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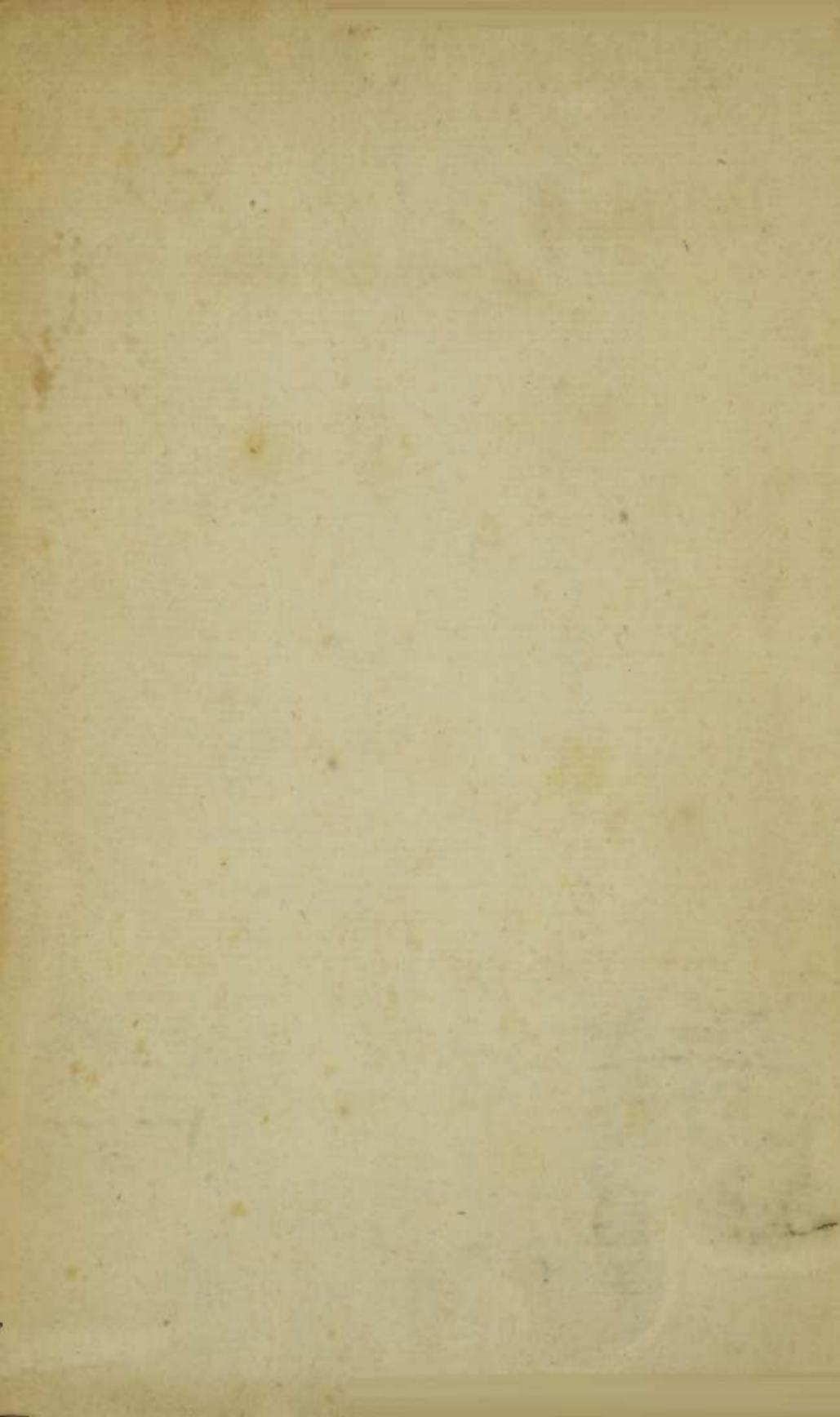
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Tho. Shrigley

Brazeale College Oxford

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THE  
PRINCIPLES  
OF  
NATURAL and POLITIC  
LAW,

IN TWO VOLUMES,

By *J. J. BURLAMAQUI*,  
Counsellor of State, and late Professor of NATURAL  
and CIVIL LAW at GENEVA.

