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MESOPOTAMIA

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REPRESENTATIVE PAUL STAM
N.C. HOUSE OF REPRESENTATIVES
37TH DISTRICT



229

If a builder build a house for some one, and does not construct it properly, and the house which he built fall in and kill its owner, then that builder shall be put to death.

230

If it kill the son of the owner the son of that builder shall be put to death.

231

If it kill a slave of the owner, then he shall pay slave for slave to the owner of the house.

232

If it ruin goods, he shall make compensation for all that has been ruined, and inasmuch as he did not construct properly this house which he built and it fell, he shall re-erect the house from his own means.

233

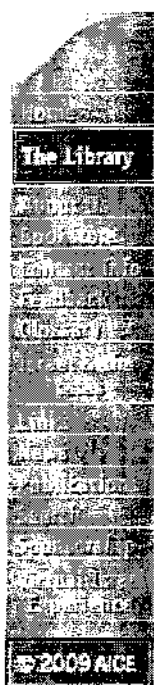
If a builder build a house for some one, even though he has not yet completed it; if then the walls seem toppling, the builder must make the walls solid from his own means.

Translated by L.W. King (1910)

Edited by Richard Hooker

<http://www.wsu.edu/~dee/MESO/CODE.HTM>

Fathers shall not be put to death for their sons, nor shall sons be put to death for their fathers, everyone - - - - - Cf Deut 24:16



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Nuremberg Trial Proceedings - Indictment: Count Three

COUNT THREE - WAR CRIMES

(Charter, Article 6, especially 6 (b))

VIII. Statement of the Offence

All the defendants committed War Crimes between 1 September 1939 and 8 May 1945, in Germany and in all those countries and territories occupied by the German Armed Forces since 1 September 1939, and in Austria, Czechoslovakia, and Italy, and on the High Seas.

All the defendants, acting in concert with others, formulated and executed a Common Plan or Conspiracy to commit War Crimes as defined in Article 6 (b) of the Charter. This plan involved, among other things, the practice of "total war" including methods of combat and of military occupation in direct conflict with the laws and customs of war, and the commission of crimes perpetrated on the field of battle during encounters with enemy armies, and against prisoners of war, and in occupied territories against the civilian population of such territories.

The said War Crimes were committed by the defendants and by other persons for whose acts the defendants are responsible (under Article 6 of the Charter) as such other persons when committing the said War Crimes performed their acts in execution of a common plan and conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices.

These methods and crimes constituted violations of international conventions, of internal penal laws and of the general principles of criminal law as derived from the criminal law of all civilized nations, and were involved in and part of a systematic course of conduct.

(A) MURDER AND ILL-TREATMENT OF CIVILIAN POPULATIONS OF OR IN OCCUPIED TERRITORY AND

Destruction of agriculture, enslavement of peasants, and looting of stock and produce in Lithuania.

In the Latvian Republic destruction of the agriculture by the looting of all stock, machinery, and produce.

The result of this policy of plunder and destruction was to lay waste the land and cause utter desolation.

The overall value of the material loss which the U.S.S.R. has borne, is computed to be 679,000,000,000 rubles, in state prices of 1941.

Following the occupation of Czechoslovakia on 15 March 1939 the defendants seized and stole large stocks of raw materials, copper, tin, iron, cotton, and food; caused to be taken to Germany large amounts of railway rolling stock, and many engines, carriages, steam vessels, and trolley buses; plundered libraries, laboratories, and art museums of books, pictures, objects of art, scientific apparatus, and furniture; stole all gold reserves and foreign exchange of Czechoslovakia, including 23,000 kilograms of gold of nominal value of 5,265,000; fraudulently acquired control and thereafter looted the Czech banks and many Czech industrial enterprises; and otherwise stole, looted, and misappropriated Czechoslovak public and private property. The total sum of defendants' economic spoliation of Czechoslovakia from 1938 to 1945 is estimated at 2,000,000,000,000 Czechoslovak crowns.

