§19. WOUNDINGS

The next topic that naturally suggests itself after murder is wounding. In the first paragraph, the Athenian's point seems to be that whereas death violates the soul, mere injuries harm only the body. The sections of the code dealing with murder and assault are thus connected, rather oddly to our way of thinking, to the earlier discussions of spiritual and physical education respectively.

PRELIMINARIES

ATHENIAN: Let us assume we have completed our legislation concerning the training and education that the soul needs during a man's life (a life that is worth the living if these needs are met, but not if they are not), and the penalties that should apply in cases of death by violence. We have discussed, too, the training and education of the body, and the related topic in this case is the violent treatment, voluntary or involuntary, of one man by another. So far as we can, we must distinguish the various categories, see how many there are, and say what penalties will be appropriate for each. It looks as if this could properly form the next subject of our legislation.

Even the biggest bungler you could find among would-be legislators will put cases of wounding and mutilation immediately after cases of murder. Woundings ought to be distinguished as murders were: some are inflicted involuntarily, some in anger, some through fear, while others are committed voluntarily and with premeditation. A preliminary address must be given about all these categories as follows:

It is vital that men should lay down laws for themselves and live in obedience to them; otherwise they will be
875 indistinguishable from wild animals of the utmost savagery. The reason is this: no man has sufficient natural gifts *both* to discern what benefits men in their social relationships *and* to be constantly ready and able to put his knowledge to the

best practical use. The first difficulty is to realize that the proper object of true political skill is not the interest of private individuals but the common good. This is what knits a state together, whereas private interests make it disintegrate. If the public interest is well served, rather than the private, then the individual and the community alike are benefited.

The second difficulty is that even if a man did get an adequate theoretical grasp of the truth of all this, he might then attain a position of absolute control over a state, with no one to call him to account. In these circumstances he would never have the courage of his convictions; he would never devote his life to promoting the welfare of the community as his first concern, making his private interests take second place to the public good. His human nature will always drive him to look to his own advantage and the lining of his own pocket. An irrational avoidance of pain and pursuit of pleasure will dominate his character, so that he will prefer these two aims to better and more righteous paths. Blindness, self-imposed, will ultimately lead the man's whole being, and the entire state, into a morass of evil. But if ever by the grace of God some natural genius were born, and had the chance to assume such power, he would have no need of laws to control him. Knowledge is unsurpassed by any law or regulation; reason, if it is genuine and really enjoys its natural freedom, should have universal power: it is not right that it should be under the control of anything else, as though it were some sort of slave. But as it is, such a character is nowhere to be found, except a hint of it here and there. That is why we need to choose the second alternative, law and regulation, which embody general principles, but cannot provide for every individual case.

THE COURTS' DISCRETION

I have pointed this out because we are now going to settle the penalty or fine to be imposed on someone who has wounded or harmed someone else. Anyone could quite easily and

properly take us up on any point and ask: 'What attacker, what wound, what victim do you mean? How was the attack made, and when? The circumstances of these cases differ in a thousand and one different ways.' Now to leave all these details to the judgement of the courts is impracticable, and equally impracticable to leave them none. In every case, however, one point in particular simply must be left to the courts: in each separate instance, they must decide whether the crime did in fact take place, or not. But on the other hand it is hardly feasible to produce laws oneself to cover every case, serious or
876 trivial; one can scarcely leave the courts no discretion at all about the fine or punishment that ought to be imposed on a criminal of this kind.

CLEINIAS: Well, then, where do we go from here?

ATHENIAN: We conclude that some details ought to be left to the courts, but not others; these should be regulated by the legislator.

CLEINIAS: Which points, then, ought to be in the legal code, and which ought to be referred to the judgement of the courts?