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Translated into ENGLISH by Mr. NUGENT.

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The SECOND EDITION, revised and corrected.

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VOL. I.

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T O

Dr. M E A D.

S I R,



O intrude in this manner upon your time, so usefully employed in the duties of your profession, would expose me in some measure to blame, were it upon a less important occasion than that of recommending the following work to your generous protection. The dignity of the subject, which, handled

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by

## DEDICATION.

by other pens, has been thought worthy of being inscribed to the most illustrious personages of the last and present age, will plead, I hope, some excuse for an address, which is designed not so much to interrupt your occupations, as to avail itself of the sanction of your name in introducing this work to the public. And indeed a nobler subject I could not select for the favour of your acceptance, than that which so nearly relates to the moral duties of life, and the foundation of human contentment and happiness; a subject moreover illustrated by one of the ablest masters of the present age, whose extraordinary ability and skill in curing the disorders of the mind, may be compared very aptly to yours in removing those of the body. One of the principal encouragements I had to this address, is the near relation between the following

## DEDICATION.

lowing work, and those elevated sentiments with which you have been always inspired. Such an admirable system of moral precepts, such noble maxims of true Christian policy, and such excellent rules for the government of our lives, cannot but be acceptable to a gentleman, who, in the whole tenor of his conduct, has been an illustrious example of those rules and maxims which are here most judiciously established. A very good opportunity this of entering upon the encomium of those virtues which have so eminently distinguished you at the head of your profession; but the little value any commendations of mine would have, the apprehension I should be under of being suspected of adulation, and the danger I should incur of offending your modesty, obliges me to wave any attempt of this nature.

## DEDICATION.

However, I cannot help taking notice of that true magnificence with which you have at all times contributed to the advancement of learning, and whereby you have justly acquired the title of patron and protector of letters. In fact, the extensive blessings that fortune has bestowed upon you, have been employed not as instruments of private luxury, but as means of promoting those arts, which have received an additional lustre, since they have shone so conspicuously in your person. Your friendship and correspondence have been courted by the greatest men of the present age; and your house, like that of Atticus, has been open to the learned of all orders and ranks, who unanimously respect you, not only as a supreme judge of learning and wit, but, moreover, as an *arbiter elegantiarum*, and master of finished urbanity.

Your

## DEDICATION.

Your collection of valuable curiosities and books, wherein you have rivalled the magnificence of sovereigns, is the admiration and talk of all Europe, and will be a lasting monument of your love of literature. The polite reception you have always given to the learned of foreign nations has rendered your name so respectable abroad, that you are never mentioned but with expressions denoting the high idea they entertain of your singular munificence. These, Sir, are not particular sentiments of mine; they are the sentiments of the public, whose voice I utter; they are the sentiments of your learned friends abroad, which I have been desired to repeat to you upon a late occasion, together with their compliments of thanks for the marks they have received of your great and disinterested civility. It is with pleasure I embrace this opportunity

DEDICATION.

tunity of executing my commission,  
and of declaring in this public manner  
the profound respect and esteem with  
which I have the honour of subscrib-  
ing myself,

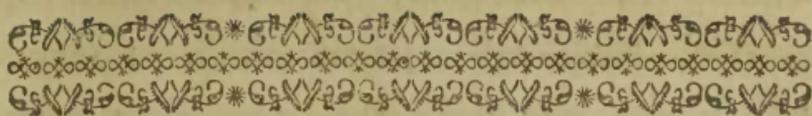
S I R,

Your most humble and

Obedient Servant,

Gray's Inn,  
June 4, 1748.

Thomas Nugent,



THE  
TRANSLATOR  
TO THE  
READER.



