then, let us enact the following regulation-cum-commendation, by way of advising rather than compelling the people at
922 large. Those fine men who safeguard the whole state either by exploits of valour or by military expertise must be accorded honour – but honour of the second rank, because the highest honour should be given first and foremost to those who have proved conspicuously conscientious in respecting the written regulations of the good legislator.

§24. FAMILY LAW

Plato's law of the family is mostly taken from Attic law, with interesting and significant modifications dictated by the peculiar conditions of Magnesia: for a handy summary, see G. R. Morrow, Plato's Cretan City, *120–21, 202–3. The polemic against freedom of testamentary disposition is a good example of Plato's desire to regulate the life of the individual in its most intimate details.*

MAKING A WILL

ATHENIAN: We've now pretty well completed our provisions for the most important agreements that men make with each other, with the exception of those relating to orphans and the care and attention due to them from their guardians. So now we've more or less provided for the first topic, here's the next thing on which we are obliged to impose some sort of order. All our regulations must start from two basic facts: (a) people at the point of death like to settle their affairs by a will, (b) sometimes, by chance, they die intestate. What a difficult and contentious business it is, Cleinias! That's what I had in mind when I said we were 'obliged' to deal with it: to leave it unregulated is quite out of the question. If you allow a will unchallengeable validity whatever condition a man near the end of his life may have been in when he drew it up, he might make any number of mutually inconsistent provisions that contradicted not only the spirit of the laws but also the inclinations of those who survive him, and indeed his own earlier intentions before he set out to make his will. After all, most of us, when we think death is at hand, just go to pieces and can't think straight.

CLEINIAS: How do you mean, sir?

ATHENIAN: When a man is about to die, Cleinias, he becomes refractory, and keeps harping on a principle that spreads alarm and despondency among legislators.

CLEINIAS: How's that?

ATHENIAN: In his anxiety for complete authority he's apt to express himself with some warmth.

CLEINIAS: To what effect?

ATHENIAN: 'Ye gods!' says he, 'it's a fine thing if I'm not going to be allowed to give – or not give – my own property to anyone I please! Why shouldn't I give more to one man and less to another depending on whether they have shown themselves good or bad friends to me? My illnesses, my old age and all my other various misfortunes have sorted them out well enough.'

CLEINIAS: Well, sir, don't you think that's well said?

ATHENIAN: Cleinias, my view is that the ancient lawgivers were too easy-going, and legislated on the basis of a superficial and inadequate appreciation of the human condition.

CLEINIAS: How do you mean?

ATHENIAN: My dear fellow, because they feared the line of argument I have mentioned, they passed the law allowing a man to dispose of his own property in his will exactly as he
923 pleases. But when people have come to death's door in your state, you and I will make a rather more appropriate response:

> 'Friends, you "creatures of a day" in more senses than one, it's difficult for you in your present circumstances to know the truth about your own property and also "know yourselves", as the Delphic inscription puts it. Therefore, I, as legislator, rule that neither you nor this property of yours belongs to yourselves, but to your whole clan, ancestors and descendants alike; and your clan and its property in turn belong, even more absolutely, to the state. That being so, I should be reluctant to tolerate someone worming himself into your good graces when you are smitten with illness or old age, and wheedling you into making a will that is not for the best. I shall legislate with a view to nothing except the interest of your clan and the entire state, relegating (as is only right) that of the individual to second place. So as you go on your journey, which is the way of all flesh, show restraint and goodwill towards us: we will look after your

> affairs for the future and guard your interests with the utmost care, down to the smallest detail.'

TESTAMENTARY AND INHERITANCE LAW

Let that stand by way of preamble and consolation for both the living and the dying, Cleinias. Here's the actual law:

Anyone who settles his property by writing a will should first, if he has had children, write down the name of that son who in his opinion deserves to be his heir, and he should also record precisely which, if any, of his other children he offers for adoption by someone else. If, however, he is still left with one of his sons not adopted into an estate, who will presumably be dispatched by law to a colony[1], the father should be permitted to present him with as much of his property as he likes, apart from the family estate and all its associated equipment; and if there is more than one son in that position, his father is to distribute his property among them – excluding the estate – in whatever proportion he pleases. But he should not distribute any part of his property to any son who has a home.[2] He should treat a daughter analogously: if she is promised in marriage, he should not let her share his goods, but only if she is not promised. If subsequent to the will one of the sons or daughters is discovered to have come into possession of an estate in Magnesia, he or she should abandon his or her legacy[3] to the testator's heir. If the testator is leaving no male offspring but only female, he should select whichever of his daughters he pleases and in his will provide someone to be a husband for her and a son for himself, and record this person as his heir. And here's another disaster a man should allow for when drawing up his will: if his son (his own or adopted) dies in infancy before he can reach man's estate, the will should specify in writing a child who is to take his place – and who, 924
one hopes, will have better luck. When a man who has no children at all writes a will, he may reserve one tenth of his

1. Cf. pp. 201 and 209.
2. I.e. by adoption or by inheriting his father's estate.
3. I.e. of movable property.

acquired[4] property and give it to anyone he wishes; all the rest he should leave to his adopted heir, so that in making him his son with the blessing of the law he gains his goodwill by treating him fairly. When a man's children need guardians, and the deceased has made a will and stated in writing the number of guardians he wants his children to have and who they should be (provided they are ready and willing to undertake the office), the choice of guardians put on record in this way should be binding. But if a man dies absolutely intestate or without selecting guardians, then the two nearest relatives on the father's side and the two nearest on the mother's, together with one of the deceased's friends, must be authorized to act as guardians; and the Guardians of the Laws should appoint them for any orphan who stands in such need. Everything to do with guardianship and orphans should be the concern of the fifteen eldest Guardians of the Laws, who should divide themselves by seniority into groups of three, one group to act one year and another the next, until the five terms of office have been completed in rotation; and so far as possible there should be no gaps in the sequence.

When a man dies absolutely intestate and leaves children in need of guardians, these same laws must be brought into operation to relieve their distress. But if he meets with some unforeseen accident and leaves just daughters, he must forgive the lawgiver for arranging their betrothal with an eye on only two out of three possible considerations: close kinship, and the security of the estate. The third point, which a father would have taken into account – namely to select from among the entire citizen body someone whose character and habits qualify him to be his own son and his daughter's bridegroom – these considerations, I say, will have to be passed over, because it's impracticable to weigh them. So here's how the best law we can manage in such a field should run. If a man fails to make a will, and leaves only daughters, then on his death (a) a brother on his father's side (or, if without an estate of his own, a brother on his mother's side) should take the daughter and the estate of the deceased. (b) If there is a

4. I.e. apart from the estate and its equipment.

brother's son available, but no brother, then if the parties are of a similar age the same procedure is to apply. In the absence of all these, (c) a sister's son is to benefit under the same regulations. (d) Next in line is to be the brother of the deceased's father, next (e) that brother's son, and finally (f) the son of the sister of the deceased's father. And in all cases where a man leaves only female offspring, the succession is to pass through the family according to the same rules of kinship, through brothers and brothers' and sisters' sons, the 925
males in any one generation always taking precedence over the females. As for age, the assessor must determine the propriety or otherwise of the marriage by inspection, viewing the males naked and the females stripped down to the navel. If the family suffers from such a dearth of relatives that not even a grandson either of the deceased's brother or of the son of the deceased's grandfather exists, then in consultation with her guardians the girl may single out of her own free choice any other citizen, provided he does not object, who should then become the deceased's heir and the daughter's bridegroom. However, 'flexibility above all': sometimes suitable candidates from within the state itself may be in unusually short supply, so if a girl is hard put to it to find a husband among her compatriots, and has in view someone who has been dispatched to a colony whom she would like to inherit her father's property, then if the man is related to her, he should enter into the estate under the provisions of the law; if he is not of her clan, then provided there are no near kin living in the state, he shall be entitled by virtue of the choice of the daughter of the deceased and that of her guardians to marry her and return to his homeland to take over the establishment of the intestate father.

When a man dies intestate and leaves neither male nor female issue, the situation should in general be met by the foregoing law, and a man and a woman from the clan should 'go in harness' and enter into the deserted establishment with full title to the estate. The order of precedence on the female side is to be: (a) the deceased's sister, (b) his brother's daughter, (c) the sister's son, (d) the sister of the deceased's

father, (e) the daughter of the father's brother, and (f) the daughter of the father's sister. A woman from this list should set up home with a man from the other list[5] according to the degrees of kinship and the demands of religion[6] for which we made provision earlier.

