted. I do not see why they should not stand as part of the original question, as
well as of the more comprehensive question which in καὶ ἅρμα πάν, κ.τ.λ. is substituted for it.

§ 2. ἦςετ' εὐλογον, κ.τ.λ.] The words ἦ ἕκουσιν ἦ ἀκουσιν εἶναι, grammatically regarded, are an awkward addition to this sentence. Compare however, for a similar supplementary explanation, 4 § 14. Rassow proposes to write καὶ instead of καθ'.

§ 4. ἐνδέχεσθαι αὐτὸν αὐτὸν ἀδικεῖν] 'We should be obliged to answer in the affirmative the question "can a man ἀδικεῖν himself?" Whereas when the ἀπορία is discussed presently in § 8 sqq. and ch. II §§ 1—6, we shall see ourselves obliged to answer it in the negative.'

§§ 5, 6. 'Α δὲ ἀκρασίαν ἑκὼν ὑπὸ Β ἐκόντος βλάπτεται. If then ἀδικεῖθαι = ψφ ἐκόντος βλάπτεται, the ἀκρατῆς ἑκὼν ἀδικεῖται. If however ἀδικεῖν presumes opposition from the βουλήσις of the ἀδικούμενος, the ἀκρατῆς cannot be regarded simultaneously as ἀδικούμενος and ἑκὼν. For the ἀκρατῆς (who acts κατὰ τὴν ἐπιθυμίαν but παρὰ τὴν βουλήσιν), (1) so long as his βουλήσις is not ἑκών, and (2) when his ἐπιθυμία has its way, is not ἀδικούμενος, because his βουλήσις has ceased to resist. [In fact in the case of the ἀκρατῆς the opposition offered by his βουλήσις is overcome, not by the supposed ἀδικών, but by his own ἐπιθυμία, and therefore Α οὐκ ἀδικεῖται ὑπὸ Β, though, as we shall see in II § 9, κατὰ μεταφορὰν καὶ ὀμοιότητα, A's λόγον ἑκὼν may be said ἀδικεῖσθαι by his ἀλογον.] Thus the chief argument to show ὅτι εἰπὲ ἂν ἑκὼν ἀδικεῖσθαι is disproved.' The words οὐδεῖς γὰρ βουλεῖται—πράττειν πράττειν explain the condition of the ἀκρατῆς when he proceeds ἀκρατείς ὑπὸ τῆς ἐπιθυμίας, as no one but a ἀκρατείς (which he does not suppose to be good); but he πράττει παρὰ τὴν βουλήσιν, i.e. when the struggle is over, his βουλήσις retires from the field, and under the influence of ἐπιθυμία he does that which his better reason assures him he ought not to do. Cf. E. E. II. 7 § 5 βουλεῖται δ' οὐδεὶς δ' οἴεται εἶναι κακῶν ἀλλὰ μὴν δ' ἀκρατείμενος οὐκ ἂ βουλεῖται ποιεῖ· τὸ γὰρ παρὰ δ' οἴεται βέλτιστον εἶναι πράττειν δι' ἐπιθυμίαν ἀκρατείσθαι ἐστίν, and Ε. Ε. II. 7 § 11 βουλεῖται μὲν γὰρ οὐδεὶς δ' οἴεται εἶναι κακὰ, πράττει δ' ὅταν γίνηται ἀκρατῆς. According to Eudemus then we must distinguish in τὰ κατ' ἀκρασίαν two successive stages: (1) that in which the βουλήσις resists, and therefore the man is ἀκων, and (2) that in which, the βουλήσις having given way to the ἐπιθυμία, the man is ἑκὼν, but οὐδέν παρὰ τὴν αὐτὸν πάσχει βουλήσις. Thus the ἀκρατῆς is not simultaneously