*THE* author of the following work, M. J. J. Burlamaqui, was descended from one of those noble families of Lucca, which, upon their embracing the Protestant religion, were obliged about two centuries ago to take shelter in Geneva. His father was counsellor and secretary of state; honours which are frequently conferred in that city upon such as acquit themselves worthily of a professorship

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The TRANSLATOR

ship in the academy, particularly that of law, the fittest without doubt to form able judges, magistrates, and statesmen. The son, upon his return from his travels, was immediately nominated professor of this science, in which post he continued a considerable number of years, till the republic thought proper to remunerate his long and eminent services, by raising him to the same dignity as his father. The great reputation he acquired in his professorship, was less owing to his immense erudition, in which he equalled if not excelled all his predecessors, than to the quickness of his understanding, the clearness of his ideas, his sound and judicious views in the study of jurisprudence, and especially to the solidity of his principles on natural law and civil government. With regard to the occasion of his publishing these principles, he observes himself in his preface, that it was

in

*in some measure to comply with the importunity of his friends, but chiefly to prevent his reputation from being injured by a precipitate impression from any of those imperfect and surreptitious copies which had been handed about by his pupils. The public indeed had flattered themselves a long time with the hopes of seeing a complete course of the law of nature and nations from this eminent hand; but his occupations and infirmity obliged him to frustrate their expectations. However, as a good introduction to this science was extremely wanted, he thought proper, till he could publish his larger work, to favour us with the following principles, being convinced that in this, as in every other branch of learning, the most essential part is the laying of a proper and solid foundation. In fact, we daily observe that most errors in life proceed rather from wrong principles, than from ill-drawn consequences.*

*M. Bur-*

*M. Burlamaqui is so modest as to consider these principles, as calculated only for young people, who are desirous of being initiated into the study of natural law; and yet we may venture to affirm it is a performance of general utility, but especially to such as have had the misfortune of neglecting this science in their younger days. It is a performance that must certainly be allowed to have the merit of an original undertaking, by our author's ascending always to the first principles, by his illustrating and extending them, by his connecting them with each other, and by exhibiting them frequently in a new light. But his singular beauty consists in the alliance he so carefully points out between ethics and jurisprudence, religion and politics, after the example of Plato and Tully, and the other illustrious masters of antiquity. In effect, these sciences have the same basis, and*  
*tend*

*tend to the same end; their business is to unravel the system of humanity, or the plan of providence with regard to man; and since the unity of this system is an unquestionable point, so soon as writers ascend to the principles, in order to view and contemplate the whole, it is impossible but they all should meet.*

*Our author's method has nothing of the scholastic turn. Instead of starting new difficulties, he prevents them by the manner of laying his thesis; instead of disputing, he reconciles. Far from pursuing any idle or too subtle ideas, he follows nature step by step, and derives his arguments from sense and experience. His thoughts he unfolds with the greatest perspicuity and order; and his style is pure, clear, and agreeable, such as properly becomes a didactic work. In fine, he has the honour of preserving the character of a Christian philosopher, by inculcating*

*culcating the value we ought to set upon the light of revelation, a light which so advantageously assists the feeble glimmerings of reason in the high and important concerns of our civil and religious duties.*



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T H E

Author's Advertisement.

*T*HIS treatise on the Principles of Natural Law, is an introduction to a larger work, or to a complete system of the law of nature and nations, which some time or other I proposed to publish. But having met with several obstructions in my attempt, through a variety of occupations, and principally from my indifferent state of health, I had almost lost sight of my original design. Being informed however that some manuscript copies of the papers I had drawn up for my own private use, when I gave lectures of jurisprudence, were multiplied and got into a number of hands, I began to apprehend lest this work should be published against my will, in a very imperfect and mangled condition. This induced me at length to yield to the solicitations of several of my friends, by communicating the following essay to the public. Dubious whether I shall ever be able to finish the larger work, I have endeavoured to give such an extent to these Principles, as may render them in some measure

measure serviceable to such as are desirous of being initiated into the knowledge of the law of nature. As for those who are masters of this subject, the present work is not designed for them: my view will be sufficiently fulfilled, if it should prove of any utility to young beginners in the study of this important science.



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THE  
P R I N C I P L E S  
O F  
N A T U R A L L A W.

P A R T I.  
General P R I N C I P L E S of R I G H T.

C H A P. I.