HOW TO MITIGATE THE HARSHNESS OF THE LAW

But let's not forget the severity of such laws. It can sometimes be hard for a near relative of the deceased to be instructed to marry his kinswoman, by a law that to all appearances takes no account of the thousands of social difficulties that deter people from obeying such instructions in a willing spirit, so that they invariably prefer to put up with anything rather than comply – I mean difficulties like physical or mental illnesses or defects in the man or woman one is told to marry. I dare say some people imagine the lawgiver is not bothered about these things at all, but they're wrong. So in the interests of the lawgiver and those for whom he legislates, let's compose a sort of impartial preamble begging those who are subject to the legislator's orders to forgive him if in his concern for the common good he finds it hardly possible to cope with
926 the personal inconvenience experienced by individuals; and the people for whom the lawgiver's regulations are intended should also be forgiven for their occasional understandable inability to carry out the orders which, in all ignorance, he gives them.

CLEINIAS: Well then, sir, what would be the most reasonable way of dealing with such cases?

ATHENIAN: It is essential, Cleinias, to choose people to arbitrate between laws of that sort and the persons affected by their provisions.

CLEINIAS: How do you mean?

ATHENIAN: Sometimes a nephew with a wealthy father might be reluctant to take his uncle's daughter because he fancies his chances and is bent on making a better marriage;

5. See pp. 466–7. 6. See p. 210.

in another case a man would have no choice but to disobey the law because the instructions devised by the lawgiver would lead to untold trouble – as for instance if they tried to compel him to marry someone suffering from lunacy or some other terrible physical or mental defect that would make the life of the partner not worth living. This policy should be embodied in a law with the following provisions:

If in practice people attack the established laws about wills on any point whatever, but especially where a marriage is concerned, and swear that if the legislator were alive and present in person he would never have forced them to either of the courses to which they are in fact being forced (to marry this man or that woman), but one of the relatives or a guardian takes the opposite line, then we must remember that the fifteen Guardians of the Laws[7] have been bequeathed to orphan boys and girls by the legislator to act as their fathers and arbitrate on their behalf; so litigants on any of these matters must go to them to get disputes settled, and carry out their decisions as binding. But if a litigant believes that this is too great an authority to be vested in the Guardians of the Laws, he should take them before the court of the Select Judges and get a decision on the points at issue.

75. If he loses the day,
the lawgiver should visit him with censure and disgrace, a punishment which any sensible person will regard as more severe than a swingeing fine.

THE CARE OF ORPHANS

The effect of this will be to give our orphan children a sort of second birth. We have already described the training and education they should all receive after their first; after this second and parentless birth we have to see that these children who have had the ill luck to be bereaved and made orphans are to be pitied as little as possible for their misfortune. In the first place, the Guardians of the Laws – substitute parents as least as good as the original ones – should lay down rules

7. See p. 466.

for them; in particular, we instruct the three Guardians on duty for the year to look after them as though they were their own children; and for the guidance of these officials and the guardians we shall compose a suitable preamble on the education of orphans. And luckily enough, I fancy, we have
927 described already how after death the souls of the departed enjoy certain powers which they use to take an interest in human affairs.[8] The stories which tell of these things are true, but long, so one should trust to the ancient and widely disseminated common traditions on the point, and also take the legislator's word for it that the doctrine is true – unless, of course, one believes them to be arrant fools. Now if this is really the way of things,

> a guardian should fear, in the first place, the gods above, who are aware how deprived orphans are, and secondly the souls of the departed, whose natural instinct is to watch with particular care over their own children, showing benevolence to people who respect them and hostility to those who treat them badly. And he should also fear the reactions of those who, full of years and honour, are still living, because in a state which thrives under good laws their grandchildren will show them glad and tender affection, and old men have sharp eyes and ears for such things: if you do the right thing by an orphan, they'll be kind to you, whereas they'll soon show you their displeasure if you take advantage of an orphan's exposed position, because they regard orphans as a supreme and sacred trust. A guardian or official with even the slightest sense has a duty to give close attention to all these warnings, and take great care over the training and education of orphans, helping them in every possible way, just as if he were contributing to the good of his own self and family.