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and therefore the phenomena of ἀκρασία do not countenance the theory that a man may ἐκὼν ἀδικεῖσθαι. (For the successive predominance of βούλησις and πάθος cf. N. E. vii. 2 § 2 ὅτι γὰρ οὐκ ἂν τῇ ἄκρασιν πρῶτον ἔργα πάθει γενότατα, φανερῶν, and E. E. ii. 7 § 4 quoted below.) The difficulty of the passage is due in large measure to the phrase οὖν παρὰ τὴν βούλησιν πράττει, which seems to surrender Eudemus’s position: it will be well therefore to say a word or two more about it, even at the risk of iteration. In the earlier stage, during which A ′ does not succumb to B’s seductions, A’s βούλησις directs his conduct, so that B’s action is παρὰ τὴν τοῦ Α βούλησιν: but in the second stage A’s conduct is directed not by his βούλησις, but by his ἐπιθυμία, which plays into B’s hands; hence B’s action is no longer παρὰ τὴν τοῦ Α βούλησιν, but κατὰ τὴν τοῦ Α ἐπιθυμίαν. A’s ἐπιθυμία however is resisted by his βούλησις: and consequently, though B’s action is not παρὰ τὴν τοῦ Α βούλησιν, A himself may be said πράττειν παρὰ τὴν ἐκατον βούλησιν. (Cf. E. E. ii. 7 § 4 ὅδε ἀκρατῆς οὐκ ἐγερμένως τῇ ἐπιθυμίᾳ παρὰ τὸν λογισμὸν οἷος πράττειν, ἀκρατεύεται ὅταν ἐνεργῇ κατ’ αὐτὴν, τὸ δ’ ἀδικεῖν ἐκούσθην, ὥστ’ ἀκρατῆς ἀδικεῖ τῷ πράττειν κατ’ ἐπιθυμίαν ἐκὼν ἢρα πράξει καὶ ἐκούσιον τὸ κατ’ ἐπιθυμίαν.) Hence in the first stage A is not ἐκὼν, because βούλησις, being dominant, resists; in the second stage A is ἐκὼν but not ἀδικούμενοι, because ἐπιθυμία, being dominant, assents to B’s solicitations, βούλησις having now given way.

The passage has been variously understood or misunderstood. The author of the M. M. i. 34 § 35 interprets—’the ἀκρατῆς βουλόμενος πράττειν τὰ κατὰ τὴν ἀκρασίαν and therefore ἐκὼν βλαπτότεται: but no one βουλεύει ἀδικεῖσθαι, and therefore no one ἐκὼν ἀδικεῖσθαι, assuming apparently, in defiance of E. E. ii. 7 § 10 (to say nothing of other passages), the identity of βουλεύεισθαι and ἐκὼν εἶναι. This view appears to be accepted by the Paraphrast, and by Hildenbrand, Rechts- und Staatsphilosophie, i. 315, who however recognizes the insufficiency of the argument. Mich. Ephes. boldly emends—οὖν ἀκρατῆς παρὰ τῇ βούλησιν πράττει. Rassow virtually abandons the attempt to make sense of the passage (Forschungen p. 41). Nötėl holds that the sentences οὐθὲις γὰρ βουλεύει, κ.τ.λ. do not justify the dicitum οὐθὲις ἐκὼν ἀδικεῖσθαι, but declare a new dicitum οὐθὲις βουλεύει ἀδικεῖσθαι. This interpretation leaves the case of the ἀκρατῆς unexplained: for the ἀκρατῆς is certainly ἐκὼν. It is no explanation to say that because he acts παρὰ τῇ βούλησιν he is not ἐκὼν. Moreover the γὰρ which introduces the supposed new dicitum needs
explanation. Grant seems hardly to have realized the difficulty of the passage.

§ 6. ὶ νῦν ὀκταί, κ.τ.λ.] This reading seems to me to express Eudemus’s meaning more clearly and correctly than νῦν ἤ ὀκταί, the reading which Bekker prefers on the authority of Kb. Is it possible that the copyist was puzzled by the negative νῦν in the relative sentence, and therefore transposed it? It is of course perfectly correct here, as the ἀκρατίς does not do ‘those things which he thinks to be wrong,’ but ‘things which he thinks to be wrong.’ Cf. Plat. Rep. i. 330 ἐπειδὰν τις ἐγγὺς ἐτοῦ ὀκτοθεὶ τελευτήσειν, εἰσέρχεται αὐτῷ δὲς καὶ φροντὶς περὶ δὲν ἐξερευνηθεν νῦν ἔσοχε (quoted by Madvig, Gr. Syntax. § 203). In E. E. ii. 7 § 5 however we have ὶ ἀκρατενόμενος νῦν ἢ βουλεῦται ποιεῖ.

