

Presentation handout for Public hearing on “Commonwealth Transparency 101: Sunshine Act, the Right-to-Know Law, the Ethics Act and Per Diems”

PA State Government Subcommittee on Government Integrity and Transparency

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Introduction: Aristotle and common sense

“Some time in the 1920s, the Conservative statesman F. E. Smith — Lord Birkenhead — gave a copy of the *Nicomachean Ethics* to his close friend Winston Churchill. He did so saying there were those who thought this was the greatest book of all time. Churchill returned it some weeks later, saying it was all very interesting, but he had already thought most of it out for himself.”¹

The Aim of the Lawgiver

“Lawgivers make the citizens good by inculcating [good] habits in them, and this is the aim of every lawgiver; if he does not succeed in doing that, his legislation is a failure.” (1103b4-5)²

How the Aim Is Pursued: Moral Virtue and Habituation

“Moral virtue ... is formed by habit, *ethos*, and its name, *ethikē*, is therefore derived, by a slight variation, from *ethos*. ... Thus, the virtues are implanted in us neither by nature nor contrary to nature: we are by nature equipped with the ability to receive them, and habit brings this ability to completion and fulfillment.” (1103a17-19, 23-25)

What Habituation Produces: Virtues as Characteristics

“... in the case of the virtues an act is not performed justly or with self-control [simply because] the act itself is a of certain kind, but only if in addition the agent has certain characteristics as he performs it: first of all, he must know what he is doing; secondly, he must choose to act the way he does, and he must choose it for its own sake; and in the third place, the act must spring from a firm and unchangeable character. ... for the mastery of the virtues ... knowledge is of little or no importance, whereas the other two conditions count not for a little but are all-decisive, since repeated acts of justice and self-control result in the possession of these virtues.” (1105a28-1105b4)

¹ Harry V. Jaffa, “Aristotle and the Higher Good,” *New York Times Sunday Book Review*, 1 July 2011.

² This and the following quotations are from Aristotle, *Nicomachean Ethics*, translated by Martin Ostwald (Upper Saddle River, NJ: Prentice Hall, 1999).

What Kind of Characteristic?: Virtues as Human Excellences

“... every virtue or excellence (1) renders good the thing itself of which it is the excellence, and (2) causes it to perform its function well. For example, the excellence of the eye makes both the eye and its function good, for good sight is due to the excellence of the eye. ... [and] the virtue or excellence of man, too, will be a characteristic which makes him a good man, and which causes him to perform his own function well.” (1106a16-19, 22)

The States of Character

“... the qualities of character to be avoided are three in kind: vice, moral weakness, and brutishness. The opposites of [these are] virtue or excellence ... moral strength ... [and] a kind of heroic and divine excellence.” (1145a16-20)

Moral Strength compared to Moral Weakness

“Moral strength and tenacity are qualities of great moral value and deserve praise, while moral weakness and softness are base and deserve blame. A man who is morally strong tends to abide by the results of his calculation, and a morally weak man tends to abandon them. A morally weak man does, on the basis of emotion, what he knows to be base, whereas a morally strong man, knowing that certain appetites are base, refuses to follow them and accepts the guidance of reason.” (1145b8-13)

Moral Weakness compared to Moral Vice

“A morally weak person ... always feels regret.... It is a self-indulgent man who cannot be cured, but a morally weak man is curable. For wickedness is like a disease such as dropsy or consumption, while moral weakness resembles epilepsy: the former is chronic, the latter intermittent. ... A morally vicious man is not aware of his vice, but a morally weak man knows his weakness.” (1150b30-34)

The Limits of Law

“Now, if words alone would suffice to make us good, they would rightly ‘harvest many rewards and great,’ ... but as it is, while words evidently do have the power to encourage and stimulate young men of generous mind, and while they can cause a character well-born and truly enamored of what is noble to be possessed by virtue, they do not have the capacity to turn the common run of people to goodness and nobility.” (1179b4-10)

“Argument and teaching, I am afraid, are not effective in all cases: the soul of the listener must first have been conditioned by habits to the right kind of likes and dislikes ... For a man whose life is guided by emotion will not listen to an argument that dissuades him, nor will he understand it. ... And in general it seems that emotion does not yield to argument but only to force.” (1179b24-25, 27-29)