*Of the Nature of Man considered with Regard to Right: Of the Understanding, and what-ever is relative to this Faculty.*

I.  Y design is to enquire into those rules which nature alone prescribes to man, in order to conduct him safely to the end, which every one has, and indeed ought to have, in view, namely, true and solid happiness. The system or assemblage of these rules, considered as so many laws imposed by God on man, is generally distinguished by the name of *Natural Law*. This science includes the most

Design of this work: What is meant by *Natural Law*.

VOL. I. B import-

important principles of morality, jurisprudence, and politics, that is, whatever is most interesting in respect as well to man as to society. There can be nothing therefore more deserving of the application of a rational being, of a being that has its perfection and felicity seriously at heart. A just knowledge of the maxims we ought to follow in the course of life, is the principal object of wisdom; and virtue consists in putting them constantly in practice, without being ever diverted from so noble a pursuit.

We must deduce the principles of this science from the nature and state of man.

II. The idea of *Right*, and much more that of *Natural Right*, are undoubtedly relative to the nature of man. It is from this nature therefore, from the constitution and state of man, that we are to deduce the principles of this science.

The word *Right* (*Droit* \*) in its original signification, comes from the verb *dirigo*, which implies, to conduct a person to some certain end by the shortest road. Right, therefore, in its proper and most general sense, and that to which all the others must be reduced, is whatever directs, or is properly directed. This being premised, the first thing we have to examine is, whether man is susceptible of direction and rule in respect to his actions. That we may attempt this with a greater probability of success, we are to trace matters to their very origin, and ascending as high as the nature and constitution of man, we must there unravel the principle of his actions, and the several states that properly belong to him, in order to demonstrate afterwards in what manner, and how

\* The etymology given here by the Author was intended only for the French word *Droit*.

far, he is susceptible of direction in his conduct. This is the only method of knowing what is *right*, and what is not.

III. Man is an animal endowed with understanding, and reason ; a being composed of an organized body, and a rational soul.

Definition of man; what his nature is.

With regard to his body, he is pretty similar to other animals, having the same organs, properties, and wants. This is a living body, organized and composed of several parts ; a body that moves of itself, and feeble in the commencement, increases gradually in its progress by the help of nourishment, till it arrives to a certain period, in which it appears in its flower and vigor, from whence it insensibly declines to old age, which conducts it at length to dissolution. This is the ordinary course of human life, unless it happens to be abridged by some malady or accident.

vide. — See allyst in Catilina

But man, besides the marvelous disposition of his body, has likewise a rational soul, which eminently discriminates him from brutes. It is by this noble part of himself that he thinks, and is capable of forming just ideas of the different objects that occur to him ; of comparing them together ; of inferring from known principles unknown truths ; of passing a solid judgment on the mutual fitness or agreement of things, as well as on the relations they bear to us ; of deliberating on what is proper or improper to be done ; and of determining consequently to act one way or other. The mind recollects what is past, joins it with the present, and extends its views to futurity. It is capable of penetrating into the causes, progress, and consequence of things, and of discover-

\* L'homme est une intelligence servie par des organes.

vering, as it were at one glance, the intire course of life, which enables it to lay in a store of such things as are necessary for making a happy career. Besides, in all this, it is not subject to a constant series of uniform and invariable operations, but finds itself at liberty to act or not to act, to suspend its actions and motions, to direct and manage them as it thinks proper.

IV. Such is the general idea we are to form of the nature of man. What results from hence is, that there are several sorts of human actions: Some are purely spiritual, as to think, to reflect, to doubt, &c. others are merely corporeal, as to breathe, to grow, &c. and some there are that may be called mixt, in which the soul and body have both a share, being produced by their joint concurrence, in consequence of the union which God has established between these two constituent parts of man; such as to speak, to work, &c.