§§ 8—13. In these paragraphs the author raises two ἀπορίαι (1) πότερον ποτ’ ἄδικεὶ ὃ νείμας παρὰ τὴν ἀδίκιαν τὸ πλείον ἢ ὃ ἔχων, (2) εἰ ἔστιν αὐτὸν αὐτῶν ἄδικων. They are put forward together, because it might at first sight seem that, if it is decided that ὃ νείμας ἄδικε, the second question must be answered affirmatively, since the distributor may assign to himself too small a share. But on further consideration we see (1) that the distributor may assign to himself too small a share with a view to an equivalent, e.g. reputation, and (2) that, whether this is so or not, in the case supposed the distributor suffers nothing παρὰ τὴν βουλήσειν and therefore νῦν ἄδικεται. Having thus dissellered the two questions, the author proceeds to deal with the former of them in §§ 10—13. He remarks (1) that it is the distributor who ἄδικε, as it is with him that the action originates: (2) that if the distributor is γενώσεως, he obtains by his unjust award either money or gratitude or revenge, and is therefore ἄδικως πλέον ἔχων.

It will be seen from this summary that the question εἰ ἔστιν αὐτῶν αὐτῶν ἄδικων, though mooted, is not discussed in these sections, whilst the words τις ἤ νῦν προειλόμεθα, κ.τ.λ. in § 8 show that the reference to the ἀπορία in § 4 is an anticipatory one. Hence the discussion of the question in 11 §§ 1—6 is not, as Grant and many others have thought, superfluous. On the contrary if these §§ are excised the second part of the programme announced in 9.§ 8 remains unfulfilled. If then 9 §§ 14—17 and ch. 10 are removed, 11 §§ 1—6 immediately follow in their proper place. See Introduction, On dislocations in the text.

§ 8. ἢ νῦν προειλόμεθα] For this phrase cf. Polit. viii. (v.) 1. p. 193. 21. Mich. Ephes. remarks that these ἀπορίαι have not been men-
tioned before, and that the sentence must therefore mean ὅτι τῆς προθέσεως ἦμιν περὶ δικαστήριας εἰπεῖν οὖν, ἐπεὶ ὁ περὶ αὐτῆς λόγος πεπλήρωται, ὑπὸ λοιπὸν ἕστε περὶ δυὸ τινῶν εἰπεῖν. Although the second ἀπορία has been incidentally alluded to in § 4, the objection is just one. The reference is perhaps, as Zell suggests, to the opening words of 9 § 1.

§ 9. τὸ πρώτερον λεξιθέν] Apparently by these words is meant the former of the two alternatives of the first question. But this is very awkward. Is it possible that the reading of K<sup>b</sup> in § 8 represents ἰξίαν τὸ πλεῖον ἐκών?

toῦτο] Sc. that the distributor in this case αὐτὸν ἄδικεί.

cατά] The editors write καὶ κατὰ against the authority of most, if not all, the MSS.

§ 10. ἀεὶ] I think that this word may stand in the sense of ‘in every case.’ Zell and Michelet translate ‘nicht der, welcher jedesmal mehr hat.’ Rassow supposes the word to be a corruption of the superfluous ἄδικεί which in K<sup>b</sup> appears in place of it.

§ 11. This § is commonly understood to contain a distinct argument, which according to some refers to the distributor, according to others to the receiver. If the distributor is referred to, the § would naturally mean that ‘the distributor, who may be regarded as an instrument, though he ὅπικ ἄδικεί, ποιεῖ τὰ ἄδικα;’ plainly this statement is anything but a proof that he ἄδικεί. Nor can it be regarded as an argument urged on the contrary part: for the author would then have written ὅπικ ἄδικεί ἀλλὰ ποιεῖ τὰ ἄδικα. If again the argument is that the receiver ὅπικ ἄδικεί and therefore the distributor ἄδικεί, the Greek is still questionable. The author would probably have written ποιεῖ μὲν τὰ ἄδικα οὐ μὴν ἄδικεῖ γε. Conceiving then that some change is necessary, I have bracketed ἐτι as a dittograph of the first two letters of ἐπεί, placing a colon instead of a full stop after λαμβάνοντι and removing the comma after ἐπιτάξαντος. I suppose the sentence thus altered to be a justification of the distinction just made between ὃ τὸ ἄδικον [sc. ποιεῖν] ὑπάρχει and ὃ τὸ ἐκόντα τοῦτο ποιεῖν. The Paraphrast seems to have understood the sentence as I do.