(F) THE EXACTION OF COLLECTIVE PENALTIES

The Germans pursued a systematic policy of inflicting, in all the occupied countries, collective penalties, pecuniary and otherwise, upon the population for acts of individuals for which it could not be regarded as collectively responsible; this was done at many places, including Oslo, Stavanger, Trondheim, and Rogaland.

Similar instances occurred in France, among others in Dijon, Nantes, and as regards the Jewish population in the occupied territories. The total amount of fines imposed on French communities add up to 1,157,179,484 francs made up as follows:

A fine on the Jewish population 1,000,000,000

Various fines 157,179,484

These acts violated Article 50, Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

(G) WANTON DESTRUCTION OF CITIES, TOWNS, AND VILLAGES AND DEVASTATION NOT JUSTIFIED BY

Law is a collective expression of the will of the supreme power. J. Stoh PC 4466
 The will of supreme power is expressed
 1. By Constitution
 2. By Statute PC 4467

Common Law is rule of decision
 comes PC 4468

Handwritten notes in cursive script, partially obscured by the printed text below.

DOMINI NOSTRI IUSTINIANI PERPETUO AUGUSTI

INSTITUTIONUM SIVE ELEMENTORUM

COMPOSITORUM PER TRIBONIANUM VIRUM EX-
 CELSUM IURISQUE DOCTISSIMUM MAGISTRUM
 ET EX QUAESTORE SACRI PALATII ET THEO-
 PHILUM VIRUM MAGNIFICUM IURIS PERITUM
 ET ANTECESSOREM HUIUS ALMAE URBIS ET
 DOROTHEUM VIRUM MAGNIFICUM QVAESTO-
 RIUM IURIS PERITUM ET ANTECESSOREM
 BERYTENSIVM INCLYTAE CIVITATIS.

LIBER PRIMUS.

TIT. I.

DE IUSTITIA ET IURE.

Ulp. Reg.
 D. i. l. 10.

Iustitia est constans et perpetua voluntas ius suum Pr.
 cuique tribuens. Iurisprudentia est diuinarum atque
 humanarum rerum notitia, iusti atque iniusti scientia.

His generaliter cognitis et incipientibus nobis exponere
 iura populi Romani ita maxime videntur posse tradi
 commodissime, si primo levi ac simplici, post deinde
 diligentissima atque exactissima interpretatione singula
 tradantur. alioquin si statim ab initio rudem adhuc et
 infirmum animum studiosi multitudine ac varietate rerum

Handwritten notes in cursive script, partially obscured by the printed text below.

Law is the interference of the state in
 interests & passions of humanity

XV. Agnate Tutorship

XVII. Patron
Guardianship

XX. Appointing of Tutors

XXI. Authority of Tutors

XXII. Freedom from
Guardianship

XXIII. Curatorship

XXIV. Security by
Guardians

XXV. Excusal of Tutors
or Curators

XXVI. Suspected
Guardians

529 AD in
Corpus Juris Civilis
Tribonian edited
Justinian Emperor

Book I. Of Persons

I. Justice and Law.

JUSTICE is the constant and perpetual wish to render every one his due.

1. Jurisprudence is the knowledge of things divine and human; the science of the just and the unjust.
2. Having explained these general terms, we think we shall commence our exposition of the law of the Roman people most advantageously, if we pursue at first a plain and easy path, and then proceed to explain particular details with the utmost care and exactness. For, if at the outset we overload the mind of the student, while yet new to the subject and unable to bear much, with a multitude and variety of topics, one of two things will happen---we shall either cause him wholly to abandon his studies, or, after great toil, and often after great distrust to himself (the most frequent stumbling block in the way of youth), we shall at last conduct him to the point, to which, if he had been led by an easier road, he might, without great labor, and without any distrust of his own powers, have been sooner conducted.
3. The maxims of law are these: to live honestly, to hurt no one, to give every one his due.
4. The study of law is divided into two branches; that of public and that of private law. Public law regards the government of the Roman empire; private law, the interest of the individuals. We are now to treat of the latter, which is composed of three elements, and consists of precepts belonging to the natural law, to the law of nations, and to the civil law.

