

c. 50 BC  
**On The Laws**  
**Marcus Tullius Cicero**

**From Book II**

4. *Marcus*: Let us, then, once more examine, before we come to the consideration of particular laws, what is the power and nature of law in general; lest, when we come to refer everything to it, we occasionally make mistakes from the employment of incorrect language, and show ourselves ignorant of the force of those terms which we ought to employ in the definition of laws.

*Quintus*: This is a very necessary caution, and the proper method of seeking truth.

*Marcus*: This, then, as it appears to me, has been the decision of the wisest philosophers — that law was neither a thing to be contrived by the genius of man, nor established by any decree of the people, but a certain eternal principle, which governs the entire universe, wisely commanding what is right and prohibiting what is wrong. Therefore, they called that aboriginal and supreme law the mind of God, enjoining or forbidding each separate thing in accordance with reason. On which account it is that this law, which the gods have bestowed upon the human race, is so justly applauded. For it is the reason and mind of a wise Being equally able to urge us to good or to deter us from evil.

*Quintus*: You have, on more than one occasion, already touched on this topic. But before you come to treat of the laws of nations, I wish you would endeavor to explain the force and power of this divine and celestial law, lest the torrent of custom should overwhelm our understanding, and betray us into the vulgar method of expression.

*Marcus*: From our childhood we have learned, my Quintus, to call such phrases as this "that a man appeals to justice, and goes to law," and many similar expressions "law," but, nevertheless, we should understand that these, and other similar commandments and prohibitions, have sufficient power to lead us on to virtuous actions and to call us away from vicious ones. Which power is not only far more ancient than any existence of states and people, but is coeval with God himself, who beholds and governs both heaven and earth. For it is impossible that the divine mind can exist in a state devoid of reason; and divine reason must necessarily be possessed of a power to determine what is virtuous and what is vicious. Nor, because it was nowhere written, that one man should maintain the pass of a bridge against the enemy's whole army, and that he should order the bridge behind him to be cut down, are we therefore to imagine that the valiant Cocles [*i.e.*, Horatius] did not perform this great exploit agreeably to the laws of nature and the dictates of true bravery. Again, though in the reign of Tarquin there was no written law concerning adultery, it does not therefore follow that Sextus Tarquinius did not offend against the eternal law when he committed a rape on Lucretia, daughter of Tricipitius. For, even then he had the light of reason from the nature of things, that incites to good actions and dissuades from evil ones; and which does not begin for the first time to be a law when it is drawn up in writing, but from the first moment that it exists. And this existence of moral obligation is co-eternal with that of the divine mind. Therefore, the true and supreme law, whose commands and prohibitions are equally authoritative, is the right reason of the Sovereign Jupiter.

5. *Quintus*: I grant you, my brother, that whatever is just is also at all times the true law; nor can this true law either be originated or abrogated by the written forms in which decrees are drawn up.

*Marcus*: Therefore, as that Divine Mind, or reason, is the supreme law, so it exists in the mind of the sage, so far as it can be perfected in man. But with respect to civil laws, which are drawn up in various forms, and framed to meet the occasional requirements of the people, the name of law belongs to them not so much by right as by the favor of the people. For men prove by some such arguments as the following, that every law which deserves the name of a law, ought to be morally good and laudable. It is clear, say they, that laws were originally made for the security of the people, for the preservation of states, for the peace and happiness of society; and that they who first framed enactments of that kind, persuaded the people that they would write and publish such laws only as should conduce to the general morality and happiness, if they would receive and obey them. And then such regulations, being thus settled and sanctioned, they justly entitled Laws. From which we may reasonably conclude, that those who made unjustifiable and pernicious enactments for the people, acted in a manner contrary to their own promises and professions, and established anything rather than laws, properly so called, since it is evident that the very signification of the word "law" comprehends the whole essence and energy of justice and equity. I would, therefore, interrogate you on this point, my Quintus, as those philosophers are in the habit of doing. If a state wants something for the want of which it is reckoned no state at all, must not that something be something good?

*Quintus*: A very great good.

*Marcus*: And if a state has no law, is it not for that reason to be reckoned no state at all?

*Quintus*: We must needs say so.

*Marcus*: We must therefore reckon law among the very best things.

*Quintus*: I entirely agree with you.

*Marcus*: If, then, in the majority of nations, many pernicious and mischievous enactments are made, which have no more right to the name of law than the mutual engagement of robbers, are we bound to call them laws? For as we cannot call the recipes of ignorant and unskillful empirics, who give poisons instead of medicines, the prescriptions of a physician, so likewise we cannot call that the true law of a people, of whatever kind it may be, if it enjoins what is injurious, let the people receive it as they will. For law is the just distinction between right and wrong, made conformable to that most ancient nature of all, the original and principal regulator of all things, by which the laws of men should be measured, whether they punish the guilty or protect and preserve the innocent.

6. *Quintus*: I quite understand you, and think that no law but that of justice should either be proclaimed as one or enforced as one.

*Marcus*: Then you regard as null and void the laws of Titius and Apuleius, because they are unjust.

*Quintus*: Yes; and I would say the same of the laws of Livius.

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(*Marcus*) Let this, therefore, be a fundamental principle in all societies, that the gods are the supreme lords and governors of all things---that all events are directed by their influence, and wisdom, and Divine power; that they deserve very well of the race of mankind; and that they likewise know what sort of person every one really is; that they observe his actions, whether good or bad; that they take notice with what feelings and with what piety he attends to his religious duties, and that they are sure to make a difference between the good and the wicked.

For when once our minds are confirmed in these views, it will not be difficult to inspire them with true and useful sentiments. For what can be more true than that no man should be so madly presumptuous as to believe that he has either reason or intelligence, while he does not believe that the heaven and the world possess them likewise, or to think that those things which he can scarcely comprehend by the greatest possible exertion of his intellect, are put in motion without the agency of reason?

In truth, we can scarcely reckon him a man, whom neither the regular courses of the stars, nor the alterations of day and night, nor the temperature of the seasons, nor the productions that nature displays for his use and enjoyment, urge to gratitude towards heaven.

And as those beings which are furnished with reason are incomparably superior to those which want it, and as we cannot say, without impiety, that anything is superior to the universal Nature, we must therefore confess that divine reason is contained within her. And who will dispute the utility of these sentiments, when he reflects how many cases of the greatest importance are decided by oaths; how much the sacred rites performed in making treaties tend to assure peace and tranquility; and what numbers of people the fear of divine punishment has reclaimed from a vicious course of life; and how sacred the social rights must be in a society where a firm persuasion obtains the immediate intervention of the immortal gods, both as witnesses and judges of our actions? Such is the "preamble of the law," to use the expression of Plato.

Scanned by: J. S. Arkenberg, Dept. of History, Cal. State Fullerton. Prof. Arkenberg has modernized the text.

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