I. The Civil Law, whether that of the Romans, or of any other People, many have undertaken, either to explain by Commentaries, or to draw up into short Abridgments. But that Law, which is common to many Nations or Rulers of Nations, whether derived from Nature, or instituted by Divine Commands, or introduced by Custom and tacit Consent, few have touched upon, and none hitherto treated of universally and methodically; tho' it is the Interest of Mankind that it should be done.

II. Cicero rightly commended the Excellence of this Science, in the Business of Alliances, Treaties, Conventions between States, Princes, and foreign Nations, and in short, in all Affairs that regard the Rights of War and Peace.
And Euripides prefers this Science before the Knowledge of all other Things, whether Divine or Human, when he makes Helen say thus to Theone:

" 'Twould be a base Reproach
To you, who know th' Affairs present and future
Of Men and Gods, not to know what Justice is.

III. And indeed this Work is the more necessary, since we find some, both in this and in former Ages, so far despising this Sort of Right, as if it were nothing but an empty Name. The Saying of Euphemus in Thucydides is almost in every one's Mouth, "To a King or Sovereign City, no-<xiv>thing is unjust that is profitable. Not unlike to which is this, "That amongst the

2. Ἀίσχρόν τὰ μὲν σειεῦται πάρτες ὑποδεῖαι,
    Τὰ λόγα, καὶ μὴ τὰ δεῖξαι αἱ μὴ αἰθέραι.
Helen. Ver. 928, 929.

This Theone was an Egyptian Priestess, who dealt in Divination. Helen does not here design to prefer the Knowledge of what is just and unjust, to that of all things human and divine, as our Author pretends. The Poet only intimates, that we ought to join the Study of Morality with the Study of Religion. In this Sense the Verses here quoted may very justly be understood as addressed to all employed in the publick Ministry of Religion, either to remind them of their Duty, or reprove them for the Faults committed in the Discharge of it, which has been but too often the Case at all Times. See what I have said on this Subject in my Preface to Pufendorf, § 7, &c.

III. (1) These Words occur in the sixth Book of that Historian. (Chap. LXXXV. Edit. Oxon.) We find the same Maxim in the fifth, where the Athenians, whose Power was then very considerable, speak thus to the Melians. For you cannot but know that, according to the common Notions of Mankind, Justice is regulated by the equal Necessities of the Parties; and that those who are invested with a superior Power, do all they find possible, while the Weak are obliged to submit. (Chap. LXXXIX.) Grotius.

The former of these Passages is not properly applied. It may be observed that the Word here used is αἴ δικ, which signifies unreasonable, not unjust. Besides, it appears from the Sequel of the Discourse that the Question does not here turn on what is just, or unjust. Hermocrates, the Syracusan Ambassador, had remonstrated to the Carthaginians, that there was not the least Probability, that the Athenians would, after the Reduction of Chalceis, grant the Leonines their Liberty, who were Inhabitants of the same Country. Chap. LXXIX. To which Euphemus replies, that the Athenians had an Interest in making that Distinction, and shews how they would find their Account in it. So that αἴ δικ in this Place signifies, what is not conformable to the Rules of good Policy, and is the same as αὐτὸς αἴ ὁ ἄριστος in Chap. LXXVI.

2. The Words here used by the Author, are taken from Tacitus. Id in summā fortūna, acquis, aced validius. Annal. Lib. XV. Cap. 1.
Great the stronger is the juster Side; and, That no State can be governed without Injustice. Besides, the Disputes that happen between Nations or Princes, are commonly decided at the Point of the Sword. Now, it is not only the Opinion of the Vulgar, that War is a Stranger to all Justice, but many Sayings uttered by Men of Wisdom and Learning, give Strength to such an Opinion. And indeed, nothing is more frequent than the mentioning of Right and Arms, as opposite to one another. Thus Ennius,

They have recourse to Force of Arms, not Law.

And Horace thus describes the Fierceness of Achilles:

Laws as not made for him he proudly scorns,
And every Thing demands by Force of Arms.

Another Latin Poet introduces another Conqueror, who entering upon War, speaks in this Manner,

Now, Peace and Law, I bid you both farewell.

Antigonus, though old, laughed at the Man, who presented him with a Treatise concerning Justice, at the very Time he was besieging his Enemies

3. The Author alludes to a Fragment of the second Book of Cicero's Treatise De Republicà, preserved by St. August in; where Scipio, on the contrary, maintains, that it is impossible to govern a State well, without observing the Rules of Justice with the utmost Exactness. De Civit. Dei. Lib. II. Cap. XXI.

4. This Fragment, which may be seen in Cicero's Oration for Muraena, Cap. XIV. is more entire in Aulus Gellius, Lib. XX. Cap. X.

Non ejsxre manu consortum, sed mage ferro
Rerum repetunt, regnumque petunt, vadunt solidâ vi.

But the Poet speaks only of Civil Laws; and sets violent Measures, the distinguishing Characteristics of War, in Opposition to the legal Proceedings, used for composing Differences in Times of Peace. The same is to be observed of some of the following Passages.


6. Lucan puts this Speech into the Mouth of Julius Caesar on his passing the Rubicon.

CITIES. And Marius said he could not hear the Voice of the Laws for the clashing of Arms. Even the modest bashful Pompey could have the Face to say, Can I think of Laws, who am in Arms?

IV. Among Christian Writers we find many Sayings of the same kind; let that of Tertullian suffice for all; Fraud, Cruelty, Injustice, are the proper Business of War. Now they that are of this Opinion, will undoubtedly object against me that of the Comedian,

You that attempt to fix by certain Rules
Things so uncertain, may with like Success
Strive to run mad, and yet preserve your Reason.

8. He spoke of the Civil Laws. The Words here referred to are that General’s Answer on Occasion of his being blamed for conferring the Freedom of Rome on a thousand valiant Soldiers, who had signalized themselves in the War against the Cimbri, without the Authority of any Law. See the Passage at Length in Plutarch’s Apophthegms, p. 202. Tom. II. See likewise the Life of Marius by the same Author; and Valerius Maximus, Lib. V. Cap. II. Num. 8.

9. The Inhabitants of Argos being engaged in a Dispute with the Lacedemonians about some Lands, and the former having supported their Claim with the best Reasons, Lysander drew his Sword, saying: He, who is Master of these reasons best about the Boundaries of Lands, Plutarch’s Apophthegms, p. 190. The same Author, in the Life of Caesar, p. 725. Tom. I. relates that Metellus, Tribune of the People, opposing that General for taking Money out of the publick Treasury, and allegging some Laws against that Practice, Caesar replied, that the Laws must give Place to the Exigencies of War.

Seneca in his fourth Book De Beneficiis, Cap. XXXVII. observes, that Princes make many Grants, without enquiring into the Reasonableness of the Demand, especially during a War, when a just and equitable Man is not able to gratify so many Passions supported by Force. He adds, that it is not possible to be at the same Time an honest Man, and a good General. Grotius.

10. He was very apt to blush, especially when he was obliged to appear in the Assembly of the People. See Seneca’s eleventh Epistle, and Gronovius’s Note on it.

II. Plutarch, in the Life of Pompey, relates the Matter thus. The Mamertines pretending to be independent on Pompey, by Virtue of an old Roman Law, that General broke out into the following Expression: Will you still continue to alledge the Laws against us, while we have our Swords by our Sides? Quintus Curtius observes that War inverts even the Laws of Nature. Lib. IX. (Cap. IV. Num. 7.) Grotius observes that IV. (1) This Passage is taken from the ninth Book of his Treatise against the Jews.

2. Terence in his crane, Act I. Scene I. Ver. 16. &c.
V. But since it would be a vain Undertaking to treat of Right, if there is really no such thing; it will be necessary, in order to shew the Usefulness of our Work, and to establish it on solid Foundations, to confute here in a few Words so dangerous an Error. And that we may not engage with a Multitude at once, let us assign them an Advocate. And who more proper for this Purpose than Carneades, who arrived to such a Degree of Perfection, (the utmost his Sect aimed at,) that he could argue for or against Truth, with the same Force of Eloquence? This Man having undertaken to dispute against Justice, that kind of it, especially, which is the Subject of this Treatise, found no Argument stronger than this. \(^1\) Laws (says he) were instituted by Men for the sake of Interest; and hence it is that they are different, not only in different Countries, according to the Diversity of their Manners, but often in the same Country, according to the Times. As to that which is called Natural Right, it is a mere Chimera. Nature prompts all Men, and in general all Animals, to seek their own particular Advantage. So that either there is no Justice at all, or if there is any, it is extreme Folly, because it engages us to procure the Good of others, to our own Prejudice.