Those actions, which either in their origin or direction depend on the soul, are called human or voluntary; all the rest are termed merely physical. The soul is therefore the principle of human actions; and these actions cannot be the object of rule, but inasmuch as they are produced and directed by those noble faculties with which man has been enriched by his Creator. Hence it is necessary to enter into a particular inquiry concerning this subject, and to examine closely into the faculties and operations of the soul, in order to discover in what manner they concur to the production of human actions. This will help us, at the same time, to unfold the nature of these

Different  
actions of  
man:  
Which are  
those that  
are the ob-  
ject of  
Right?

these actions, to assure ourselves whether they are really susceptible of rule, and how far they are subject to human command. x

V. Let man reflect but ever so little on himself, Principal faculties of the soul. sense and experience will soon inform him, that his soul is an agent, whose activity displays itself by a series of different operations; which having been distinguished by separate names, are likewise attributed to different faculties. The chief of these faculties are the understanding, will, and liberty. The soul is, indeed, a simple being; but this does not hinder us, when we attend to its different ways of operating, from considering it as a subject in which different powers of acting reside, and from giving different denominations to these powers. If we consider the thing in this manner, we shall find it will give a greater exactness and perspicuity to our ideas. Let us remember therefore, that these faculties are nothing else but the different powers of acting inherent in the mind, by means of which it performs all its operations.

VI. The principal faculty of the soul, that which constitutes the fundamental part of its being, and serves, as it were, for its intrinsic light, is the understanding. We may define it that faculty or power, by which the mind perceives, and forms ideas of things, in order to come at the knowledge of truth. Truth may be taken here in two significations; either for the nature, state, and mutual relations of things; or for the ideas agreeable to this nature, state, and relations. To have a knowledge therefore of truth,

is to perceive things such as they are in themselves, and to form ideas concerning them conformable to their nature.

*Principle.*  
The understanding is naturally right.

VII. We must therefore set out with acknowledging as a fixt and uncontestable principle, that the human understanding is naturally right, and has within itself a strength sufficient to arrive at the knowledge of truth, and to distinguish it from error; especially in things wherein our respective duties are concerned, and which are requisite to form man for a virtuous, honourable, and quiet life; provided, however, he employs all the care and attention that lies in his power.

Sense and experience concur to convince us of the truth of this principle; which is the hinge, as it were, whereon the whole system of humanity turns. It cannot be called in question, without sapping the foundation, and intirely subverting the whole structure of society; because this would be annulling all manner of distinction between truth and error, and between good and evil; and by a natural consequence of this subversion, we should find ourselves reduced to the necessity of doubting of every thing; which is the highest pitch of human extravagance.

Those who pretend that reason and its faculties are depraved in such a manner, as to be no longer capable of serving as a sure and faithful guide to man, either in respect to his duties, or particularly with regard to religion; do not reflect that they have adopted for the basis of their system, a principle destructive of all truth, and consequently of religion. Thus we see that the sacred scripture, far from establish-

establishing any such maxim, assures us \*, that *when the Gentiles which have not the law, do by nature the things contained in the law; these having not the law, are a law to themselves. Which shew the work of the law written in their hearts, their conscience also bearing witness.*

True it is, that a bad education, vicious habits, and irregular passions, may offuscate the mind; and that neglect, levity, and prejudices, precipitate men frequently into the grossest errors in point of religion and morals. But this proves only that men may make a bad use of their reason, and not that the natural rectitude of the faculties is subverted. What we have still to say, concerning this point, will help to set it in a clearer light.

VIII. Let us proceed now to a closer inquiry into the operations of the understanding. The perception, or view and knowledge of things, is commonly formed by the concurrence of two actions; one from the object, and is the impresson which this object makes on us; the other from the mind, and is properly a glance, or simple view of the soul, on the object it is desirous of knowing. But as a first view is not always sufficient, it is necessary that the mind should apply itself for some time to a serious consideration of the object, to the end it may acquire a just knowledge of things, and form thereof exact ideas. This application, with which the soul continues to view the object in order to know it well, is called attention; and if it turns itself different ways, to consider the object on all sides, this is

In what manner perception, attention, and examen, are formed.

\* Rom. ii. 14, 15.

termed examen or inquiry. We may therefore affirm, that the perception or knowledge of things depends intirely, in respect to the mind, on its natural vigor and attention.

Evidence;  
Probability.