A man who complies with the preface to the law and refrains from any ill-treatment of an orphan will be spared first-hand experience of the legislator's fury against such actions, but

8. See pp. 378–9.

76. if a man refuses to comply, and harms a child deprived of its father or mother,

he must pay double the damages that he would have to pay for a crime committed against a child with both parents living.

But do we really *need* precise rules to control a guardian's treatment of an orphan, and an official's supervision of a guardian? They already possess a pattern of how to bring up free-born children, in the education they themselves give to their own, and in the way they manage their private possessions – and of course the rules they have to guide them on those matters are pretty exact. If they were not, it would be reasonable to lay down rules of guardianship as a special and separate category, and make an orphan's life different from that of ordinary children by working out a detailed régime of its own. But in fact in our state being an orphan doesn't differ very much from living under one's own father, although in public esteem, and the amount of attention the children get, orphanhood is usually much less desirable. That is why 928
in dealing with this topic – rules about orphans – the law has gone to such lengths in encouraging and threatening. And here's the sort of threat that will come in very handy indeed. Anyone acting as a guardian of a boy or girl, and any Guardian of the Laws who supervises that guardian by virtue of being appointed to control him, must show this child who has had the misfortune of bereavement no less affection than his own children, and be just as zealously concerned for his ward's property as he is for his own – more so, in fact; and everyone who acts as a guardian will have just that one law to observe on the subject of orphans. But

77. if this law is contravened in such respects,
(a) *a guardian* should be punished by his official;[9]
(b) *an official* should be summoned before the court of Select Judges by the guardian and punished by a fine of twice the damages as estimated by the court.

9. Presumably the Guardian of the Laws mentioned a few lines earlier.

If a guardian is suspected by the relatives or indeed by any other citizen of neglect or malpractice, he should be summoned before the same court.

78. *He must* be fined four times the sum he is found to have taken, half the fine going to the child and half to the successful prosecutor.

If once he has grown up an orphan concludes that he was badly treated by his guardian, he may bring a suit for incompetent guardianship, provided he does so within five years of its expiry.

79. (a) If a guardian is found guilty,
the court is to estimate what he is to suffer or pay;
(b) if an official is found guilty of injuring the orphan
(i) through negligence,
the court must assess how much he is to pay to the child;
(ii) by criminal conduct,
then in addition to paying the sum assessed, he must be ejected from the office of Guardian of the Laws,
and the government must supply the state and country with a fresh Guardian of the Laws to take his place.

DISINHERITANCE

The bitterness with which fathers quarrel with their children and children with their fathers is often excessive. A father is apt to think that the legislator ought to give him legal authority, if he wishes, to make a public proclamation through a herald that under the provisions of the law his son is his son no longer; for their part, sons believe that if they have a father whose suffering from disease or old age has become a disgrace, they are entitled to prosecute him on a charge of lunacy. Such disputes are usually found where men's characters are irredeemably corrupt, because when the corruption is confined to one party – as when the son is corrupt but not the father, or the other way round – the bad feeling is not sufficient to lead to trouble. Now in any other state a child repudiated by his father would not necessarily find himself

a stateless person, but in the case of Magnesia, to which these laws will apply, a man disowned by his father will be obliged to migrate to another country, because the 5040 homes cannot 929
be increased even by one. Consequently before this punishment can be legally inflicted on him, he must be repudiated not only by his father but by the entire clan. Procedure in such cases is to be governed by some such law as this: anyone who has the extreme misfortune to want – justifiably or not – to expel from the clan the child he has fathered and reared, must not be allowed to do so casually and on the spur of the moment. First of all he must assemble all the relatives on his own side and all the relatives of the son on the mother's side, as far as cousins in each case, and accuse his son before them, explaining why he deserves to be drummed out of the clan by its united action. The son shall have the right of reply, to argue that none of these penalties is called for. If the father carries his point, and wins the vote of more than half the relatives (he himself and the mother and the accused son being excluded from the voting, as well as those males and females who are not yet of adult age), then by this procedure and on these terms he shall be entitled to repudiate his son, but in no other way whatever. If some other citizen wishes to adopt the repudiated son, no law is to stop him (a young man's character is by nature bound to change frequently enough in the course of his life), but if after ten years no one has been moved to adopt the disowned person, the supervisors of surplus children intended for the colony[10] must take him too under their wing so that he may be suitably established in the same colony as the others.