II. Natural, Common, and Civil Law.

Suum Cuique

The most general formulation of rights given with the natural is, in the words of Roman law, sum cuique, to each his own. This phrase expresses both the diversity of the natural and the multiplicity of its rights, as well as the unity of justice¹ that is granted within this multiplicity. This phrase is misused where either the multiplicity of the rights given with the natural or their unity is dissolved. That happens when "one's own" is taken to mean "the same," thereby destroying the multiplicity of the natural in favor of an abstract; or it happens where that which is one's own is arbitrarily and subjectively determined, thereby abolishing the unity of the rights in favor of an unconstrained arbitrariness.² In both cases the natural itself is violated. One's "own," that which belongs to each one of us, is in each case something different, something dissimilar (but not something arbitrary!). And yet it is objectively grounded in what is naturally given and therefore universal (but not something abstract and formal).

¹ "To each his own" Jedem das Seine. The Latin phrase appears in Brunner, *The Divine Imperative*, 182, 407, and 450. Karl Barth's 1938 essay "Church and State" ends with the words "sum cuique." See Bonhoeffer's March 7, 1940, letter, which refers to Barth's essay: "It is an unusual concept of righteousness [Rechtferdigkeit], to be strictly distinguished from the classical-Aristotelian [understanding of justice], when Luther, with the New Testament, calls our righteousness before God 'bestowed righteousness'...Righteousness here does not mean sum cuique" (DBW 15[1/182]:299). [Bonhoeffer is playing on the fact that Rechtferdigkeit can mean "justice," "righteousness," and also "justification" in the phrase "geschenkte Gerechtigkei."] [CG] In the Third Reich "Jedem das Seine," "to each his own," was a wrought-iron inscription on the gate of the Buchenwald concentration camp.

² The Roman lawyer Ulpian gave three guidelines for human action: "honeste vivere, alterum non laedere, sum cuique tribuere." (Live honestly, do not harm others, give to each his own) Ulpian's definition of justice was: "Justitia est constans et perpetua voluntas ius sum cuique tribuere" (Justice is the constant and perpetual will to attribute to each his right) See Institutes of Justinian 1.1, a compilation in which Ulpian is quoted without attribution. [Plato credits Simonides, fifth century B.C.E., with the view that justice is "to render to each his due" (Republic 1.331e); it was commonplace among Roman jurists (Cicero, *De Officiis* 1.5.15; *De Finibus* 5.23.67) and so passed into Ulpian's great compilations in the third century B.C.E.

LAS SIETE PARTIDAS

126.3 AN

TRANSLATION AND NOTES BY

SAMUEL PARSONS SCOTT, M. A.

Author of "The History of the Moorish Empire in Europe," etc.
Translator of "Forum Judicum"

INTRODUCTION, TABLE OF CONTENTS AND INDEX BY

CHARLES SUMNER LOBINGIER, J.U.D., D.C.L., PH.D.

Judge, Court of First Instance, Philippines, 1904-1914
Judge, U. S. Court for China, 1914-1924

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love justice as a father and a mother who creates and supports them, and obey her as they would a good lord whose commands they ought not to violate, and preserve her as they would their own lives, for without justice they cannot live as they should.

LAW III.

What Justice Means, and How Many Precepts She Has.

According to the precepts of the ancient sages justice means something in which are included all rights of every description whatsoever. The commands of justice and law are three in number; first, that every man should live honestly, so far as he himself is concerned; second, that he should not do wrong or injury to another; third, that he should give to each one that to which he is entitled.¹ He who complies with these precepts performs his duty to God, to himself and to the men with whom he lives, and renders and maintains justice.

¹ The conception of justice and its salutary effects set forth in Law I. is derived from the Rules of Ulpian, as given in the Pandects, "*Iustitia est constans et perpetua voluntas ius suum cuique tribuendi.*" (*Juris praecepta sunt haec: honeste vivere, alterum non laedere, suum cuique tribuere.*" (Corp. Jur. Civ. Dig. I-1-10.) It is doubtful whether a more concise, comprehensive, and accurate definition of the term could be framed.