IX. It is by these helps, drawn from his own fund, that man attains at length a clear and distinct knowledge of things, and their relations; as also of ideas, and the conformity of those ideas to their originals; in short, that he acquires the knowledge of truth. We give the name of evidence, to this clear and distinct view of things, and of their mutual relations; a point to which we should be particularly attentive. For this evidence being the essential characteristic of truth, or the sure mark whereby one cannot help distinguishing it, the consequence is, that it necessarily produces such an internal conviction, as forms the highest degree of certainty. It is true that all objects do not present themselves with so strong a light, and that notwithstanding the great care and application a man may use, all that he is frequently able to attain, is only a glimmering light, which, according to its strength or weakness, produces different degrees of probability and seeming truth. But this must be absolutely the case of every being, whose faculties are limited: It is sufficient that man, in respect to his destination and state, is capable of knowing with certainty those things which concern his perfection and happiness; and moreover, that he is able to distinguish between probability and evidence, as also between the different degrees of probability, in order to proportion his assent to those differences. Now a person need but enter never so little into himself,

could but  
in probability  
obscure

by what does a man enter into himself? is it not by an operation of the mind? Suppose the  
another image

self, and reflect on the operations of his mind, to be convinced, beyond any possibility of doubt, that man is really possessed of this discernment.

*How?*  
*very obscure*

X. The senses, taken for the sensitive faculty, the imagination also, and the memory, must be all reduced to the understanding. In fact, the senses, considered in this manner, are nothing else but the understanding itself, as it makes use of the senses and organs of the body, to perceive corporeal objects. The imagination likewise is nothing but the understanding, as it perceives absent objects, not in themselves, but by their images formed in the brain. The memory, in fine, is no more than the understanding, considered as possessed of the faculty of retaining the ideas it forms of things, and capable of representing them to itself whenever there is occasion; advantages that principally depend on the care we take in repeating frequently those ideas.

Of the senses, the imagination, and memory.  
*+ the Auth*  
*is obscure*  
*and it*  
*however*  
*meaning*  
*the senses*  
*the end*  
*ing is made*  
*steps of the*  
*senses the*  
*imagination*  
*the memory*  
*and all the*  
*organs of*  
*the body are*

*heaven knows what else!*

XI. From what has been hitherto said with regard to the understanding, it follows, that the object of this faculty of the soul is truth, with all the acts and means that lead us to it. Upon this supposition, the perfection of the understanding consists in the knowledge of truth, this being the end for which it is designed.

The perfection of the understanding consists in the knowledge of truth. Two obstacles to this perfection, ignorance and error.

There are two things, among others, opposite to this perfection, ignorance and error, which are two maladies, as it were, of the mind. Ignorance is no more than a privation of ideas or knowledge; but error is a nonconformity or opposition of our ideas to the nature and state of things. Error being therefore the

*thus*  
the

the subversion of truth, is much more opposite to it than ignorance, which is a kind of medium between truth and error.

It is to be observed here, that we do not speak of the understanding, truth, ignorance, and error, purely to know what these things are in themselves; our main design is to consider them as principles of our actions. In this light, ignorance and error, though naturally distinct from one another, are generally mixt, as it were, and confounded; insomuch, that whatsoever is said of one, ought equally to be applied to the other. Ignorance is frequently the cause of error; but whether joined or separate, they follow the same rules, and produce the same effect by the influence they have over our actions or omissions. Perhaps, were we to examine into things exactly, error only, properly speaking, can be looked upon as a principle of action, and not simple ignorance, which being nothing more of itself than a privation of ideas, cannot be productive of any thing.

Different  
sorts of er-  
rors. 1. Er-  
ror of the  
law, and of  
the fact. 2.  
Voluntary  
and involun-  
tary. 3. Ef-  
fential and  
accidental.

XII. There are several sorts of ignorance and error, whose different divisions it is proper for us to observe. 1. Error considered in respect to its object, is either of the law or of the fact. 2. With regard to its origin, ignorance is voluntary or involuntary, error is vincible or invincible. 3. In relation to the influence of the error on a particular affair or action, it is esteemed essential or accidental.