τὰ ἄψυχα κτείνει] Plat. Laws ix. 873 D ἐὰν δὲ ἄρα ὑποκύπτων ἦ ζώον ἀλλο τι φοιεώσῃ τινά...ἐὰν δὲ ἄψυχον τι ψυχής ἄθρωπον στερήσῃ. The commentators quote also Demosth. Aristocrat. 645. 16 and Aeschin. Clesiph. § 244. Is it possible that the reading of P<sup>b</sup> is
something more than a mere blunder, and that we should read καὶ τὰ κτήμα in place of κτεῖναι?

§ 12. The argument is contained in the words εἰ γενόσκων ἐκρίνειν ἀδίκως, πλεονεκτεῖ καὶ αὐτός ἢ χάριτος ἢ τιμωρίας. The words εἰ μὲν ἀγνοοῦν—τὸ πρῶτον merely set aside the case of ignorance as irrelevant to our present remarks.

§ 13. 'If the judge secures to himself χάρις or τιμωρία by giving an unjust award, he is just as much a πλεονέκτης as if he were to share the plunder with the receiver. For it is not essential that the unjust distributor should take a share of the property distributed, since even if his share takes a more substantial form than χάρις and τιμωρία, he may receive it not in land (land being the article distributed), but in money.'

ἐπὶ ἐκεῖνων] 'In such cases,' i.e. in cases where the distributor shares the profits with the receiver. I see no difficulty in the transition from the singular of εἰ τις μερίσατο τοῦ ἀδικήματος to the plural of ἐκεῖνων. Rassow however would read with Κ² ἐπὶ ἐκεῖνῳ τὸν ἀγρόν, κ.τ.λ., i.e. ἐπὶ τῷ μερίσασθαι τοῦ ἀδικήματος (Forschungen p. 62).

§§ 14—17. I have placed §§ 14—16 after 1 § 3, and 1 § 17 after 1 § 9. See Introduction, On dislocations in the text.

11 §§ 1—6. The second of the two ἀπορίας raised in 9 § 8 'Can a man ἀδικεῖν ἑαυτόν?' is considered under two heads, first, when the ἀδικία is universal, and secondly, when it is particular.

Suicide is an ἀδικημα of the first kind, because it is a violation of law, and as the suicide acts voluntarily (i.e. not under compulsion, and with full knowledge of the circumstances), he ἀδικεῖ. But whom? Not himself,—for οὐχεὶς ἐκών ἀδικεῖται,—but the state: wherefore the state exacts the penalty, and the penalty takes the form of a forfeiture of civil privileges.

That a man cannot ἀδικεῖν ἑαυτόν in the other sense of the word ἀδικεῖν, seems to be proved by the following considerations:

(1) the same thing cannot be subtracted from, and added to, the same thing at the same moment; in fact, the commission of particular ἀδικία implies two persons concerned, one who invades the rights of another, and a second whose rights are invaded:

(2) the commission of particular ἀδικία is always aggressive; whereas, when a man harms himself, he does and suffers the same thing at the same time, and therefore is not an aggressor:

(3) volenti non fit injuria:
(4) no one can commit adultery with his own wife, burglary upon his own premises, or theft upon his own property, and without the commission of some such ἀδίκημα no one can ἀδικεῖν.

Thus in general the ἀπορία is resolved by a reference to the maxim οὐθεὶς ἐκὼν ἀδικεῖται, established in 9 §§ 5, 6.

§ 1. ἐκ τῶν εἰρημένων] I.e. from 9 §§ 1—13.

τὰ μὲν γάρ, κ.τ.λ.] Cf. i § 8. 2 § 6.