ATHENIAN: In this connexion, here's the next thing to notice: sometimes we find in a state that the juries are useless, dumb things; the individual jurymen keep their opinions a mystery known only to themselves and give their decisions by secret ballot. It's even more serious when so far from keeping silent when they hear a case they make a tremendous disturbance as though they were in a theatre, and hurl shouts of applause or disapproval at the speaker on either side in turn. All this puts the state at large into an awkward predicament. It is a wretched business to be forced to lay down laws for courts of that type, but if one is forced, the right thing to do is to hand over to them the assessment of penalties only in very trivial cases, providing for the majority in explicit laws of one's own – if, that is, one ever does legislate for a state organized in this way. But in a country where the regulation of the courts is as satisfactory as can be achieved and the jurymen-to-be have received a good education and been examined by all kinds of tests, it is right and proper to

grant them complete discretion on all points to do with the punishments or fines that convicted criminals should suffer. In the present case we cannot be blamed if we leave to their discretion the most frequent and important points that arise, because they are points which even inadequately educated jurymen could grasp and apply when they have to give each individual crime a penalty appropriate both to the damage done and to the wickedness which is at the root of the actual deed. We believe, in fact, that the people for whom we are legislating may well turn out quite conspicuously able judges of these matters, so we should leave most decisions to them. Even so, in enacting earlier parts of our legal code, we mentioned the practice of sketching some examples of penalties – models for the judges to imitate, to stop them exceeding the due limits of justice. We suited the action to the word; it was the right course then and it is the right course now, as I once again resume our legislation.

VOLUNTARY WOUNDING, AND A DIGRESSION ON ADOPTING AN HEIR IN CASES OF CHILDLESSNESS

Our law on wounding, then, should be written in the following terms:

53 A. If a man deliberately intends to kill a fellow citizen (unless the latter is one of those whose death is sanctioned by the law [52(a–e)]), and wounds him without being able to kill him, no pity should be wasted on the man who has inflicted a wound with 877
that sort of intention: he should be treated with no more respect than a killer, and made to stand trial for murder.

But we should have due respect for the luck that has saved him from total ruin, and for his guardian angel too, who in pity for the attacker and the wounded man has stopped the injury of the latter from proving fatal, and prevented the disastrous ill luck of the former from bringing a curse down upon his head. We

should duly thank his guardian spirit and not obstruct its wishes:

53 A. cont.
He who has inflicted the wound shall be spared the death penalty, but he must suffer life-long banishment to some neighbouring state, with full freedom to enjoy all the income from his property; he must pay full compensation for whatever injury he has done the wounded man, the sum to be assessed by the court that tries the case. (The court will consist of the same people who would have tried him for murder if his victim had died of the wounds sustained.)

B. If with similar premeditation
(a) a child wounds his parents, or
(b) a slave wounds his master,
death is to be the penalty.

C. If similarly
(a) a brother wounds a brother or a sister, or
(b) a sister wounds a brother or a sister,
and is convicted of wounding with premeditation,
death is to be the penalty.

D. If with intent to kill
(a) a wife wounds her husband, or
(b) a husband wounds his wife,
he or she must go into permanent exile. If they have sons or daughters who are still in their minority, the trustees must administer their property in trust, and care for the children as though they were orphans. If the offspring are adult, they should themselves take possession of the property, and be under no obligation to support the exile.[1] If anyone who succumbs to such misfortune is childless,[2] the relatives of the exile, as far as the children of the cousins on both the male and female side, must hold a meeting, and in consultation with the Guardians of the Laws appoint an heir for this property, the 5040th in the state.

1. An Athenian was obliged by law to care for his parents in their old age. Cf. pp. 176 and 475–8.
2. The subject of this clause is of course a criminal, not a victim.