Error is of the law or fact according as people are mistaken either in respect to the disposition of the law, or in regard to a fact that is not sufficiently known. For instance, it would be an error of the law,

law, were a prince to suppose himself intitled to declare war against a neighbouring state, only because it insensibly increases in strength and power. Such was likewise the error so common formerly among the Greeks and Romans, that it was allowable for parents to expose their children. \* On the contrary, the idea Abimelech had of Sarah the wife of Abraham, by taking her for an unmarried person, was an error of the fact.

The ignorance a person lies under through his own fault, or an error contracted by neglect, and which might have been avoided by using all possible care and attention, is a voluntary ignorance, or a vincible and surmountable error. Thus the polytheism of the Pagans was a vincible error; for they had only to make a right use of their reason, in order to be convinced that there was no necessity for supposing a plurality of gods. The same may be said of an opinion established among most of the ancients, that piracy was lawful against those with whom there was no treaty subsisting, and that it was allowable to consider them as enemies. Ignorance is involuntary, and error invincible, when they are such as could neither have been prevented nor removed, even by all the care and endeavours that are morally possible; that is, judging of them according to the constitution of human things, and of common life. Thus the ignorance of the christian religion, under which the people of America laboured, before they had any communication with the Europeans, was an involuntary and invincible ignorance.

\* See another example in St. Matthew, chap. xv. 4, 5.

In fine, we understand by an essential error, that whose object is some necessary circumstance in the affair, and which for this very reason has a direct influence on the action done in consequence thereof; insomuch, that were it not for this error, the action would never have been done. Hence this is denominated likewise an efficacious error. By necessary circumstances, we are to understand those which are necessarily required, either by the very nature of the thing, or by the intention of the agent, formed at the proper time, and made known by suitable indications. It was thus, for instance, an essential error in the Trojans, at the taking of their town, to shoot their darts against their own people, mistaking them for enemies, because of their being armed after the Greek manner. Again; a person marries another man's wife, supposing her to be a maid, or not knowing that her husband is still living: this regards the very nature of the thing, and is of course an essential error.

On the contrary, accidental error is that which has no necessary connexion of itself with the affair, and consequently cannot be considered as the real cause of the action. A person abuses or insults another, taking him for somebody else, or because he supposes the prince is dead, as it had been groundlessly reported, &c. These are errors merely accidental, which subsist indeed in the mind of the agent, and have accompanied him in the action, but cannot be considered as its real cause.

It is likewise observable, that these different qualities of ignorance or error may concur, and be found united in the same case. It is thus an error of the fact may be

be either essential or accidental; and both the one and the other may be either voluntary or involuntary, vincible or invincible.

So much may suffice for what regards the understanding. Let us proceed now to examine into the other faculties of the soul, which concur also to the production of human actions.

## CHAP. II.

*Continuation of the Principles relative to the nature of man. Of will and liberty.*

I. IT was not sufficient, pursuant to the views of the Creator, that the human mind should be possessed of the faculty of knowing things, and of forming thereof ideas; it was likewise requisite it should be endowed with an active principle to set it in motion, and with a power whereby man, after knowing the objects that occur to him, should be capable of determining to act or not to act, according as he judges proper. This faculty is what we call the will.

The Will.  
What happiness and good consist in.

The will is therefore nothing else but that power of the soul, by which it is determined of itself, and by virtue of an active principle inherent in its nature, to seek for what is agreeable to it, to act after a certain manner, and to do or to omit an action, with a view of happiness.

By *Happiness* we are to understand the internal satisfaction of the mind, arising from the possession of

of good; and by good whatever is suitable or agreeable to man for his preservation, perfection, conveniency, or pleasure. The idea of good determines that of evil, which, in its most general signification, implies whatever is opposite to the preservation, perfection, conveniency, or pleasure of man.

Instincts,  
inclinations,  
passions.