οὐ κελεύει] ‘Does not allow,’ i.e. forbids. Cf. the well-known use of ὁ ἐὰν as the correlative of κελεύειν. The words ἀ δὲ μη κελεύει, ἀπαγορεύει are explanatory of the phrase οὐ κελεύει. So Victorius, quoted by Cardwell. Eudemus wishes to say—‘What the law bids is δίκαιον, what the law forbids is ἀδικον.’ Cf. i § 14 προστάτει δ’ ὁ νόμος καὶ τὸ τῷ ἀνθρωπόν ἔργα ποιεῖν, οὗν μη λειτεῖν τὴν τάξιν... ὁμοίως δὲ καὶ τὰ κατὰ τὰς ἄλλας ἀρετὰς καὶ μοχθηρίας, τὰ μὲν κελεύων τὰ δ’ ἀπαγορεύων.

Not appreciating this idiomatic use of οὐ κελεύω, Grant remarks “The extraordinary assertion is made that ‘whatever the law does not command it forbids.’ We might well ask, Did the Athenian law command its citizens to breathe, to eat, to sleep, &c.?”

This criticism is endorsed by Rassow (Forschungen p. 42), who regards the last section of the book (with the exception of ch. 10) as a very unsatisfactory piece of patchwork.

§ 2. δέπει, κ.τ.λ.] The words μη ἀντιβλάπτων are parenthetical. Compare the parenthetical sentence ο γὰρ διότι ἔπαθε καὶ τὸ αὐτὸ ἀντιποιῶν οὐ δοκεῖ ἀδικεῖν in § 5. It is obvious that, in spite of the editors, who place a comma before ἐκὼν, ἐκὼν should be connected with βλάπτῃ. It is necessary to specify that ὁ βλάπτων is ἐκὼν, as otherwise he would be, not ἀδικόν, but ἀδικα πράττων (cf. 9 § 3); whilst with ἀδικέ, ἐκὼν is superfluous.

ἐκὼν δὲ ὁ εἰδὼς καὶ δν καὶ φ] A man is ἐκὼν when he does ἐκουσία, i.e. ὁσα ἐφ’ εαυτῷ ὑπ’ ὑπ’ πράττειν πράττει μη ἄγνωστον καὶ δὲ αὐτῶν E. E. ii. 9 § 2. Here as elsewhere the definition is abbreviated, as is also the list of circumstances in regard to which ignorance is possible. Cf. 9 §§ 4, 5.

§ 3. αὐτιμία] For the αὐτιμία of the suicide the commentators quote Aeschin. Ctesiph. § 244 and Plat. Lysis ix. 873 d.

§ 4. δίως] I.e. κατὰ τὴν ὀληθ ἀδικέαν.

τουτο γὰρ—ἀδικέ] These sentences are manifestly parenthetical. They explain the difference between universal and particular justice, and declare the necessity of investigating the ἀπορία with regard to the latter as well as to the former.
§ 5. ἐτι δὲ ἑκούσιον τε καὶ ἐκ προαιρέσεως, καὶ πρότερον] The words ἑκούσιον τε καὶ ἐκ προαιρέσεως are not necessary to the argument. Indeed τὸ ἀδικείν is not necessarily ἐκ προαιρέσεως: I have therefore translated the phrase 'voluntary or deliberate, and aggressive.'

ὁ γὰρ διώτι ἐπαθε, κ.τ.λ.] οὐ γὰρ ἄρχει ο θυμό τοι ῃ, ἀλλ’ ὁ ὀργίσας. § 8 § 9.

§ 6. πρὸς δὲ τούτοις, κ.τ.λ.] 'If, instead of arguing from our conception of ἀδικία, we examine special cases of it, we come to the same conclusion.'

ὁδος, κ.τ.λ.] 'The maxim οὐθεὶς ἐκὼν ἀδικεῖται is decisive in both cases of the present ἀπορία.'

§§ 7, 8. I have placed these §§ after 5 § 18. See Introduction, On dislocations in the text.