(They should look at the matter in the following light: none of the 5040 farms belongs to its occupant or his family in general as much as to the state, which is entitled to it not only as a piece of public property but also as its own private possession; and the state ought to do its best to keep its own properties as holy and prosperous as possible.) Therefore:

54. When one of the properties falls away from this condition of holiness and prosperity to such an extent that the possessor leaves no children to succeed him, being unmarried, or married but childless, and meets his end convicted of
(a) (i) deliberate murder, or
(ii) some other crime against gods or citizens for which the death penalty is specifically laid down by law, or if
(b) someone without male issue goes into permanent exile,

first of all, this property must be cleansed and purified according to law; then the relatives must hold the meeting we mentioned just now, and in consultation with the 878
Guardians of the Laws pick out a family that has the best reputation for virtue of all the families in the state and is at the same time fortunate enough to have produced several children. One of these they must adopt on behalf of the deceased's father and forebears, who will receive him as their son; from them he will take his name, which should be an omen of good fortune. The relatives should pray that as a result of his adoption he will bring them children, and guard the hearth and look after the family affairs, both sacred and secular, with greater success than his adoptive father enjoyed. In this way they should install him, according to law, as heir to the property.

(c) When such disasters as we have mentioned [54.(a, b)] overwhelm the sinner,
they should let him lie nameless in his grave, childless and deprived of his family estate.

WOUNDINGS INFLICTED IN ANGER

We can see that it is not universally true that one district extends right up to the boundary of another. In some cases there is a no man's land in between, which will extend so as to touch either boundary and occupy an intermediate position between the two. This, we said,[3] was true of an act done in anger: it falls somewhere between voluntary and involuntary. Our regulations concerning wounding inflicted in anger should therefore run as follows:

55 A. If a man is found guilty, and
(a) the wound turns out to be curable,
he must pay double damages;
(b) if it is incurable,
he must pay quadruple damages.
(c) If he has inflicted a wound which, though curable, makes the wounded man feel acutely embarrassed and ashamed,
he must pay triple damages.

B. If one man wounds another and injures not only his victim but the state, by rendering him unable to defend his fatherland against the enemy,

he must, in addition to the other penalties, make restitution to the state for the loss it has sustained, viz. he must perform not only his own military service but that of the incapacitated person as well by serving in the army on his behalf.

C. If he fails so to serve,
he shall be liable under the law to a charge of evading military service, at the hands of anyone who wishes.

A. cont. The assessment of the damages, double, triple or quadruple, must be made by the judges who found him guilty.

D. If one relative wounds another in any of these ways, *the fellow-clansmen* and close relatives, male and female, as

3. See p. 380.

far as sons of cousins on both the male and female side, must hold a meeting, and when they have reached their verdict, they must entrust the assessment to the natural parents. If the assessment is challenged, the assessment of the relatives on the male side must be taken as final. If they cannot agree themselves, they must, in the end, hand over the matter to the Guardians of the Laws.

E. When children inflict this kind of wound on their parents, it is essential for the judges to be persons over sixty years of age who have children of their own and not merely adopted ones. If a man is found guilty,
these judges must decide whether a man who could do such a thing as this should die, or whether the penalty should be something even more severe,[4] or perhaps something a trifle less severe. None of the relations of the culprit should act as a judge, not even if he is of the age required by law. 879

F. (a) If a slave wounds a free man in anger,
the owner must hand him over to the wounded man, who may treat him in whatever way he likes.
(b) If the owner fails to hand him over,
he must remedy the damage himself.
(c) If anyone alleges that the affair is the result of collusion between the slave and the wounded party,[5] he must contest the point at law. If he does not win the case,
he must pay triple damages.
If he does win, he must prosecute the author of the collusion with the slave on a charge of kidnapping.

INVOLUNTARY WOUNDINGS

56. If anyone involuntarily wounds someone else,
he must pay simple damages. (No legislator is capable of regulating the workings of chance.) The judges are to be the same as those appointed to try children who wound their parents; and they will have the duty of assessing the amount of the damages.