SENILITY

Now suppose illness or old age or a cantankerous temper or all three make a man more wayward than old men usually are, unbeknown to all except his immediate circle; and suppose he squanders the family resources on the grounds that he can do as he likes with his own property, so that his son is driven to

10. Cf. pp. 201 and 209.

distraction but hesitates to bring a charge of lunacy. This is the law the son must observe. First of all he must go to the eldest Guardians of the Laws and explain his father's misfortune, and they, after due investigation, must advise him whether to bring the charge or not. If they advise that he should, they must come forward as witnesses for the prosecution and plead on his behalf.

80. If the case is proved,
the father must lose all authority to manage his own affairs, even in trivialities, and be treated like a child for the rest of his days.

DIVORCE AND REMARRIAGE

Whenever a man and his wife find it impossible to get on with each other because of an unfortunate incompatibility of temperament, the case must come under the control of ten men –
930 middle-aged Guardians of the Laws – and ten of the women in charge of marriage, of the same age. Any arrangements they make which reconciles the couple should stand, but if feelings are too exacerbated for that they must do their best to find each some other congenial partner. It's quite likely that the existing partners are people of rough temper, so one should try to fit them in harness with mates of a more phlegmatic and gentle disposition. And when the quarrelling couple have no children or only a few, the procreation of children must be kept in view in the setting up of the new homes; where sufficient children already exist, the divorce and the remarriages should facilitate companionship and mutual help in the evening of life.

DEATH OF A WIFE OR HUSBAND

If a wife dies and leaves male and female children, we'll lay down a law advising, though not compelling, the husband to bring up his existing children without importing a stepmother; but if there are no children, he must be obliged to remarry so as to beget sufficient children for his home and for the state. If the husband dies, leaving an adequate number

of children, their mother should remain in her position and bring them up; but if it is judged that she is too young to live unmarried without injuring her health, her relatives should report the facts to the women in charge of marriages and do whatever seems advisable to both sides; and if there have been no children born as yet, they should bear that in mind too. (The minimum acceptable number of children is to be fixed by law as one of each sex.)

CHILDREN OF MIXED STATUS

Whenever there is no dispute about the parentage of a child, but a ruling is required as to which parent it should follow, the offspring of intercourse between a slave woman and a slave or a free man or a freedman should become the absolute property of the woman's owner; if a free woman has intercourse with a slave, the issue should belong to his master. If a free man has a child by his own slave woman, or a free woman by her own slave, and the facts are crystal clear, the female officials are to send the free woman's child along with its father to another country, and the Guardians of the Laws must similarly send away the free man's child with its mother.

RESPECT FOR PARENTS

No god or any man with his wits about him will ever advise anyone to neglect his parents. On the contrary, we should be quick to appreciate how very relevant the following preface on the subject of worshipping gods will be to the respect or disrespect in which we hold our father and mother.

Time-honoured cult observances all over the world fall into two categories. Man exalts some of the gods because he can see them with his own eyes,[11] others[12] he represents, by 931
setting up statues of them, and believes that his worship of these inanimate 'gods' ensures him the abundant gratitude and benevolence of their real and living counterparts. This

11. The heavenly bodies. 12. The traditional deities.

means that no one who has living in his house his father or mother, or their mothers and fathers, treasures old and frail, must ever forget that so long as he possesses such a 'shrine'[13] at his hearth and looks after it properly, no other object of worship will ever be more influential on his behalf.

CLEINIAS: What do you mean by 'properly'?

ATHENIAN: I'll tell you. After all, my friends, such themes are worth a hearing.

CLEINIAS: Tell us, then.

ATHENIAN: Our version of the story of Oedipus is that when he was insulted by his sons he called down a curse on them – and you know how people have never stopped relating how the gods heard and answered his prayer. And Amyntor fell into a rage with his son Phoenix[14] and cursed him; Theseus did the same to Hippolytus,[15] and there are thousands of similar cases, which all go to show that the gods take the parents' side against the children: no man, you'll find, can curse anyone as effectively as a parent can curse his child; and that's absolutely right. So if it is true that the gods listen to the prayers of fathers or mothers who have been wantonly insulted by their children, isn't it reasonable to suppose that when by contrast the respect we show our parents delights them so much that they pray hard to heaven for a blessing on their children, the gods will be just as ready to listen as before, and grant us it? If not, they'd be conferring blessings unjustly – which we maintain is a peculiarly inappropriate thing for a god to do.