NORTH CAROLINA APPELLATE COURTS'
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The seal of the North Carolina Supreme Court includes as its Latin motto, "sum cuique tribuere." The phrase was borrowed from a very ancient law text.

The Emperor Justinian (482-565) commissioned the brightest legal mind of his age, Tribonian (500-547), to collect the best and most reliable of all written legal materials that he could find. He began to compile the magnificent Corpus Iuris Civilis with the so-called Justinian Code, completed in 529. To that he added the Pandects, also known as the Digest, in 533, by engaging the finest minds of the age. Later he compiled the Institutes, derived from the earlier two works, to be the introduction and learning tool for the study of law. The great scholar continued to refine the Institutes until his final days.

Tribonian began the first book, the first title, of his classic report, with the definitions of Justice (De iustitia et iure) and Jurisprudence (Iurisprudentia). They are:

Iustitia est constans et perpetua voluntas ius suum cuique tribuens.
(Justice is the constant and perpetual wish to render every one his due.)

Iurisprudentia est divinarum atque humanarum rerum notitia, iusti atque iniusti scientia.
(Jurisprudence is knowledge of things divine and human -- the science of the just and the unjust.)

The Latin motto in the North Carolina Supreme Court seal includes only the last three words of the definition of justice: sum cuique tribuere. Whoever did the borrowing did not bring along the word "ius" and then traded the infinitive form for the present participle form, nevertheless leaving the meaning clear and concise. It means "to render to each his due [or right]."

The famous downtown restaurant of Boston, Jake Wirth's, has its motto emblazoned on the backbar, sum cuique. And likewise Garrison Keilor chose for the motto of his mythical hometown, Lake Wobegon, sum cuique. In this even more telegraphic form, the legend comes down to us as "to each his own."

Ronald E. Diener
February 27, 2003

See also

1. Kay Miller, "Sue 'Em Quick" is Out of Style, The State (November 1975) (on file N.C. S.Ct. Library, Vertical File ("N.C. Supreme Court"))

page of 288 N.C. (1975)

Obituary, Ricky D. Horton, The News & Observer, Raleigh, N.C., Tues., Apr. 24, 1990 (on file N.C. S.Ct. Library, Vertical File ("N.C. Supreme Court"))

THE MEANING OF "JUSTICE"

By Russell Kirk
 The Heritage Foundation
 Lecture #457
March 4, 1993
 (published at 7 pages)

The word "justice" is on everyone's lips nowadays, and may signify almost anything. We hear the cry "Peace and Justice!" from folk who would destroy existing societies with fire and sword. Other folk fancy that perfect justice might readily be obtained by certain financial rearrangements -- as if anything in this world ever could be perfected. One thinks of the observation of William James: "So long as one poor cockroach suffers the pangs of unrequited love, this world will not be a moral world." At the end of the twentieth century, the liberal mentality demands justice for roaches, too.

All confusion about the meaning of the word "justice" notwithstanding, the latest edition of the Encyclopedia Britannica contains no article under the heading "Justice." Yet there is a succinct article about justices of the peace, of whose number I once was one, before the state of Michigan swept away that high office. My lecture today may be regarded as the attempt of a fool, rushing in where the angelic Britannica fears to tread. Yet possibly the nature of justice may be apprehended by a mere quondam justice of the peace: for the fundamental purpose of law is to keep the peace. "Justice is the ligament which holds civilized beings and civilized nations together," said Daniel Webster at the funeral of Justice Joseph Story, in 1845; and so say I today.

I propose in this series of four lectures to discuss first the signification of this word "justice"; in my second lecture, to examine natural law; in my third, to deal with criminal justice; in my concluding lecture, to quarrel with certain notions of justice that have been much puffed up during recent years. In the twenty-first century of the Christian era, will justice signify anything more than the state's rigorous enforcement of its edicts? Such questions I hope to raise in your minds.

Nowadays, near the close of the twentieth century, moral and political disorders bring grave confusion about the meanings of old words. As T. S. Eliot wrote in "Burnt Norton" -- Words strain.