4. Such as deprivation of burial.
5. That is, so that the wounded party would acquire a slave for nothing.

§20. ASSAULT

Assault consists of insulting someone by abuse or rough handling without actually causing injury. It is less serious than wounding (§19) *but as we should expect, considerations of social status bulk large: slaves and children must be extremely deferential to their masters and parents, though foreigners have a particularly privileged position. But in general Plato's law reinforces the social structure of the state.*

In this section, exhortation and law are mingled even more than usual.

ATHENIAN: All the injuries we have so far mentioned involve the use of violence, and so too do the various kinds of assault. In these cases, the point that every man, woman and child should bear in mind is this:

> Age is always very much more highly regarded than youth, and this is so both among the gods and among men, if they intend to live in security and happiness. Therefore, the assault of an older man by a younger in public is a disgusting sight, and the gods hate to see it. No young man who is struck by an old man should ever make a fuss, but put up with his bad temper, and so establish a claim to similar respect when he himself grows old.

Our law, then, should run as follows:

Everyone in our community must show, by his words and actions, respect for his senior. A man should avoid crossing any person (male or female) who is twenty years older than himself, regarding him or her in the same way as he would his father or mother. For the sake of the gods of birth, he must always keep himself from striking anyone old enough to have been his parent. Similarly, he must refrain from striking a foreigner, whether the latter is a long-established resident or a recent immigrant. He must never go so far as to punish such a person by hitting him, either by attacking him first, or in self-defence.

57 A. (a) If he thinks the foreigner is unruly and insolent in an attack on himself, and needs to be punished, he must arrest him and take him, without hitting him, to the court of the City-Wardens, so that the foreigner may learn to banish all thoughts of ever striking a citizen again. The City-Wardens must take the man and interrogate him, with proper respect for the god who is the protector of foreigners. If in fact the foreigner seems to have been in the wrong in striking the citizen,

the City-Wardens must put a stop to this unruliness, so characteristic of a foreigner; they must give him as many strokes of the lash as will equal the number of blows he himself inflicted.

(b) If he is not in the wrong,

they must warn and rebuke the man who made the arrest, and dismiss the pair of them.

B. If one man strikes another who

(a) is about the same age, or

(b) is older, but has no children,

whether the attacker is an old man striking an old man, 880
or a young man striking a young man, the man attacked must defend himself by natural means – with his own bare hands, without a weapon. But if a man over forty years of age has the face to fight someone, whether

(i) he strikes the first blow, or

(ii) fights in self-defence,

he will get the reputation of being an uncivilized boor with the manners of a slave, and this ignominious punishment will serve him right.

A man who is easily persuaded by these words of exhortation will give us no trouble; but stubborn people, who ignore the preamble, ought to be ready to take more notice of the following regulations:

C. If anyone strikes a man twenty years or more his senior, any bystander, if he is neither of the same age nor younger than the combatants, should separate them,

or be treated under the law as a wretched coward. If he is of the same age as the person attacked, or younger, he should go to his assistance as if it were his own brother or father being wronged, or some still more senior relative.

D. In addition, the man who dares to strike his senior as defined[1] must stand trial for assault. If he loses the case, *he must* be imprisoned for not less than a year. If the court fixes a longer imprisonment, the period it decides on shall stand.

E. If a foreigner, or a resident alien, strikes a man twenty years or more his senior, the same regulation [57 C] about assistance from passers-by shall be enforced in the same way as before.

(a) A man found guilty of such a charge, if he is a foreigner not resident in the state,

must pay his penalty by spending two years in prison.

(b) If it is a resident alien who is in breach of these regulations,

he must go to prison for three years, except that the court may specify a longer period by way of penalty.

F. The passer-by who comes across any of these cases of assault and does not give assistance as required by law *must be* fined: a member of the first property-class 100 drachmas, a member of the second fifty drachmas, a member of the third thirty drachmas, and a member of the fourth twenty drachmas. The court in such cases[2] is to consist of the Generals, Company-Commanders, Tribe-Leaders and Cavalry-Commanders.