VI. But what is here said by the Philosopher, and by the Poet after him,

\(^1\) By naked Nature ne'er was understood What's Just and Right. Cre ech.

must by no Means be admitted. For Man is indeed an Animal, but one of a very high Order, and that excels all the other Species of Animals much more than they differ from one another; as the many Actions proper only to Mankind sufficiently demonstrate. Now amongst the Things peculiar to Man, is his Desire of \(^2\) Society, that is, a certain Inclination to live with

2. The natural Inclination of Mankind to live in Society is a Principle which has been admitted by the Wise and Learned of all Ages. Aristotle advances it in all his Books of Morality and Politics. Man, says he, is a sociable Animal in regard to those, to whom he is related by Nature. There is therefore such a Thing as Society, and somewhat that is just, even independently of what we call Civil Society. Eadem. Lib. VII. Cap. X. p. 280. Edit. Paris. The same Philosopher observes elsewhere, that Man is by Nature more strongly inclined to Society than Bees, or any other Animals, which are observed
to flock or herd together. Polit. Lib. I. Cap. II. p. 298. And this he proves from the Consideration of Man alone being in Possession of the Use of Speech. See Note 3 on the 3d Section of Chap. I. Book VII. of Pufendorf's Law of Nature and Nations. Cicero, reasoning on the Principles of the Stoicks, lays it down for a certain Fact, that no Man would chuse to live in absolute Solitude, even though he might enjoy an Infinity of Pleasures. From which he immediately infers, that we were born for Society. To this he adds, that as we make Use of our Limbs, before we have learnt what was the Design of Nature in furnishing us with them; so we are naturally formed for civil Society, without which there would be no Room for the Exercise of Justice or Goodness. De finib. Bon & Mal. Lib. III. Cap. XX. See also Lib. V. Cap. XXIII. and De Officiis, Lib. I. Cap. IV. VII. and XLIV. Seneca, De Benef. Lib. VII. Cap. I. and Epist. XCV. p. 470. Diogenes Laertius, Lib. VII. § 123. and the Passages quoted in Note (6) on the following Paragraph. And here I cannot conclude this Note without a beautiful Passage taken out of Epictetus's Discourses, collected by Arrian, in which we have an excellent Argument ad hominem against such as deny the natural Inclination of Men to Society. The Stoick Philosopher thus attacks his Antagonists. "Epicurus, while he is endeavouring to destroy the Principle of natural Society, reasons on the very same Principle. Suffer not yourselves to be imposed on, says he; beware of Illusion. Take my Word for it, there is naturally no such Thing as Society amongst reasonable Creatures; those, who affirm there is, only abuse your Credulity. But, we may ask him, how does this concern you? Leave us in quiet Possession of our Error. What Damage will you suffer, if all but you and your Followers should be persuaded that there is a natural Society amongst Mankind, and that we ought to do all in our Power for its Support? Why so much Concern for us? What can induce you to light up your Lamp, and spend whole Nights in Study for our Sakes? Why are you at the Pains of composing so many Books? You will tell us, it is with a View of undeceiving us in this Particular, That the Gods interest themselves in our Affairs, and that Happiness essentially consists in something else than Pleasure.—But what is it to you whether others form a right Judgment on these Points or not? What tie is there between you and us? What Interest have you in what regards us? Have you any Compassion for the Sheep, because they submit to be shorn, milked and slaughtered? Ought not you to wish, that Men, enchanted and lulled to sleep by the Stoicks, would as tamely deliver up themselves to the Direction of you and your Companions?—In short, what was it that deprived Epicurus of his Rest, and engaged him to write all he published? Nature, without doubt, that most powerful Principle of human Motions, which strongly influenced him, and forced his Obedience, in spite of all the Resistance he could make, such is the invincible Force of Human Nature!—As it is neither possible nor conceivable that a Vine should shoot like an Olive-tree, and not according to the Impulse of its own Nature, and so vice versa; so neither is it possible for Men to be entirely free from human Motions. If you castrate a Man, you cannot extinguish all carnal Inclinations and Desires in him. Thus Epicurus, as much as in him lies, has cut off all the Relations of Husband, Master of a Family, Citizen and Friend, but the Inclinations of human Nature are still entire in him. It was no more in his Power to divest himself of those than it was in that of the wretched Academicks to throw away or
those of his own Kind, not in any Manner whatever, but peaceably, and in a Community regulated according to the best of his Understanding, which Disposition the Stoicks termed [Oike'wsin]. Therefore the saying
that every Creature is led by Nature to seek its own private Advantage, expressed thus universally, must not be granted.

\[\text{Oike'wsin, which translates into our term "aikbios"}\]

blind their Senses, though no Set of Men ever took so much Pains to do it.” Dissert. Lib. II. Cap. XX. p. 201, &c. Edit. Colon. 1591. The late Lord Shaftesbury has reasoned in the same manner, but with a lively Turn, which gives his Piece the Air of an Original, against Hobbes, who with still more Warmth than his Master Epicurus, undertook to persuade the World that all Men are by Nature so many Wolves one to another. See that Lord’s Essay on the Use of Rallery, &c. p. 64, & seq. printed at the Hague in the Year 1710.

3. “We have,” says St. Chrysostom, Hom. XXXII. ad Roman. “a certain natural Affection one for another, which subsists even amongst Beasts.” See what the same Father says farther on the first Chapter to the Ephesians, where he affirms that Nature has furnished us with the Seeds of Virtue. To all this let us add the Words of that great Philosopher, the Emperor Antoninus. “It has long since been shewn that we are born for Society. Is it not evident that Things which are less perfect were made for the Use of the more perfect, and that those which have greater Degrees of Perfection were designed for the Service one of another?” Lib. V. § 16. Grotius.


[fil on Ethic N Owens Lib VIII. Cap I]
VII. For even of the other Animals there are some that forget a little the Care of their own Interest, in Favour either of their young ones, or those of their own Kind. Which, in my Opinion, proceeds from some extrinsick

VII. (1) It is an old Proverb that a Dog will not eat Dog’s Flesh. Varro De Ling Lat. Lib. VI. p. 71. Edit. H. Steph. See likewise Erasmus’s Adagia. Juvenal remarks that Tigers live peaceably together, and that the wildest Beasts spare those of their own Species.

parcit
Cognatis maculis similis fera
Indica Tigris agit rabida cum Tigride pacem
Perpetuum: saevis inter se convenit ursis.
Sat. XVI. Ver. 159, & seq.

Phil. the Jew, has a beautiful Passage to this Purpose. Addressing himself to Men in regard to the Duties of the fifth Commandment, “At least,” says he, “imitate the Behaviour of some brute Beasts, which know how to make an affectionate Return for Favours received. Dogs keep the House, and even expose their Lives in Defence of their Masters, when in imminent Danger. It is said that Shepherds Dogs go before the Flocks and fight till they die, rather than suffer any of their Cattle to be lost. Is it not most shameful that Man should be outdone by a Dog in Point of Gratitude, the tamest and most civilized Creature, by the most brutal of Beasts? But if the Conduct of terrestrial Animals is not sufficient for our Instruction, let us pass on to the Consideration of the Birds of the Air, and learn our Duty from them. The Storks, when rendered incapable of flying by Age, stay in their Nests, whilst their Young traverse Sea and Land in quest of Food for them. The old ones, enjoying a Repose suitable to their Age, live in Plenty and Pleasure, whilst the young ones supporting the Fatigue of their Course cheerfully, with the Satisfaction they find in acquitting themselves of their Duty, and the comfortable Expectation of the same Assistance in their old Age, perform this necessary Office at a proper Time, in return for the Treatment they have received. Thus the same Birds feed their Young whilst unfledged, and their Parents when in the Decline of Life. Thus they are taught by Nature to provide with Pleasure for the Sustenance of those, from whom they received it, when not able to take Care of themselves. Is not this sufficient to confound such as shew no Concern for their Parents, and neglect those who alone, or at least preferably to all others, have a Right to their Assistance? especially when they consider that in this Case they only return what they have received. For all that Children call their own is received from their Parents, who either gave the Things themselves, or put their Children in a Condition of acquiring them.” See concerning the particular Care of Pigeons about their Young, Porphyry De non ess Animalium, Lib. III. And as to certain Fishes, called Scari and Sauri, which shew a Concern for those of their own Species, Cassiodorus Var. Lib. XI. Cap. XL. Grotius.

In regard to the Fishes our Author mentions, they seem to express a Concern for their Species in the following Instances. When one Saurus sees another taken by a Hook, he gnaws the Line, in order to set him at Liberty, and sometimes succeeds in the Attempt. And it is no uncommon Thing to observe several of them unite in a
intelligent Principle, because they do not shew the same Dispositions in other Matters, that are not more difficult than these. The same may be said of Infants, in whom is to be seen a Propensity to do Good to others, before they

Body to deliver a Captive; so that if it endeavours to escape by the Tail, as he usually does, they assist him to the utmost of their Power. If he puts out his Head, one of them presents his Tail, that he may fasten on it, and thus disingage himself, while the other throws himself forward and drags him along. In which, as Elian observes, "they act like Men, and practise the Laws of Friendship, which they learn only from Nature." Hist. Animal. Lib. I. Cap. IV. See also Pliny's Nat. Hist. Lib. XXXII. Cap. II. Ovid's Halieutic. Fragn. Ver. B. c. Plutarch, De Soleti Animalium, Tom. II. p. 977. C.

2. Gronovius on this Place brings the Example of Hens which feed their Chickens, and Cocks which feed the Hens out of their own Mouths. Every one has observed this Practice, as well as the Ardour, with which the wildest Beasts expose their own Lives in Defence of their Young; and the Abstinence of Hounds, which bring the Game to their Masters. Nor are we less acquainted with the Fervour, with which Bees and Pismires unite their Labours for the Good of their respective Communities, as remarked by the same Annotator from Ciceron and Quintilian. The Words of the former in the 19th Chapter of his 3d Book De Finibus Bonorum & Malorum, are; "Even Bees, Pismires and Storks, do some Things for the Sake of others. This Union is much stronger among Men; we are therefore formed by Nature for Society, mutual Assistance, and living in Community." The latter in his Inst. Orat. Lib. V. Cap. XI. p. 303. Edit. Obrecht. gives this Direction: "If you press a Concern for the Commonwealth, you may shew how those little dumb Creatures, the Bees and Pismires, labour for the common Good." Several of those who have undertaken to criticize, or comment on our Author, have given his Thoughts a wrong Turn in this, and many other Places. The Weakness of their Criticism sufficiently appears from this single Consideration; that our Author only affirms that the Principle of Sociability has so real a Foundation in the Nature of Man, that we find some faint Tracks of it even amongst irrational Animals, in regard to those of their own Species. He does by no means pretend either that there is any Right common to Men and Beasts, or that any certain Consequences can be drawn from the Actions of Brutes, for proving any one particular Thing conformable or contrary to the Law of Nature. See what he says Book I. Chap. I. § II. and my Remark in the Notes on Pufendorf's Law of Nature and Nations, Book II. Chap. III. § 2.