§ 9. κατὰ μεταφορὰν δὲ καὶ ὁμοιότητα] 'There is a δίκαιον, οὐκ αὐτῷ πρὸς αὐτόν, but between the parts of the individual's ψυχή. This δίκαιον resembles that which subsists between master and slave, or that which subsists between husband and wife. The parts in question are τὸ λόγον ἔχουν and τὸ ἀλογον, which, as we have seen in 9 §§ 6, 5, may be at variance.'

Fritzsche well compares the discussion in E. E. vii. 6 § 1 sqq. περὶ τοῦ αὐτοῦ αὐτῷ φίλον εἶναι ἡ μή. See especially §§ 2, 3 καὶ ὁμοιον τὰ τουάτα πάντα, εἰ φίλοις αὐτός αὐτῷ καὶ ἔχθροις, καὶ εἰ ἀδικεῖ τις αὐτός αὐτόν. πάντα γὰρ ἐν δυο ταύτα καὶ διερημένους. εἰ δὲ δύο τως καὶ ἡ ψυχή, ὑπάρχει ποσ ταύτα· εἰ δ’ οὐ διερημένα, οὐχ ὑπάρχει.
In these discussions there is an allusion (as all the commentators from Mich. Ephes. downwards have seen) to Plato. See Rep. iv. 443 B, &c. In the same way in the Gorgias, 491 D, a man is said αὐτός ἐαυτοῦ ἄρχειν, when his reason controls his ἐπιθυμία.

ἐν τούτοις γὰρ τοῖς λόγοις, κ.τ.λ.] Mich. Ephes. οὖν λόγον ἔχει ο δοῦλος πρὸς τὸν διαστήμην, τὸν αὐτόν καὶ τὸ ἀλογον μέρος τῆς ψυχῆς πρὸς τὸ λογιζόμενον. τοιαύτην γὰρ διαστήμη ταύτα διάστασιν ἄπ’ ἀλλήλων ὅσ&<t>ει εἶναι τὸ μὲν ἄρχον τὸ δὲ ἄρχομεν. Thus he makes ἐν τούτοις τοῖς λόγοις διαστήμης equivalent to κατὰ τούτοις τοῖς λόγοις δ. Grant translates, "for in the theories alluded to there is a separation made between the reasonable and the unreasonable part of man's nature;" and Paley understands the sentence in the same way. As here Eudemus compares the relation of λόγον ἔχον and ἀλογον to the relations of master and slave, husband and wife, so Aristotle in Polit. 1. 5. p. 7. 2 compares the relation of master and slave to the
relation of νοει and ὑφεις; but whereas Eudemus is careful to say (6 § 9) that the δίκαιων of the domestic relations is not identical with πολιτικῶν δίκαιων, Aristotle, less precisely, attributes to νοεί an ἀρχή πολιτικῆς and βασιλικῆς.

καὶ δοκεῖ] 'People go on to assume.' Cf. E. E. ii. 8 §§ 12, 13 ὁστε τὸ μὲν βία ἐκάτερον [sc. the ἐγκατάς and the ἀκατάς] φάναι τοιεῖν ἔχει λόγον, καὶ διὰ τὴν ὑφεὶν καὶ διὰ τὸν λογισμὸν ἐκάτερον ἀκοντα ποτὲ πράττειν· κεχωρισμένα γὰρ ὄντα ἐκάτερα ἐκκρούεται ὑπὸ ἀλλήλων. ὅθεν καὶ ἐπὶ τὴν ὑφὴν μεταφέρομεν ψυχήν, ὅτι τῶν εὐ ψυχῆς τι τοιοῦτον ὀρῶσιν. ἐπὶ μὲν οὖν τῶν μορίων ἐνδεχέσσαται τούτῳ λέγειν ᾳ δ ὅλη ἐκαύνα ψυχή καὶ τού ἀκρατοῦ καὶ τοῦ ἐγκρατοῦ πράττει, βίας ἄ οιδάτερος, ἀλλὰ τῶν εὐ ἐκείνως τι, ἔτει καὶ φύσει ἀμφότερα ἔχομεν.