Some laws, it seems, are made for the benefit of honest men, to teach them the rules of association that have to be observed if they are to live in friendship; others are made for those who refuse to be instructed and whose naturally tough natures have not been softened enough to stop them turning to absolute vice. It will be they who have prompted the points I am just going to make, and it is for their benefit that the

1. I.e. someone twenty years older.
2. Presumably this refers to *all* cases of assault.

lawgiver will be compelled to produce his laws, although he would wish never to find any occasion to use them. Consider a man who will dare to lay hands on his father or mother or their forebears by way of violent assault. He will fear neither the wrath of the gods above nor the punishments said to await him in the grave; he will hold the ancient and universal 881
tradition in contempt, on the strength of his 'knowledge' in a field where he is in fact a total ignoramus. He will therefore turn criminal, and will stand in need of some extreme deterrent. Death, however, is not an extreme penalty: the sufferings said to be in store for these people in the world to come are much more extreme than that. But although the threat of these sufferings is no idle one, it has no deterrent effect at all on souls like these. If it did, we should never have to deal with assaults on mothers, and wicked and presumptuous attacks on other forebears. I conclude, therefore, that the punishments men suffer for these crimes here on earth while they are alive should as far as possible equal the penalties beyond the grave.

Our next enactment, then, should run as follows:

G. If a man who is not in the grip of insanity dares to strike his father or mother, or their father or mother, the first point is that the passer-by must render assistance as provided in former cases.

(a) (i) If the resident alien renders assistance,

he shall be invited to a front seat at the games;

(ii) if he does not render assistance,

he must go into permanent exile from the land.

(b) (i) If the non-resident alien renders assistance,

he shall be commended.

(ii) If he does not render assistance,

he must be reprimanded.

(c) (i) If a slave renders assistance,

he shall be set free.

(ii) If he does not render assistance,

he must receive a hundred strokes of the lash.

If the crime was committed in the market-place, the whipping should be administered by the Market-Wardens;

if in the city but not in the market, by the City-Warden in residence; if somewhere in the countryside, by the chief Country-Wardens.

(d) Everyone of citizen birth who passes by, whether man, woman or child, must shout 'you wicked monster' at the attacker, and repel him. If the passer-by makes no attempt to repel him,

he must be liable under the law to a curse from Zeus, guardian of the family and protector of parents.

H. If a man is convicted of an assault on his parents,

he must be permanently rusticated from the city to some other part of the country, and be banned from all sacred places.

I. (a) If he returns to the city,

he must be punished by death.

(b) If he does not keep away from sacred places,

the Country-Wardens must punish him by a whipping, and by any other method at their discretion.

J. If any free man eats or drinks in company with such a person, or associates with him in some other similar fashion, even by deliberately failing to cut him on meeting,

he must not enter any temple, or market-place, or any part of the city, before he has been purified, bearing in mind that he has come into contact with a misfortune that brings a curse upon a man.

K. If he disobeys the law and in defiance of it pollutes temples and city,

any official who discovers the fact and does not take the man to court will find that this is one of the most serious charges against him at his scrutiny.[3]

882 L. If a slave strikes a free man, foreigner or citizen, the passer-by who does not render assistance

must pay the penalty prescribed for his property-class.

3. At the end of their term officials had to submit to an examination of their conduct in office before being discharged: see p. 495.

M. The passers-by in conjunction with the person attacked must bind the slave and hand him over to his victim; the victim must take him, put him in chains, and give him as many strokes of the whip as he likes, provided he does not diminish the value of the slave to his master; he should then hand him over to the latter's legal ownership. This legal ownership must be subject to the following provision. Any slave who has struck a free man, other than on the orders of the officials,[4] must be tied up; his master must receive him from the assaulted person and not release him before the slave persuades his victim that he deserves to live free of constraint.

The same regulations should apply in all cases (a) as between women, (b) when women prosecute men, and (c) when men prosecute women.

4. Slaves owned by the state might be ordered to inflict corporal punishment on a citizen. See p. 279.