3. See the Passage of Pufendorf, referred to in the preceding Note. By this intelligent and exterior Principle our Author means God himself; as appears from his Treatise Of the Truth of the Christian Religion; where he expresses himself more clearly; but still he does not give us a more just and philosophical Idea of the Thing. Lib. I. § 7. Consult Mr. Le Clerck's Note on that Piece, p. 13. of the last Edition of Amster-
are capable of Instruction, as Plutarch well observes, and Compassion likewise discovers itself upon every Occasion in that tender Age. But it must be owned that a Man grown up, being capable of acting in the same Manner with respect to Things that are alike, has, besides an exquisite Desire of Society, for the Satisfaction of which he alone of all Animals has received

4. I know of no other Place in Plutarch, where that Philosopher speaks of this natural Propensity or Inclination of Children, but in his Account of his little Daughter, who, he tells us, was so surprisingly sweet tempered and benevolent, that she expressed a Desire that her Nurse should give the Breast not only to other children, but even to her Puppets and Play-things, sharing with others, whatever was most agreeable to herself. Consol. ad Uxorem. p. 608. Tom. II. Edit. Wed. But he is not there speaking of the common Inclination of all Children: On the contrary, he seems to attribute something particular to his little Girl, as a Reason for being more sensibly affected by her Death. As to the Thing itself, I think it very probable that, though the Principles and Maxims of the Law of Nature cannot be deduced from the Behaviour of Children, at an Age when their Inclinations act with most Freedom, which our Author indeed does not insinuate, there is still great Room to believe, that notwithstanding the infinite Diversity of Tempers, such Dispositions as are contrary to Humanity, are rather the Result of a bad Education and Custom, than of a natural and invincible Inclination; so that it may be maintained that all Men, even before they arrive to Years of Discretion, have the Seeds of Sociability, which consequently are founded in human Nature, and have no Dependence on a View of Interest, which is all our Author designs to advance.

5. Whereas Beasts act in a certain and uniform Manner only in regard to one Thing, to which they are impelled, or from which they are diverted by their natural Instinct.

6. The Emperor Marcus Antoninus observes that "whenever Man, who is born with a Disposition to do good Offices, exerts an Act of Beneficence, he does no more than what he was formed for by Nature." Lib. IX. § 42. He also asserts that "we may sooner find a terrestrial Body entirely separated from all that is terrestrial, than a Man divided from all other Men." Ibid. § 9. Nicet as Choniatis, one of the Writers of the Byzantine History, says, "Nature has engraved and planted in us a sort of Sympathy for one another as Members of the same Family." See St. August in De Doctrina Christiana, Lib. III. Cap. X. XIV. Grorius.

The Earl of Shaftesbury proves the Existence of this natural and social Affection, from the Love of our Country, a Passion, which is found in some Degree in the Hearts of all Mankind. See Tom. III. of his Characteristicks, printed in 1727. p. 141, &c. The Arguments of that ingenious and penetrating Author are too long to be inserted here. But we have another Passage much shorter in the same Volume, p. 220, 221 which contains a remarkable Reflection. "Well it is for Mankind," says he, "that, though there are so many Animals, who naturally herd for Company's Sake, and mutual Affection, there are few who for Convenience, and by Necessity, are obliged to a strict
from Nature a peculiar Instrument, viz. the Use of Speech; I say, that he has, besides that, a Faculty of knowing and acting, according to some general Principles; so that what relates to this Faculty is not common to all Animals, but properly and peculiarly agrees to Mankind.

VIII. This Sociability, which we have now described in general, or this Care of maintaining Society in a Manner conformable to the Light of human

Union, and kind of confederate State. The Creatures, who according to the Economy of their Kind, are obliged to make themselves Habitations of Defence against the Seasons and other Incidents, they, who in some parts of the Year are deprived of all Subsistence, and are therefore necessitated to accumulate in another, and provide withal for the Safety of their collected Stores, are by their Nature indeed as strictly joined and endowed with as proper Affections towards their Community, as the looser Kind, of a more easy Subsistence and Support, are united in what relates merely to their Offspring, and the Propagation of their Species. Of these thoroughly-associating and confederate Animals, there are none, I have ever heard of, which in Bulk or Strength exceed the Beaver. The major Part of these political Animals and Creatures of a joint Stock, are as inconsiderable as the Race of Ants or Bees. But, had Nature assigned such an Economy as this to so puissant an Animal, for Instance, as the Elephant, and made him withal as prolific as those smaller Creatures commonly are, it might have gone hard perhaps with Mankind; and a single Animal, who by his proper Might and Prowess has often decided the Fate of the greatest Battles, which have been fought by human Race, should he have grown up into a Society, with a Genius for Architecture and Mechanicks proportionable to what we observe in those smaller Creatures; we should with all our invented Machines, have found it hard to dispute with him the Dominion of the Continent.

VIII. (1) Hence it appears that our Author does not mean that bare natural Instinct in the Rule of the Law of Nature; but that he adds Reason for the Direction of such Instinct, without which it might misguide us, and induce us to consult only our private Interest. Hence it is also that he elsewhere makes what belongs to the Law of Nature consist in a necessary Conformity to, or Difformity from a reasonable and sociable Nature, Book I. Chap. 1. § 12. Num. 1. So that it is ridiculous to object, as Gaspar Ziegler has done, that the Desire of Society, which Grotius lays down as the Foundation of the Law of Nature, might be gratified, though a Man were united in Society and Friendship with one Nation only, or even with one single Family: and that Highwaymen and Pyrates have also their Societies, &c. For Reason, which is peculiar to Man, and which is more natural to him than the Desire of Society, of which we find some Traces in Beasts, clearly teaches us that it is not proper to confine Sociability and Affection to a small Number of Persons, or to one single Community; but that it ought, in some Manner or other, to extend to all Men, or to all of our own Species; on whom it is equally diffused by Virtue of the Design of Nature, and on the Account of their being naturally all alike and equal. I shall not here enlarge on this Subject.
Understanding, 2 is the Fountain of Right, properly so called; to which belongs the Abstaining 3 from that which is another’s, and <xviii> the Restitution of what we have of another’s, or of the Profit we have made by it, the Obligation of fulfilling Promises, the Reparation of a Damage done through our own Default, and the Merit of Punishment among Men.

but refer the Reader to the Explication and Defence of the general Principle of Sociability, in my Notes on Pufendorf’s Law of Nature and Nations, Book II. Chap. III. So that, on the whole, a Man must be very wrong headed, who will hereafter expose himself by starting and multiplying frivolous Difficulties against a Truth, which when well understood, leaves no room for any plausible Objection.

2. Seneca makes an excellent Application of this Principle. “That a Sentiment of Gratitude,” says he, “is a Thing valuable in its own Nature, appears from the odious Character which Ingratitude bears in the World, there being nothing so destructive of Concord and the Union of Mankind, as this shameful Vice. In reality, on what does our Security depend, but on the mutual Exchange of good Offices? Certainly nothing but this Commerce of Benefits can make Life commodious, and put us in a Condition of guarding against unforeseen Insults and Invasions. How miserable would Mankind be, if every one lived apart, and had no Resource, but in himself? So many Men, so many Persons exposed every Moment to be the Prey and Victims of other Animals: Blood continually ready to be spilt, in a Word, Weakness itself. Other Animals are strong enough to defend themselves. All such as are designed for a wandering Life, and whose natural Ferocity doth not allow them to go in Bodies, come into the World armed, as I may say. Whereas Man is defenceless on all Sides, having neither Claws nor Teeth to make him formidable. But in Society with his like he finds the wanted Succours. Nature to make him amends, has furnished him with two Things, which from weak and miserable as he would have been, render him very strong and powerful; I mean, Reason and a Disposition to Society. So that he, who when alone was not able to resist any other, by this Union becomes Master of all. The Disposition to Society gives him the Dominion over all the Animals, not even excepting those bred in the Sea, which live in another Element. It is Society also that furnishes him with Remedies against Distempers, Assistance in his old Age, Relief and Comfort in the midst of Sorrows and Afflictions. This is what puts him in a Condition of defying Fortune, if I may use the Expression. Take away the Disposition to Society, and you will at the same Time destroy the Union of Mankind, on which the Preservation and Happiness of Life depend. Now to maintain that Ingratitude is not a detestable Vice and what ought to be avoided for its own Sake, but only on the Account of its pernicious Consequences, is no better than destroying the Disposition to Society.” De Benefic. Lib. IV. Cap. XVIII. Grotius.

3. Porphyry, Of Abstinence from Animals, Book III. Justice consists in this, the Abstaining from what is another’s, and the doing no Injury to those that do none to us. Grotius
IX. From this Signification of Right arose another of larger Extent. For by reason that Man above all other Creatures is endowed not only with this Social Faculty of which we have spoken, but likewise with Judgment to discern Things pleasant or hurtful, and those not only present but future, and such as may prove to be so in their Consequences; it must therefore be agreeable to human Nature, that according to the Measure of our Understanding we should in these Things follow the Dictates of a right and sound Judgment, and not be corrupted either by Fear, or the Allurements of present Pleasure, nor be carried away violently by blind Passion. And whatsoever is contrary to such a Judgment is likewise understood to be contrary to Natural Right, that is, the Laws of our Nature.

X. And to this belongs a prudent Management in the gratuitous Distribution of Things that properly belong to each particular Person or Society,

IX. (1) Indicium ad aëstimanda quae delectant aut nocent—& quae in utrumvis possunt duceere. These Words Mr. Bar beyr ac renders—choseagréables & desagréables, &c. On which Occasion he professes to follow the Author’s Sense, rather than his Expression. The Word delectant, says he, is not directly opposed to nocent; and I suspect some Omission in the Text; though the Passage appears the same in all Editions of this Work. It is probable, continues our learned Commentator, that Grotius wrote, or designed to write, Quae delectant aut dolor emerant, quaejuvant, aut nocent, &c. and that the Words here given in the Roman Character being left out, he did not observe the Omission in reading over this Place.

2. It is evident that this includes those Duties of Man in regard to himself, which are enjoined him even by the Frame of his Nature, and which may be seen at large in Pufendorf’s Law of Nature and Nations, Book II. Chap. IV.

X. (1) St. Ambrose treats of this in his first Book Of Offices. Grotius.

Our Author probably had his Eye upon Chap. XXX, where that Father treats of Beneficence, and speaks, as usual, in a loose and confused manner of the Rules to be followed in the prudent Management of the Good we do to others.