Crack and sometimes break, under the burden,
 Under the tension, slip, slide, perish, Decay
 with imprecision, will not stay in place,
 Will not stay still. Shrieking voices
 Scolding, mocking, or merely chattering,
 Always assail them.

Conspicuous among such venerable words, in our era often abused and misrepresented, is this necessary word justice. Today I am attempting to purify the dialect of the tribe -- to borrow another phrase from my old friend Eliot, who endeavored lifelong to rescue words from the clutch of the vulgarizer or of the ideologue.

Permit me first to offer preliminary descriptions or definitions of this word justice. Jeremy Taylor, in the middle of the seventeenth century, wrote that there exist two kinds of justice. The one is commutative justice, or reciprocal justice, expressed in Scripture thus: "Whatsoever ye would that men should do to you, even so do to them." In Taylor's words, "This is the measure... of that justice which supposes exchange of things profitable for things profitable, that as I supply your need, you may supply mine; as I do a benefit to you, I may receive one by you...."

The other kind is distributive justice, expressed in this passage from Romans: "Render to all their dues; tribute to whom tribute is due, custom to whom custom, fear to whom fear, honor to whom honor; owe no man anything but to love one another." Upon this Taylor comments, "This justice is distinguished from the first, because the obligation depends not upon contract or express bargain, but passes upon us by some command of God, or of our superior, by nature or by grace, by piety or religion, by trust or by office, according to that commandment, 'As every man hath received the gift, so let him minister the same one to another, as good stewards of the manifold grace of God.'"

But perhaps, ladies and gentlemen, I proceed too fast; I shall have more to say a little later about the Christian concept of justice. Just now a little about the classical idea of justice. The classical definition, which comes to us through Plato, Aristotle, Saint Ambrose, and Saint Augustine of Hippo, is expressed in a single phrase: sum cuique, or "to each his own." As this is put in Justinian's Corpus Juris Civilis, "Justice is a habit whereby a man renders to each one his due with constant and perpetual will." Aristotle instructs us that the prevalence of injustice makes clear the meaning of justice. Also Aristotle remarks that it is unjust to treat unequal things equally -- a principle to which I shall return in my later lectures. Of the virtue called justice, Saint Augustine declares, "Justice is that ordering of the soul by virtue of which it comes to pass that we are no man's servant, but servants of God alone."

Upon such ancient postulates, classical or Christian, rests our whole elaborate edifice of law here in these United States -- even though few Americans know anything about the science of jurisprudence. For public order is founded upon moral order, and moral order arises from religion -- a point upon which I mean to touch later in this talk of mine. If these venerable postulates are flouted or denied -- as they have been denied by the Marxists in the present century, and were denied by sophists in Plato's time -- then arbitrary power thrusts justice aside, and "they shall take who have the power, and they shall keep who can."

All these brief definitions require explanation. But for the moment I pass on to the common understanding, the common sense, of the meaning of justice. All of us here present, I suppose, entertain some notion of what justice signifies. From what source do we obtain such a concept? Why, very commonly, from observation of a just man or a just woman. We begin by admiring someone -- he may be some famous judge, or he may be an obscure neighbor -- who accords to every person he encounters that person's due. Just men, in short, establish the norm of justice. When I began to write my book The Conservative Mind, I discovered that the abstraction "conservatism" amounts to a general term descriptive of the beliefs and actions of certain eminent men and women whom we call "conservative" because they have endeavored to protect and nurture the Permanent Things in human existence. So it is with justice: in large part, we learn the meaning of justice by acquaintance with just persons.

In the ancient world, the most just of men was Solon, Athens' lawgiver, poet, and hero. As Solon wrote of his reform of the Athenian constitution --

Such power I gave the people as might do,
Abridged not what they had, nor lavished new;
Those that were great in wealth and high in place
My counsel likewise kept from all
disgrace. Before them both I kept my shield of might,
And let not either touch the other's
right.

To each class, that is, Solon gave its due, and so preserved the peace: that is social justice.

But we need not turn to the pages of Plutarch to discover just men: they are not an extinct species,