ὅτι [ἐν] τούτοις] The preposition seems to me superfluous: compare εἶναι πρὸς ἄλληλα δικαίων τι καὶ τούτοις in the next sentence. The sentence evidently means: 'because there may be a struggle between the λόγον ἔχων and the ἀλογόν' (κεχωρισμένα γὰρ ὄντα ἐκάτερα ἐκκρούεται ὑπ' ἀλλήλων. E. E. ii. 8 § 12). Thus an ὑφεῖς is loosely and κατὰ μεταφαρὰν attributed to the λόγον ἔχων: strictly speaking, βούλησις, which is ὑφεῖς ἀγαθοῦ, though determined by the λόγον ἔχων, belongs to the ἀλογόν, i.e. the φύσις ἀλογός μετέχουνα μέτοι πνῷ λόγον of N. E. i. 13 § 15.


6 § 3. ποῦς μὲν οὖν ἐχει, κ.τ.λ.] See Introduction, On dislocations in the text.

10 § 1. ὁστε καὶ ἐπὶ τὰ ἄλλα, κ.τ.λ.] For examples of this vague use of the word ἐπιεικῆς see Berlin Index. Grant aptly quotes 4 § 3.

τὸ ἐπιεικέστερον ὅτι βέλτιον δηλοῦντες] Does this mean (1) 'meaning by what is ἐπιεικέστερον what is βέλτιον' or (2) 'thus indicating that what is ἐπιεικέστερον is βέλτιον'?

ὅτε δὲ τὸ λόγος, κ.τ.λ.] 'There is an apparent inconsistency in the statement that τὸ ἐπιεικὲς παρὰ τὸ δίκαιον τι ὄν ἑπαινεῖτον ἔστιν: for if ἐπιεικές is distinct from δίκαιον, and at the same time so commendable a thing, do we not deny the excellence of δίκαιον? If again we account both ἐπιεικές and δίκαιον excellent, do we not deny that there is any difference between them?' This must be the meaning of the sentence, but the ordinary text is perplexed by the words οὗ δίκαιων after ᾳ τὸ ἐπιεικὲς. I think that Giphanius (on the authority of the V. A.) and Trendelenburg (on conjecture) are
right in omitting οὐ δίκαιον. The words οὐ δίκαιον εἶ are omitted not only by the V. A., but also by N. Lambinus reads ἥ τὸ ἐπιεἰκές οὐκ, εἶ δίκαιον ἄλλο: Michelet and Fritzsche punctuate ἥ τὸ ἐπιεἰκές οὐ, δίκαιον εἰ ἄλλο: finally, Nötel suggests ἥ τὸ ἐπιεἰκές οὐ σπουδαῖον.


§ 4. τοιαύτη] 'Such that it is not possible ὅρθος εἰπεὶν καθὸλου.'

§ 5. ὅ καν, κ.τ.λ.] I prefer εἰπεν to εἰποι in this sentence, because it is distinctly assumed that the νομοθέτης is not present, and therefore does not pronounce. The tenses are of course quite correct: the lawgiver would pronounce in this manner (a single act in present time) if he were with us (a state in present time), and would have legislated accordingly (a single act in past time) if he had known the circumstances (a state in past time).

§ 6. οὐ τοῦ ἀπλῶς δὲ, κ.τ.λ.] τοῦ ἀπλῶς i. q. τοῦ ἀπλῶς δικαίον, 'the just not limited in any particular way': διὰ τὸ ἀπλῶς i. q. διὰ τὸ ἀπλῶς εἰπεῖν, cf. ἀπλῶς εἰπών § 5 and διὰ τὸ καθὸλον infra, 'because the statement is not limited in any particular way.' I am surprised that the editors do not suspect ἀμαρτήματος. I should have expected ἀμαρτάνοντος. The Paraphrast writes διὰ τοῦτο ἥ ἐπιεἰκεία δίκαιον μὲν ἔστι βέλτιον <δὲ> τῶν δικαίων' οὐ τοῦ καθὸλου δικαίον, ἀλλὰ τοῦ νομικοῦ τοῦ διὰ τὸ καθὸλον ἀμαρτάνοντος.

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CAMBRIDGE WAREHOUSE, 17 PATERNOSTER ROW.
CAMBRIDGE: PRINTED BY C. J. CLAY, M.A., AT THE UNIVERSITY PRESS.