2. [The footnote is wrongly included as part of the previous one in the original.] Our Author speaks here of such Rewards as are given by the State, or those who represent it, to Persons distinguished by their Merit; as also of the Collation of publick Offices. For they who receive the former, or are placed in the latter, had no full Right to demand them, nor to claim considerable ones as their due, how great soever their Merit may be, or how glorious soever the Actions are, which recommended them. See Book II. Chap. XVII. & c.
so as to prefer sometimes one of 3 greater before one of less Merit, a Relation 4 before a Stranger, a poor Man before one that is rich, and that according as each Man's Actions, and 5 the Nature of the Thing require; which many both of the Ancients and Moderns take to be 6 a part of Right properly and strictly so called; when notwithstanding that Right, properly speaking, has a quite different Nature, since it consists in leaving 7 others in quiet Possession.

3. This Maxim is always to be observed by those, whose Business it is to dispose of publick Employes. But it does not always take Place in private Liberalities and the Services we do one another; the Ties of Blood, a pressing Necessity, and other such Considerations, sometimes require the Preference of a Person, otherwise of less Merit. See a beautiful Passage of Cicer o to this Purpose, quoted at large in my Pufendorf's Law of Nature and Nations, Book III. Chap. III. § 15.

4. This takes Place, all Things else being equal. For it would be a mistaken piece of Charity to bestow a publick Employ on one who is in great Necessity, to the Prejudice of another, much more capable of discharging the Obligations of such a Post. In that Case, a Regard to the Poverty of the Candidate, would be a Respect of Persons as culpable as that of a Judge, who should on that Consideration pronounce Sentence in Favour of a poor Man, contrary to Law and Equity; which is expressly forbid by the Law of Moses, Exod. xxiii. 3. on which Place see the Note of Mr. Le Clerc.

5. Much Judgment and Circumspection are to be used in this Particular; and it is difficult to lay down any general Rules in Relation to it, because the Practice of this Duty is diversified by an infinite Variety of Circumstances. Mr. Buddeus has written an useful Dissertation on that Subject, intitled, De Comparisone Obligationum, quae ex diversis hominum statibus oriuntur; it was printed in 1704, among the Selecta Juris Naturae & Gentium.

6. The Author speaks of such as follow Aristot le, and make the Distribution in Question belong to distributive Justice, according to that Philosopher's Acceptation of the Term, who reckons it part of private or rigorous Justice, by Virtue of which a Man may make a rigorous Demand of what is his Due. See the following Note, and what the Author says, Book I. Chap. I. § 7, 8.

7. Since it consists in leaving others in quiet Possession of what is already their own, or in doing for them what in Strictness they may demand. This is the Sense of the Author's concise Expressions: Ut quae jam sunt alterius, alteri permittantur, aut implantantur. It is probable that he had written or designed to write, aut quae altera debentur, implantantur, as I have observed in my Edition of the Original. A few Examples will explain his Meaning. When we forbear striking, wounding, robbing, injuring or defaming any one, we only leave him in quiet Possession of what was his own; for the good Condition of his Limbs, his Goods, and Reputation, are actually his own, and no Man has a Right to dispossess him of them, while he has done nothing to deserve such Treatment. When we repair the Damage he has sustained in his Person, Goods, or Reputation, whether designedly or through Inadvertency, we restore what we had taken from him, and what was his own, which he had a strict Right to.
of what is already their own, or in doing for them what in Strictness they may demand. <xix>

XI. And indeed, all we have now said would take place, though we should even grant, what without the greatest Wickedness cannot be granted, that there is no God, or that he takes no Care of human Affairs. The contrary of which appearing to us, partly from Reason, partly from a perpetual Tradition, which many Arguments and Miracles attested by all Ages, fully confirm; it hence follows, that God, as being our Creator, and to whom we owe our Being, and all that we have, ought to be obeyed by us in all Things demand. When we keep our Word to him, when we perform our Promise, or make good an Engagement, we do not indeed restore, what he was once in actual Possession of; but we perform what he might strictly require at our Hands. All this relates to the Law of Nature, taken in the strict and proper Sense of that Term; not to mention the Punishment of the Guilty, of which our Author seems not to design to speak in this Place; though he ranks it in the same Class, as we have seen § 8, and as we shall shew in our last Note on Book I. Chap. L. § 5. When the Sovereign refuses to bestow an Employment on one of his Subjects, who is worthy of it, or prefers one less capable of discharging the Duty, or does not reward the Person according to his Merit, he does indeed offend against the Law of Nature, taken in an improper, and less extensive Sense, according to our Author's Ideas; but he does that Subject no Wrong, properly speaking, because he had no full and rigorous Rights to demand the Employment, or the Reward. The same is to be said of those, who refuse Relief or Assistance to the poor and miserable, not in extreme Necessity; for in that Case they have a strict Right to demand what they want, as we shall see in the proper Place. The learned Gronovius, prepossessed with Aristotle's Ideas, and not giving due Attention to the Matter, and the Sequel of our Author's Discourse, widely mistakes his Meaning, and perplexes the Question both here and elsewhere; in which he has been faithfully followed by Mr. De Courtin.

XI. (1) This Assertion is to be admitted only in the following Sense: That the Maxims of the Law of Nature are not merely arbitrary Rules, but are founded on the Nature of Things; on the very Constitution of Man, from which certain Relations result, between such and such Actions, and the State of a reasonable and sociable Creature. But to speak exactly, the Duty and Obligation, or the indispensable Necessity of conforming to these Ideas, and Maxims, necessarily supposes a superior Power, a supreme Master of Mankind, who can be no other than the Creator, or the supreme Divinity. We shall treat of this Subject more largely in the fourth Note on Book I. Chap. I. § 10.

2. The Reader may see on that Subject the excellent Treatise of our Author, Concerning the Truth of the Christian Religion.
without Exception, especially since he has so many Ways shewn his infinite Goodness and Almighty Power; whence we have Room to conclude that he is able to bestow, upon those that obey him, the greatest Rewards, and those eternal too, since he himself is eternal; and that he is willing so to do ought even to be believed, especially if he has in express Words promised it; as we Christians, convinced by undoubted Testimonies, believe he has.

2. Voluntary.
I. Divine.

XII. And this now is another Original of Right, besides that of Nature, being that which proceeds from the free Will of God, to which our Under-

XII. (I) For this Reason, according to the Sentiment of Marcus Antoninus, every Man, who commits an Act of Injustice, renders himself guilty of Impiety. νομίζοντας δικαίων, Lib. IX. § I. Grorius.

This Passage is beautiful, but ill applied. The Author ought to have placed it among those quoted in the following Note. In Reality, he is here talking of Voluntary Divine Law, as he himself calls it, Book I. Chap. I. § 15. or of that, which, being in its own Nature indifferent, becomes just or unjust, because God hath commanded or forbidden it. This is evident from the very Terms he employs, and the Sequel of the Discourse; for he calls the Will, which is the Source of this Right, a free or arbitrary Will; and afterwards observes, as it were occasionally, that the Law of Nature, of which he has been laying the Foundation, may be also considered as flowing from the Divine Will, because it was his Pleasure to establish such interior Principles in Men; or that his Nature should be framed in the Manner it is. Our Author's Meaning therefore in this Place is, that even though there were no Natural Right, or though the Frame of our Nature did not of itself engage us to act in such or such a manner, yet upon the Acknowledgment of a Deity, of whose Existence we cannot reasonably be ignorant or doubtful, we must likewise own ourselves obliged to obey him, whatever he commands, even though his Laws had no other Foundation but his absolute and arbitrary Will. Thus we should always find a Source of Right there; for that God, who has so clearly revealed himself to Men in the Books, which we call the Holy Scriptures, has there prescribed them a Set of Laws entirely like those, which we say were imposed on them by the Frame of their own Nature. But it may be farther said that the Law of Nature, though sufficiently founded in itself, does likewise derive its Origin from God, independently of Revelation, as it was his Pleasure, &c. This I take to be the Meaning of our Author, and the Connexion of his Discourse, which does not appear at first Sight. The Impropriety of this Quotation will appear still more from the Words immediately following, which it is not amiss to produce. The Emperor gives a Reason for what he had advanced, viz. that every Injustice is a real Impiety. For, says he, universal Nature having made reasonable Creatures for one another, that they may assist one another, according to the Merits of each Individual, and do no Hurt to others, he who disobeys her Will, is manifestly guilty of Impiety against the most antient Divinity. Many Pagan Authors have also acknowledged that the Law of Nature is a divine Law. See some Passages alluded to in my Remark on Pufendorf's Book II. Chap. IV. § 3. Num. 4.
standing infallibly assures us, we ought to be subject: And even the Law of Nature itself, whether it be that which consists in the Maintenance of Society, or that which in a looser Sense is so called, though it flows from the internal Principles of Man, may notwithstanding be justly ascribed to God, because it was his Pleasure that these Principles should be in us. And in this Sense Chrysippus and the Stoicks said, that the Original of Right isto be derived from no other than Jupiter himself; from which Word Jupiter it is probable the Latins gave it the Name Jus.

XIII. There is yet this farther Reason for ascribing it to God, that God by the Laws which he has given, has made these very Principles more clear and evident, even to those who are less capable of strict Reasoning, and has forbid us to give way to those impetuous Passions, which, contrary to our own Interest, and that of others, divert us from following the Rules of Reason

2. "When I speak of Nature," says St. Chrysostom, on 1 Cor. xi. 3. "I mean God; for he is the Author of Nature." And Chrysippus expresses himself thus. "For it is not possible to find any other Principle or Origin of Justice, than Jupiter and universal Nature; for there we must always begin, whenever we design to treat of Good and Evil." Book III. Of the Gods. Grotius.

This last Passage cited from a Stoick, whose Works are not extant, though he published a great Number, is preserved by Plutarch, in his Treatise De Stoicorum repugnantissiis, p. 1035. Tom. II. Edit. Wechel.