CLEINIAS: Very much so.

ATHENIAN: So as we said just now, we must reckon that the most precious object of worship a man can have is his father or grandfather, weak with age, or his mother in a similar condition, because when he honours and respects them God is delighted – if he weren't, he wouldn't listen to their prayers. These 'living shrines', in the shape of our forefathers, affect us far more wonderfully than lifeless ones, because when we

13. Cf. p. 384.
14. Homer, *Iliad* IX, 448 ff.
15. See note on p. 134.

look after them they invariably join their prayers to ours, whereas if we insult them, they oppose us. As ordinary statues do neither of these things, a man who treats his father and grandfather and so on as they deserve will have objects of worship that are much more influential than any others in winning him the favour of heaven.

CLEINIAS: Excellently put.

ATHENIAN: Anyone with his wits about him holds the prayers of his parents in fear and respect, knowing that the cases in which such prayers have been brought to pass have been many and frequent. This being the way of things, a good man will regard his elderly forebears as a veritable 932
god-send, right up till they breathe their last; and when they pass on, they will be sorely missed by the next generation, and be a terror to the wicked. Let everyone be convinced by this argument and do their parents all the honour enjoined by law.

But if even so a man gets the reputation of being deaf to such prefaces, then the right law to pass to deal with him will run as follows.

If anyone in this state of ours looks after his parents less diligently than he should and fails to carry out their wishes in all respects with more indulgence than he shows to those of his sons and descendants in general, and indeed to his own desires too, the neglected parent must report the fact, either in person or by messenger, to the three most senior Guardians of the Laws and three of the women in charge of marriages. These officials must take the matter in hand, and provided the offender is still a young man under the age of thirty, chastise him with a whipping and imprisonment. (In the case of a woman, the same chastisement may be inflicted until she is forty.) Older persons, if they persist in neglecting (and perhaps actually ill-treating) their parents, should be summoned before a court consisting of the 101 most elderly citizens of the state.

81. If a man is found guilty,
the court is to assess what penalty or fine is to be exacted,

and absolutely no fine or penalty that a man can pay must be excluded from consideration.

If ill-treatment prevents a parent from complaining, any free man who discovers the situation should alert the authorities.

82. If he does not,
he must be regarded as a scoundrel and be liable to a suit for damage at the hands of anyone who wishes.

If the informant is a slave, he should be given his freedom; if he belongs to the criminal or his victim, he must be released by the authorities; and if he belongs to some other citizen, the public treasury is to see that the owner is reimbursed. Official action must be taken to stop anyone injuring him in revenge for giving information.

§25. MISCELLANEOUS LEGISLATION

It is difficult to say anything useful about this section as a whole, though the individual topics are full of interest. (For the structure of the section, see my discussion on p. 448.) Perhaps the most important topic is the Scrutineers, who investigate and if necessary punish the conduct of an official at the end of his term. Scrutineers were known in the Athenian democracy, but Plato considerably extends the dignity and powers of the office (see G. R. Morrow, Plato's Cretan City, *219 ff). They form a vital part of his system of constitutional checks and balances.*

NON-FATAL INJURIES BY DRUGS AND CHARMS

We have already dealt with *fatal* injuries inflicted by the use of drugs,[1] but we have not yet discussed any of the less harmful cases of voluntary and premeditated injury, inflicted by giving food or drink or by applying ointments. Full treatment of the question is hindered by the fact that so far as human beings are concerned, poisoning is of two kinds. First there is the sort we have just explicitly mentioned: the injury a body suffers from some physical substance by natural 933
processes. The other kind is a matter of spells and charms and 'enchantments': not only are the victims persuaded that they are being seriously injured by people with magic influence, but even the perpetrators themselves are convinced that it really is in their power to inflict injury by these methods. It is not easy to know the truth about these and similar practices, and even if one were to find out, it would be difficult to convince others; and it is just not worth the effort to try to persuade people whose heads are full of mutual suspicion, that even if they do sometimes catch sight of a moulded waxen figure in a doorway or at a junction of three

1. See p. 378.