3. See the preceding Note. Cicero also maintains, that the wisest and most learned Men have been of Opinion that the Source of all Law and Justice is to be sought for in the Divinity. See his Treatise de Legibus, Lib. II. Cap. IV. and Lib. I. Cap. V, VII, X.

4. Perhaps, it might be rather said that as Osum has been converted into Jus, so Jussum has been changed into Jus. Gen. Jusis, which was afterwards made Juris, as Papisi was turned into Papirii. See Cicero, Ep. ad Fam. Lib. IX. Ep. XXI. Grotius.

XIII. (1) Disorderly Passions are condemned through the whole Scripture, especially in the New Testament, which forbids us, under very severe Penalties, to allow ourselves to be hurried away by those blind Motions. The Apostle St. John includes them all under three Heads, the Lust of the Flesh, the Lust of the Eyes, and the Pride of Life, 1 Ep. Chap. II. Ver. 16. that is, in the Language of the Philosophers, sensual Pleasure, Covetousness, and Ambition.

2. In the Original it is quite the reverse: Quae nobis ipsis quique aliis consulunt. But though all the Editions I have seen, and even that of 1632 read it so, it is evidently faulty. It should be read malè consulunt, as I have corrected it in my Edition of the Original, where the Reader may see the Reason why the Word supplied is here absolutely necessary. [But see my introduction, p. xxiv n. 30, in support of the original reading.]
and Nature; for as they are exceeding unruly, it was necessary to keep a strict Hand over them, and to confine them within certain narrow Bounds.

XIV. Add to this, that sacred History, besides the Precepts it contains to this Purpose, affords no inconsiderable Motive to social Affection, since it teaches us that all Men are descended from the same first Parents. So that in this Respect also may be truly affirmed, what Florentinus said in another Sense, That ¹ Nature has made us all akin: Whence it follows, that it is a Crime for one Man to act to the Prejudice of another.

XV. Amongst Men, Parents ² are as so many Gods ² in regard to their Children: Therefore the latter owe them an Obedience, not indeed unlimited,

XIV. (I) Digest. Lib. I. Tit. I. De Justitiâ & Jure. Leg. III. The Ideas of the Stoicks, and such was this Lawyer, concerning the Origin of Mankind, were very confused; and though they introduced the Divinity, it was in a very different Manner from what Moses uses in his History of the Creation. See Justus Lipsius's Physiolog Stoic. Lib. III. Dissert. IV. The Kindred, which they conceived as subsisting among Men, did not consist in their considering all Mankind as descended from the same Father and the same Mother; but only in the Conformity of their Nature, and the Principles or Materials of which they thought them composed. See Marcus Antoninus, Book II. § 1. and Gatker's learned Notes on that Place.

XV. (I) The Author here passes almost imperceptibly to another Species of Voluntary Law, which however is founded in Nature; it is what a Father and a Mother prescribe to their Children; for Children are obliged to obey their Parents, because they gave them Birth; in which Action, though the Husband and Wife are no more than blind Instruments, they in some Measure imitate God.


The Passage here quoted out of Hierocles, is not in his Commentary on the Golden Verses. They occur in Stobaeus, Serm. LXXVII. where he says a Man would not commit a Mistake, who should call them (Parents) Gods of a second Class, and terrestrial Deities. Pag. 461. Edit. Wechel.
but as extensive as that Relation requires, and as great as the Dependence of both upon a common Superior permits.

XVI. Again, since the fulfilling of Covenants belongs to the Law of Nature, (for it was necessary there should be some Means of obliging Men among themselves, and we cannot conceive any other more conformable to Nature) from this very Foundation Civil Laws were derived. For those who had incorporated themselves into any Society, or subjected themselves to any one Man, or Number of Men, had either expressly, or from the Nature of the Thing must be understood to have tacitly promised, that they would submit to whatever either the greater part of the Society, or those on whom the Sovereign Power had been conferred, had ordained.

XVII. Therefore the Saying not of Carneades only, but of others, if we speak accurately, is not true; for the Mother of Natural Law is human Nature itself, which, though even the Necessity of our Circumstances should not require it, would of itself create in us a mutual Desire of Society: And the Mother of Civil Law is that very Obligation which arises from Consent, which deriving its Force from the Law of Nature, Nature may be called as it were, the Great Grandmother of this Law also. But to the Law of Nature Profit is annexed: For the Author of Nature was pleased, that every Man in


XVI. (1) So that the Civil Law, though no kind of Law is in itself more arbitrary, is at the Bottom no more than an Extension of Natural Law; a Consequence of that inviolable Law of Nature, that every one is obliged to a religious Performance of his Promise.

XVII. (1)

Atque ipsa Utilitas Justi propè mater, & Aequi.
Horat. Lib. I. Sat. III. Ver. 98.

Upon which Place, an ancient Commentator on Horace, whether Acrön or any other Grammariam, makes the following Remark. "The Poet here opposes the Tenets of the Stoicks; for his Design is to prove that Justice is not Natural, but derived from Interest." See what St. Augustin in says against this Opinion, De Doctrina Christiana, Lib. III. Cap. XIV. Gratianus.
particular ² should be weak of himself, and in Want of many Things necessary for living commodiously; to the End we might more eagerly affect Society: Whereas of the Civil Law Profit was the Occasion; for that entering into Society, or that Subjection which we spoke of, began first for the Sake of some Advantage. And besides, those who prescribe Laws to others, usually have, or ought ³ to have, Regard to some Profit therein.

XVIII. But as the Laws of each State respect the Benefit of that State; so amongst all or most States there might be, and in Fact there are, some Laws agreed on by common Consent, which respect the Advantage not of one Body in particular, but of all in general. And this is what is called the Law of Nations, ¹ when used in Distinction to the ² Law of Nature. This Part of Law Carneades omitted, in the Division he made of all Law into Natural and Civil of each People or State; when notwithstanding, since he was to treat of the Law which is between Nations (for he added a Discourse concerning Wars and Things got by War) he ought by all means to have mentioned this Law.

XIX. But it is absurd in him to traduce Justice with the Name of Folly. ² For as, according to his own Confession, that Citizen is no Fool, who obeys the Law of his Country, though out of Reverence to that Law he must and ought to pass by some Things that might be advantageous to himself in particular: So neither is that People or Nation foolish, who for the Sake of their own particular Advantage, will not break in upon the Laws common to all Nations; for the same Reason holds good in both. For ² as he that violates

2. Ibid. § 8. Note 2.
3. See Pufendorf, Book VII. Chap. IX. § 5.
XVIII. (1) See Book I. Chap. I. § 14.
2. For these two Names are sometimes confounded. See what I have said on Pufendorf, Book II. Chap. III. § 23. Note 3.
XIX. (1) Add to all this what Pufendorf says Book II. Chap. III. § 10.
2. The Emperor Marcus Antoninus makes a judicious Use of this Comparison. Every Action of yours, which has not a near or remote Relation to the Publick Good, as its End, destroys the Harmony and Uniformity of Life: It is seditious, like that of a Citizen, who by forming Cabals, breaks the Union of the State. Book IX. § 23. And in another Place he says, He who divides himself from another, cuts himself off from all human
the Laws of his Country for the Sake of some present Advantage to himself, thereby saps the Foundation of his own perpetual Interest, and at the same Time that of his Posterity. So that People which violate the Laws of Nature and Nations, break down the Bulwarks of their future Happiness and Tranquility. But besides, though there were no Profit to be expected from the Observation of Right, yet it would be a Point of Wisdom, not of Folly, to obey the Impulse and Direction of our own Nature.

XX. Therefore neither is this Saying universally true,

1 'Twas Fear of Wrong that made us make our Laws. C r e e e h.

which one in Plato expresses thus. 2 The Fear of receiving Injury occasioned the Invention of Laws, and it was Force that obliged Men to practice Justice. For this Saying is applicable only to those Constitutions and Laws which were made for the better Execution of Justice; Thus many, finding themselves weak when taken singly and apart, did, for fear of being oppressed by those that were stronger, unite together to establish, and with their joint Forces to defend Courts of Judicature, to the End they might be an Overmatch for those whom singly they were unable to deal with. And now in this Sense only may be fitly taken what is said, That Law is that which the stronger pleases

Society. Book XI. § 8. In Reality, as the same Emperor elsewhere observes, what is useful to the whole Swarm, is useful to each particular Bee. Grotius.

The Author, who probably trusted his Memory on this Occasion, has misquoted the second of these Passages; for instead of ἀλήθειαν ἐκδικήσας ἀποκέφαλίσθη, he writes οὔ διέρήσατι ἰνθ' ἱλα οὐ δούλοι οὐ ἀποκέφαλι ι' αἰ, i. e. must necessarily be cut off from the whole Body of Mankind. The Mistake was occasioned by the last Words immediately preceding the former Sentence, and making part of a Comparison; which the Author forgetting, and confounding with what follows, has changed οὐ to οὐ in the Original, into οὐ. The whole Passage runs thus: A Branch broken off from the Branch to which it grew, must necessarily be broken off from the whole Tree; so likewise a Man, &c. The last Passage is in Book VI. § 54, and stands thus: What is not good for the Swarm, is not good for the Bee.

XX. (I)

Jura inventa metu injusti fateare necesse est. Horat. Sat. III. Ver. III.

to impose; by which we are to understand, that Right has not its Effect externally, unless it be supported by Force. Thus Solon did great Things, as he himself boasted,

3 By linking Force in the same Yoke with Law.

XXI. Yet neither does Right lose all its Effect, by being destitute of the Assistance of Force. For Justice brings Peace to the Conscience; Injustice, Racks and Torments, such as Plato 4 describes in the Breasts of Tyrants. Justice is approved of, Injustice condemned by the Consent of all good Men. But that which is greatest of all, to this God is an Enemy, to the other a Patron, who does not so wholly reserve his Judgments for a future Life, but that he often makes the Rigour of them to be perceived in this, as Histories teach us by many Examples. <xxii>

3. ὑμῶν βιβῆν τε καὶ δίκην συναρμόσας. Plut. in Solon. Tom. I. p. 86. Edit. Wechel. To the same Purpose Ovid:

In causaque valet, causamque tuentibus armis.

That is, "He has a good Right, and his Right is supported by Arms." Metam. Lib. VIII. Ver. 59. Grotius.

See Pufendorf, Book I. Chap. VI. § 12. In the Passage from Ovid, where Scylla, the Daughter of Nius, speaks of Minos, King of Crete, the common Pointing, which our Author follows, is not just. The last Words of it are to be joined to the Beginning of the next Verse, and read thus:

—— causamque tuentibus armis:
Ut puto, vincæmur. ———

That is, "And it is my Opinion we shall be overcome by the Superiority of his Arms, which favour the Justice of his Cause." See Mr. Burman's Edition, published in 1713.

XXI. (1) See Gorgias. Tom. I. p. 524, 525, and Book IX. of Plato's Republic. Tom. II. p. 579. Tacitus produces that Philosopher's Thought on Occasion of the Remorse of Conscience, with which Tiberius was tortured. The wisest of Men had good Reason for affirming that if the Souls of Tyrants could be exposed to View, we should see them under violent Racks and Tortures, for as the Body is torn with Whips, so is the Mind with Cruelty, Lust, and Male-Administration. Neither the Splendor of the Imperial Dignity, nor Retirement, could secure Tiberius, or hinder him from confessing the Torments of his Soul and interior Punishment of his Crimes. Annals, Book VI. Chap. VI.
XXII. But whereas many that require Justice in private Citizens, make no Account of it in a whole Nation or its Ruler; the Cause of this Error is, first, that they regard nothing in Right but the Profit arising from the Practice of its Rules, a Thing which is visible with Respect to Citizens, who, taken singly, are unable to defend themselves. But great States, that seem to have within themselves all things necessary for their Defence and Well-being, do not seem to them to stand in need of that Virtue which respects the Benefit of other others, and is called Justice.

XXIII. But, not to repeat what has been already said, namely, that Right has not Interest merely for its End; there is no State so strong or well provided, but what may sometimes stand in need of Foreign Assistance, either in the Business of Commerce, or to repel the joint Forces of several Foreign Nations Confederate against it. For which Reason we see Alliances desired by the most powerful Nations and Princes, the whole Force of which is destroyed by those that confine Right within the Limits of each State. So true is it, that the Moment we recede from Right, we can depend upon nothing.

XXII. (1) Quae foras spectat. Gronovius observes, that our Author here makes Use of an Expression of Apuleius, Book II. Of Moral Philosophy. (p. 15, 16. Edit. Elmenhorst.) where that Platonist, treating of the Virtues according to the Notions of his School, says, that When Justice is advantageous to the Possessor of that Virtue, it is termed Benevolence; but when it extends to the Interest of others, it is properly called Justice. The Commentator, who produces this Passage, might have gone higher, and discovered the Source from which both Apuleius and Grotius derived this Distinction. Cicero, in Book II of his Republic, says, Justice regards what is without us; it is diffused and extensive. And in this he only follows Aristotle, whose Words are these: The Just Man acts for the Benefit of others, and it is for this Reason that we say Justice is a Good belonging to others. Ethic. Nicom. Lib. V. Cap. X. p. 67. Ed. Paris.

XXIII. (1) The Words here used are taken from a Passage in one of Cicero's Epistles, which our Author quotes in his Note on the next Paragraph. They do not relate to Right in general, but to Civil Laws only. The same is to be observed of the Passage in the Oration for Cecina, to which Gronovius refers us in this Place, as if the Author had it in View, and it exactly expressed his Thought.
XXIV. If there is no Community which can be preserved without some Sort of Right, as Aristotle proved by that remarkable Instance of Robbers, certainly the Society of Mankind, or of several Nations, cannot be without it; which was observed by him who said, That a base Thing ought not to

XXIV. (I) I am very much mistaken, if the Author has not put the Scholar’s Name for that of the Master. I am induced to think so, not only because he has not specified the Place of Aristotle either in the Margin, or the following Note, where he has thrown together several Passages of other Authors to the same Purpose; but also because I never saw that Philosopher quoted for the Observation in Question; nor do I remember to have found this Thought in any of his Moral or Political Works. On the contrary, the Commentators have quoted Plato, on a well-known Passage of Cicero, where the same Remark is very finely turned; so that it is surprizing that Grotius takes no Notice of either of those two great Writers. The Grecian Philosopher speaks thus: Do you imagine that a City, an Army, a Gang of Thieves or Highwaymen, or any other Body of Men, united in an unjust Design, could ever succeed in their Enterprizes, if they dealt unjustly with one another. No certainly, replied the other Person in the Dialogue. De Rep. Lib. I. p. 351. Edit. Steph.

Such is the Force of Justice, says Cicero, that even they that live by their Crimes cannot subsist; without practising some Sort of Justice among themselves: For if any one of those, who rob in a Gang, defrauds or robs his Companion, he is no longer allowed a Place even in that infamous Society. A Chief of the Pyrates, who does not make an equal Distribution of the Booty, is either killed or abandoned by his Men. It is even said that Highwaymen have a Set of Laws, which they submit, and which they observe. De Offic. Lib. II. Cap. XI.

2. St. Chrysostom has the same Observation. But you will ask how Highwaymen live peaceably together; and when this is the Case? Certainly, when they do not act like Robbers, for if in the Distribution of what they get, they do not observe the Laws of Justice, and give every one his Share, you will then see them quarrel and fight with one another. In Eph. IV. Plutarch having set down Pyrrhus’s Expression, that he would leave his Kingdom to that of his Sons, whose Sword should be sharpest, compares it with a Verse in the Phenician Women of Euripides. (Ver. 68.) They divide my Estate with a sharp Sword. To which he adds this Exclamation: Sounsoiable and brutal is the Passion of Avarice! In the Life of Pyrrhus, Tom. I. p. 388. Edit. Wech. Cicero says, We can have no certain Dependence on any Thing, when Justice is disregarded. Ep. ad Fam. Lib. IX. Ep. XVI. Polybius observes that the Dissolution of the Society of Villains and Robbers, is chiefly owing to unjust Practices among themselves, and their not being true one to another. Chap. XXIX. Grotius.

3. The Author probably had his Eye upon a Passage of Cicero, where that great Orator and Philosopher proposes this Question: Whether the Interest of a Community most conformable to the Law of Nature is always to be preferred to Moderation and Modesty, he answers in the Negative; For, says he, there are some Things so shameful and criminal, that a wise Man will not do them even for the Preservation of his Country. De Offic. Lib. I. Cap. XIV. He afterwards asserts that by good luck it can never happen
be done, even for the sake of one’s country. Aristotle in his <xxiii> inveighs severely against those, who, though they would not have any to govern amongst themselves, but he that has a right to it, yet in regard to foreigners are not concerned whether their actions be just or unjust.

that the interest of the state should require such things to be done, which ought to be well observed. Grotius.

4. The passage here alluded is in the seventh book of Aristotle’s Politics, chap. II. p. 427. See also his Rhetorick, book I. chap. III. p. 519 Tom II. edit. Paris. 1629. For the better understanding his thought, it is to be observed that he is opposing the opinion of such as maintain that good policy requires making conquests, and extending them as far as possible, at the expense of the liberty of the neighbouring people. The philosopher, amongst other reasons against this way of thinking, urges that “it does not become an able administrator of the state, and a wise legislator, to do any thing which is not lawful, or agreeable to the rules of civil society. But, says he, it is unlawful, and contrary to the rules of civil society, to desire to have the command of others at any rate, justly or unjustly; and conquests may be unjust. This way of reasoning holds good in regard to other sciences. For example, it is not the business of a physician or a pilot to use persuasion or force indifferently in their respective professions. But,” adds Aristotle, “the generality of mankind give into this mistake, that political and despotic governments are but two names for the same thing: They make no scruple of doing that to others, which they look on as unjust, and prejudicial in regard to themselves. They are willing to submit only to those who command them with justice; but when it comes to their turn to command, they give themselves no concern about the justice of the action.” On reading these words, one would conclude that Aristotle entertained very just ideas of the natural quality of each man in particular, and nations in general. But it appears from the sequel, that he was of opinion that some men, and even some people, were naturally slaves on whom he thought war might be made without any other reason; and he makes use of the comparison of a hunter, who is not indeed allowed to take or kill men for food or sacrifice, but may lawfully pursue such animals as are wild and proper for the purposes designed. See what I have said on this philosopher’s notions in my Preface to Pufendorf, p. xcvi. § XXIV. Second edition, Of the law of nature and nations.

5. Plutarch, in his Life of Agesilaus, blames the Lacedemonians for making virtue consist principally in the interest of their country, and being unacquainted with any other justice, but what they thought might contribute to the aggrandizement of Sparta. Thucydides gives us the sentiments of the Athenians concerning the humour of that people. The Lacedemonians generally observe the rules of virtue among themselves, and in what relates to the laws of their own country; but several examples might be given of their different conduct in regard to others; in short, they esteem only that virtuous, which is agreeable to them, and only that just, which promotes their interest. Book V. chap. C. V. p. 344. Edit. Owen. Grotius.
XXV. A Spartan King having said, 2 That is the most happy Commonwealth, whose Bounds were determined by Spear and Sword; the same Pompey, whom we lately mentioned on the contrary Side, correcting that Maxim said, That is happy indeed, which has Justice for its Boundaries. For which he might have used the Authority of another Spartan King 3 who preferred Justice before military Fortitude, for this Reason, that Fortitude ought to be regulated by some sort of Justice: And that if all Men were Just, they would have no Occasion for that Fortitude. The Stoicks defined 4 Fortitude itself to be the Virtue that contends for Justice. Themistius, in his Oration to Valens, says very elegantly, that Kings, who conduct themselves by the Rules of Wisdom, take Care, not only of the Nation whose Government they are entrusted with, but of all Mankind; and are, as he expresses himself, not \textit{fil omyrma} to the

XXV. (1) I know not whence this is taken. Plutar ch says nothing like it, either in his Life of Pompey, or in his Apophthegms; and it is not probable he would have omitted so remarkable an Expression. Nor do I find the Saying of the Spartan King, as it stands here, in the Apophthegms of the Lacedemonians, or elsewhere. So that I much suspect our Author has depended too much on his Memory; and imagine the Mistake may be thus accounted for. Phrais, King of the Parthians, having sent an Embassy to Pompey, desiring him to be content with bounding his Empire by the Euphrates; that great General replied, that the Romans chose rather to make Justice the Boundary of their Empire. Plutar ch, Apophthegm, p. 204. Tom. II. Edit. Wedh. See also the Life of Pompey, Tom. I. p. 637. where the Story is told with some Difference. The same Philosopher ascribes the following Reply in one Place to Agesilaus, and in another to his Son Archidamus. One of these Kings being asked how far the Lacedemonian Dominions extended, brandished his Spear, and answered, as far as this can be carried. P. 210. See likewise p. 218, both of the second Volume. Out of these two Stories confusedly remembered, our Author has formed what he here relates, and which, as far as I know, is to be found nowhere as he gives it.

2. It was Agesilaus; and Plutar ch has preserved this Saying as an Answer to a Question proposed concerning the comparative Excellency of the two Virtues. Apophthegm. Laco n. p. 213. Tom. II.

3. Agesilaus having observed that the Inhabitants of Asia had a Custom of distinguishing the King of Persia by the Appellation of Great, asked: How is that Prince greater than I, unless he is more just and more wise? Plutar ch, Apopht. Laco n. p. 213. Grotius.

4. This Definition is produced and commended by Cicero, De Offic. Lib. I. Can XIX.
Romans, but fil árj rwpdi to all Men without Exception. Nothing else made the Name of Minos odious to Posterity, but his confining Equity within the Limits of his own Empire.

XXVI. But so far must we be from admitting the Conceit of some, that the Obligations of all Right ceases in War; that on the contrary, no War ought to be so much as undertaken but for the obtaining of Right; nor when undertaken, ought it to be carried on beyond the Bounds of Justice and Fidelity. Demosthenes said well, that War is made against those who cannot be restrained in a judicial Way. For judicial Proceedings are of Force against those who are sensible of their Inability to oppose them; but against those who are or think themselves of equal Strength, Wars are undertaken; but yet

5. [[This footnote is wrongly included as part of the previous one in the original text. The Latin edition has it in the correct place.]] The Emperor Marcus Antoninus declares, that, as Antoninus, he considered Rome was his City and native Country; but as a Man, the whole World. (Book VI. § 44.) Porphyry says, the Man, who is conducted by Reason, forbears injuring his Fellow-Citizens, and observes the same Rule still more rigorously in regard to Strangers and all Mankind; and thus keeping the irrational Part in due Subjection, becomes more rational, and consequently more like Divinity than those with whom he deals in this manner. Of Abstinence, Book II. (p. 333.) Grotius.

6. We have a Verse of an old Poet to this Purpose.

Kal r̄シュndær̄aisi bar ūn zugōn̄b̄al e Minh̄c

King Minos has laid a heavy Yoke on the Necks of the Islands


The Father from whom our Author has taken this Verse, quotes it as belonging to Callimachus, and gives it with some small Difference in the Words, though to the same Sense.

Kal r̄シュsn̄p̄et̄ene bar ūn zugōn aοῡn̄ Minh̄c


XXVI. (1) The Passage, which our Author had in View, occurs in the Oration on Chersonesus, where Demosthenes, undertaking to dissuade the sending of a new General into the Hellespont, in the Room of Diopithes, who lay under an Accusation of Extortion and Piracy, shews that it would be an extravagant Piece of Madness to proceed to that Extremity against a Subject of the State, whom they might easily punish without so much Noise. It is proper, says the Orator, and even necessary to pay Troops, employ Vessels, and erect publick Funds against an Enemy, who cannot be reduced by the Laws; a Decree, an Impeachment, and a single Galley are sufficient against our own Citizens, in the Opinion of all considerate Men. P 38 Edit. Basil 1572.
certainly to render Wars just, they are to be waged with no less Care and Integrity, than judicial Proceedings are usually carried on.

XXVII. Let it be granted then, that Laws must be silent in the midst of Arms, provided they are only those Laws that are Civil and Judicial, and proper for Times of Peace; but not those that are of perpetual Obligation, and are equally suited to all Times. For it was very well said of Dion Prusaensis, That between Enemies, Written, that is, Civil Laws, are of no Force, but Unwritten are, that is, those which Nature dictates, or the Consent of Nations has instituted. This we are taught by that ancient Form of the Romans, These Things I think must be recovered by a pure and just War. The same ancient Romans, as Varro observed, were very slow and far from all Licentiousness in entering upon War, because they thought that no War but such as is lawful and accompanied with Moderation, ought to be carried on. It was the Saying of Camillus, That Wars ought to be managed with as much Justice as Valour: And of Scipio Afri-

XXVII. (1) See the Commentators on these Words of Cicero, in his Oration for Milis, silent enim Leges inter Arma. Cap. IV.
2. No written Law is of Force in Regard to Enemies; but there are certain Rules and Customs, which are observed by all, even when the Enmity is carried to the greatest Length. Orat. per ejus unc. This Passage is quoted by Pet er du Faur., Semestr. Lib. II. Cap. I. p. 8. Edit. Genev. The Orator instances in the Permission of burying the Dead, the Security of Ambassadors, &c.
3. Upon this Principle it was, that King Alphonus, being asked which of the two he had been most obliged to, Books or Arms; answered, that he had learned by Books, both the Art of War, and the Rights of War. Plutarch says, that amongst good Men there are Laws of War; and that we ought not to push the Desire of conquering so far, as to make an Advantage of wicked and impious Actions. Gratiani.
Plutarch has put these Words into the Mouth of Camillus, when he generously declined making an Advantage of the Schoolmaster's Treachery, who betrayed the Children of the Faliscii into his Hands. Life of Camillus, Tom. I. p. 134.
4. This Formulary is found in Livy, Book I. Chap. XXXII.
5. This occurs in a Fragment of that learned Author, preserved by Nonius, and was taken from his second Book De Vitâ Populi Romani. See what is said on this Passage, Book III. Chap. III. § 11. Note 2.
6. These are the Words of that great General, as related by Livy, on the Occasion of the perfidious School-Master; whence Plutarch has taken Occasion to ascribe to him a Speech very like this, which we have related above, Note 3. There are Laws of War as well as of Peace; and we have learnt how to carry on a War with as much Justice as Bravery, Book V. Chap. XXVII.
canus, That the Romans both begin and finish their Wars with Justice. An Author maintains, There are Laws of War, as there are of Peace. Another admires Fabricius for a very great Man, and remarkable for a Virtue which is extremely difficult, Innocence in War, and who believed that there are some Things, which it would be unlawful to practise even against an Enemy.

XXVIII. Of how great Force in Wars is the Consciousness of the Justice of the Cause, Historians every where shew, who often ascribe the Victory

7. Livy makes him speak thus, in his Answer to the Embassadors from Carthage, who came to sue for a Peace, that, though he was almost secure of Victory, he does not refuse to make a Peace, that the whole World may know the Roman People have a strict Regard to Justice both in engaging in and finishing their Wars. Book XXX. Chap. XVI. The thing itself, however, is far from being indisputable. On the contrary, if we look into the Conduct of the Romans, we shall find Injustice practised in several of their Wars, either in regard to the Subject, the Manner, or Conclusion of them; though Alberic Gentilis has taken upon him to justify that People in his Treatise De Armis Romanis. See Mr. Budet's Dissertation, intitled, Juris prudentiae Historiae Specimen, § 82, &c. among his Selecta Juris Naturae & Gentium; and what Grotius himself says in his Book De Verit. Rel. Christ. Lib. II. § 12. I remember a Passage in Cicero, where that celebrated Orator and Philosopher says, that Equity and Fidelity are most commonly observed in entering on, pursuing, and ending a War. De Legib. Lib. II. Cap. XIV.

8. Livy, whose Words have been quoted Note 6.

9. Seneca, Ep. CXX. We admired that great Man, persevering in his Resolution of giving a good Example, and unmoved by all the King's Offers, or the Promises made him on the other Side: preserving his Innocence in War, which is extremely difficult, being persuaded that some Things were not allowable even in an Enemy. P. 595. Edit. Gronov. 1672.

XXVIII. (1) Appian makes Pompey speak thus to his Army: "We ought to rely upon the Gods and the Goodness of our Cause, since we are engaged in this War out of an honest and just Desire of maintaining the Government and Liberty of our Country." De Bell. Civil. Lib. II. p. 460. Edit. H. Steph. (p. 755. Edit. Amst.) The same Historian introduces Cassius saying, that in War nothing gives so great Hopes as the Justice of the Cause (De Bell. Civil. Lib. IV. p. 645. H. Steph. 1034. Edit. Amst.) Josephus says that King Herod made use of this Consideration to animate his Soldiers, that God is with those, who have Justice on their Side. Antiq. Jud. Lib. XV. We find in Procopius many Thoughts to the same Purpose; as for Instance, what Belisarius says in the Speech he made, when he went into Africa. "Valour will not render us victorious, unless it be regulated and conducted by Justice." (Vandalic. Lib. I. Cap. XII.) See also another Speech of the same General's before an Engagement, near Carthage (Ibid. Cap. XIX.) In the Discourse of the Lombards to the Herauli, we have the following Passage, which I have a little corrected, "We call God to witness, whose
chiefly to this Reason. Hence the <xxv> Proverbial Sayings, 2 A Soldier's Courage rises or falls according to the Merit of his Cause; 3 seldom does he return safely, who took up Arms unjustly; Hope is the 4 Companion of a good

Power is so great, that the least Particle of it infinitely surpasses all human Force. There is Reason to believe, that having a Regard to the Causes of the War, he will give to it an End answerable to the Deserts of both.” (Gothic. Lib. II. Cap. XIV.) And it is remarkable, that this Prediction was soon accomplished by a wonderful Event, which the Historian afterwards recites. Totila, in the same Author, says to the Goths: “It is not possible, no, it is not possible, that those who commit Acts of Injustice and Violence, should acquire Glory by Arms; but every one is fortunate or unfortunate, as he behaves himself well or ill.” (Ibid. Lib. III. Cap. VIII.) After the taking of Rome, Totila makes another Speech, tending to the same Purpose. (Ibid. Cap. XXI.) Agathias, another Historian of those Times, tells us, Book II. Chap. I. that Injustice and Irreligion ought always to be guarded against, and are very prejudicial, but especially when we are obliged to make War, and to come to an Engagement with the Enemy. He proves it elsewhere (Cap. V.) by the Examples of Darius, Xerxes, and the Athenians in their Expedition against Sicily. See also what Crispinus says to the Inhabitants of Aquileia in Herodian, Lib. VIII. (Cap. VI. Edit. Oxon. 1678.) Thucydides observes, that the Lacedemonians believed they had brought upon themselves, by their own Fault, the Disasters they met with at Pylos and other Places, because they had refused to submit to the Decision of Arbitrators, though summoned thereto by the Athenians according to their Treaty. But the Athenians having afterwards refused in their turn to give the same Satisfaction, after several Infringements and unjust Enterprizes, the Lacedemonians from thence conceived good Hope of success in their Affairs for the future. Lib. VII. Grotius.

The Passage of Thucydides, which our Author means, is in § 18, p. 421. of the Oxford Edition. Several States of Peloponnesus making Preparations for War against the Athenians, the Lacedemonians joined them with so much the more Resolution and Confidence, as they believed the Event would not be the same as in the preceding War; which, they themselves acknowledged, had been occasioned rather through their own Fault, than that of the Athenians. For, having sided with the Thebans, when the latter came to attack Plataeae, during a Truce (Lib. II. § 1 & seq.); and having moreover refused, contrary to an express Clause of their Treaty, (Lib. V. § 18, p. 502.) to terminate some Difference in a judicial Way, though they had been summoned to it by the Athenians; they were fully persuaded they had been unsuccessful on that Account, and ingenuously ascribed to their Breach of Faith the Calamities that befell them at Pylos, and upon other Occasions. But after the Athenians having equipped a Fleet, were gone to ravage the Lands of Epidaurus, Praia, and other Places, and from Pylos made Incursions into their Country; after they refused, in their turn, to submit to a Decision in an amicable Manner, when any Dispute arose in relation to their Treaties: I say, after that time, the Lacedemonians believing they had made the Injustice to pass over to the other Side, eagerly sought an Opportunity of declaring War against them.

2. The Author here makes use of the very Terms of Grotius, and not of Ovid, as Gronovius pretends. His Memory failed him on this Occasion, which was also
the preliminary discourse

Cause; and others to the same Purpose. Nor ought any one to be moved at the prosperous Successes of unjust Attempts; for it is sufficient that the Equity of the Cause has of itself a certain, and that very great Force towards Action, though that Force, as it happens in all human Affairs, is often hindered of its Effect, by the Opposition of other Causes. The Opinion that a War is not rashly and unjustly begun, nor dishonourably carried on, is likewise very prevalent towards procuring Friendships, which Nations, as well as private Persons, stand in need of upon many Occasions. For no Man readily asso-

the Case of the learned Mr. Menage. This Mistake has been corrected by the last Commentator on the Poet last mentioned.

Frangit & adtollit vires in milite causa:
Quae nisi justa subest, exempta arma pudor.
Lib. IV. Eleg. VI. Ver. 51, 52.
Edit. Brockhuis.

3. This Thought is contained in the following Verse of Euripides, taken from one of his Tragedies, not now extant.

Οὐ δέ στατος ακαδίκα, σώκη Ἰππάλην

4. Lucan introduces Pompey employing this Reason for encouraging his Soldiers before the Battle of Pharsalia.

Causa, jubet melior superos sperare secundos.
Our better Cause bids us hope for the Favour of the Gods.
Lib. VII. Ver. 349.

But long before that Poet's Time, Menander had said in general:

Όταν πράττεται σαράντα, ἀγαίνη ἄφθισθα
Próbal le sáutw, toet a glíviskwvn, ét i
Tóf x̣ dikádtikai Jèbcs sul lantánci.

When you engage in any good Action, entertain Hopes of Success; being assured that God favours a just Enterprise.


See also some Passages cited by our Author, Book II. Chap. I. § 1.

5. Tacit us makes Otho say that good and lawful Undertakings are frequently attended with very bad Success, for want of a judicious Manner of proceeding. Hist. Book I. Chap. I. XXXIII.
associates with those, who, he thinks, have Justice, Equity and Fidelity in Contempt.

XXIX. Now for my Part, being fully assured, by the Reasons I have already given, that there is some Right common to all Nations, which takes Place both in the Preparations and in the Course of War, I had many and weighty Reasons inducing me to write a Treatise upon it. I observed throughout the Christian World a Licentiousness in regard to War, which even barbarous Nations ought to be ashamed of: a Running to Arms upon very frivolous or rather no Occasions; which being once taken up, there remained no longer any Reverence for Right, either Divine or Human, just as if from that Time Men were authorized and firmly resolved to commit all manner of Crimes without Restraint.

XXX. The Spectacle of which monstrous Barbarity worked many, and those in no wise bad Men, up into an Opinion, that a Christian, whose Duty consists principally in loving all Men without Exception, ought not at all to bear Arms; with whom seem to agree sometimes Johannes Ferus 2 and our Countryman Erasmus, Men that were great Lovers of Peace both Ecclesiastical and Civil; but, I suppose, they had the same View, as those have who in order to make Things that are crooked straight, usually bend them as much the other Way. But this very Endeavour of inclining too much to the opposite Extreme, is so far from doing Good, that it often does Hurt,


See below, Book I. Chap. II. § 8. and my Preface to Pufendorf, § 9; where I have inserted other Passages from the Fathers of the Church, who have condemned War as absolutely unlawful.

2. He was a Franciscan Preacher at Mentz, who lived in the Reign of Charles V. Ziegler on this Place quotes Sixtus of Sienna, Biblioth. Lib. VI. Annot. 115, 156; where the Author produces and criticizes the Passages of those two Writers on this Subject.

3. This great Author has a long Digression on the Proverb, Dulce Bellum inexpertis.

4. This has very often been the Practice of several Moralists, in all Ages. See a beautiful Passage of Seneca on this Subject, which I have given at Length, with a Translation in my Treatise On Gaming, Book I. Chap. III. 8 17.
because Men readily discovering Things that are urged too far by them, are apt to slight their Authority in other Matters, which perhaps are more reasonable. A Cure therefore was to be applied to both these, as well to prevent believing that Nothing, as that all Things are lawful.

XXXI. At the same Time I was likewise willing to promote, by my private Studies, the Profession of Law, which I formerly practised in publick Employment with all possible Integrity; this being the only Thing that was left for me to do, being unworthily banished my Native Country, which I have honoured with so many of my Labours. Many have before this designed to reduce it into a System; but none has accomplished it; nor indeed can it be done, unless those things (which has not been yet sufficiently taken Care of,) that are established by the Will of Men, be duly distinguished from those which are founded on Nature. For the Laws of Nature being always the same, may be easily collected into an Art; but those which proceed from Human Institution being often changed, and different in different Places, are no more susceptible of a methodical System, than other Ideas of particular Things are.

XXXII. But if the Professors of true Justice would undertake to treat of the several Parts of that Law which is perpetual and natural, setting aside every Thing which owes its Rise to Voluntary Institution, so that one for Instance would treat of Laws, another of Tributes, another of the Office of Judges, another of the Conjecture of Wills, another of the Evidence in Matters of Fact, there might at last from all the Parts collected together be a Body of Law composed.

XXXIII. What Method we thought fit to use, we have shewn in Deed rather than in Words in this Treatise, which contains that Part of Law, which is by far the noblest.

XXXI. (1) The Author had been Advocate-General, and Pensionary of Rotterdam.  
2. He wrote this at Paris in 1625.  
3. Laws merely positive.
XXXIV. For in the first Book, after premising some Things concerning the Origin of Right, we have examined the general Question, whether any War is just; afterwards to discover the Difference between a publick and private War, our Business was to explain the Extent of the Supreme Power, what People, what Kings have it in full, who in part, who with a Power of alienating it, and who have it without that Power. And then we were to speak of the Duty of Subjects to their Sovereigns.

Book II. XXXV. The second Book, undertaken to explain all the Causes from whence a War may arise, shews at large, what Things are common, what proper, what Right one Person may have over another, what Obligation arises from the Property of Goods, what is the Rule of Regal Succession, what Right arises from Covenant or Contract, what the Force and Interpretation of Treaties and Alliances, what of an Oath both publick and private, what may be due for a Damage done, what the Privileges of Embassadors, what the Right of burying the Dead, what the Nature of Punishments.

Book III. XXXVI. The third Book treats first of what is lawful in War; and then, having distinguished that which is done with bare Impunity, or which is even defended as lawful among foreign Nations, from that which is really blameless, descends to the several Kinds of Peace, and all Agreements made in war.

V. The Necessity of Writing.

Nothing of the ancient Authors extant on this Subject.

XXXVII. But I thought this Undertaking still the more worth my Pains, because, as I said before, this Subject has not been fully handled by any Body; and those who have treated of the Parts of it, have done it so, that they have left a great deal for the Labour of others. There is nothing of this Kind extant of the ancient Philosophers, whether those of the Pagan Greeks, (amongst whom Aristotle had composed a Book intitled, Dikaiwmata Polémwn, 1

XXXVII. (1) The Author is misled here by a corrupted Passage of Ammonius the Grammian, in his Treatise Of like and different Words, upon the Word Nhec, where we read, Dikaiwmata polémwn, The Laws of War, instead of polémwn, States, as it is quoted by Eustathius on the seventh Book of the Iliad. See Menage on Diogenes Laertius, Book V. § 26. and Selden, Of the Law of Nature and Nations, Intra Disceps Hebr. Lib. I. Can. I. n. 4.