II. Instincts, inclinations, and passions, are reducible to the will. Instincts are sentiments excited in the soul by the wants of the body, which determine it to provide immediately against them. Such are hunger, thirst, the aversion for whatever is hurtful, &c. The inclinations are a propensity of the will, which leads it rather towards some sorts of objects than others, but in an even tranquil manner, a manner so proportioned to all its operations, that instead of obstructing or interrupting, it generally facilitates them. As for the passions, they are, indeed, in the same manner as the inclinations, motions of the will towards certain objects, but motions of a more impetuous and turbulent kind, motions that dispossess the soul of its natural tranquillity, and hinder it from directing properly its operations. Then it is that the passions become most dangerous distempers. The cause of the passions is, generally, the allurements of some sensible good, which sollicit the soul, and impels it with too violent an impression.

It is easy to conceive, by what has been here said, that the inclinations, passions, and instincts, have a very great affinity with one another. They are all alike propensities or motions, which have frequently the same objects; but there is this difference between these

these three species of motions, that instincts are necessarily the same in all men, by a natural consequence of their constitution, and of the union between the body and the soul; whereas the inclinations and passions, particularly considered, have nothing necessary in their nature, and are surprisngly different in different men.

Let us make an observation here, which falls in very naturally: it is that we often give the name of *Heart* to the will, considered as susceptible of the forementioned motions; and the reason of this in all probability is, because these motions were supposed to have their seat in the heart.

III. Such is the nature of the soul, that the will Liberty: in  
not only acts always spontaneously, that is, of its what it con-  
own proper motion, of its own accord, and by an sists.  
internal principle; but likewise, that its determinations are generally accompanied with liberty.

We give the name of liberty to that force or power of the soul, whereby it modifies and regulates its operations as it pleases, so as to be able to suspend, continue, or alter its deliberations and actions; in a word, so as to be capable to determine and act with choice, according as it thinks proper. It is by this excellent faculty, that man has a kind of command over himself and his actions: and as he is hereby rendered also capable of conforming to rule, and answerable for his conduct, it is therefore necessary to give a further explication of the nature of this faculty.

Will and liberty being faculties of the soul, they cannot be blind or destitute of knowledge; but  
neces-

necessarily suppose the operation of the understanding. How is it possible in fact to determine, suspend, or alter our resolutions, unless we know what is proper for us to chuse? It is contrary to the nature of an intelligent and rational being to act without intellect and reason. This reason may be either superficial or bad; yet it has some appearance at least, some glimmering, that makes us give it a momentary approbation. Wherever there is election or choice, there must be a comparison; and a comparison implies at least a confused reflection, a kind of deliberation, though of a quick and almost imperceptible nature, on the subject before us.

The end of our deliberations is to procure us some advantage. For the will tends generally towards good, that is, to whatsoever is really or apparently proper for rendering us happy; insomuch, that all actions depending on man, and that are any way relative to his end, are for this very reason subject to the will. And as truth, or the knowledge of things, is agreeable to man; and in this signification truth is also a good, it follows therefore that truth forms one of the principal objects of the will.

Liberty, like the will, has goodness and truth for its object; but it has less extent with regard to actions; for it does not exercise itself in all the acts of the will, but only in those which the soul has a power of suspending or altering as she pleases.

Use of liberty in our judgments in respect to truth.

IV. But if any one should inquire which are those acts wherein liberty displays itself? We answer, that they are easily known, by attending to what passes within us, and to the manner in which the mind conducts

conducts itself in the several cases that daily occur: as, in the first place, in our judgments concerning true and false; secondly, in our determinations in relation to good and evil; and finally, in indifferent matters. These particulars are necessary, in order to be acquainted with the nature, use, and extent of liberty.

With regard to truth, we are formed in such a manner, that so soon as evidence strikes the mind, we are no longer at liberty to suspend our judgment. Vain would be the attempt to resist this sparkling light; it absolutely forces our assent. Who, for example, could pretend to deny that the whole is greater than its part, or that harmony and peace are preferable, either in a family or state, to discord, tumults, and war?

The same cannot be affirmed in regard to things that have less perspicuity and evidence; for in these the use of liberty displays itself in its full extent. It is true our mind inclines naturally to that side which seems the most probable; but this does not debar it from suspending its assent, in order to seek for new proofs, or to refer the whole inquiry to another opportunity. The obscurer things are, the more we are at liberty to hesitate, to suspend, or defer our determination. This is a point sufficiently evinced by experience. Every day, and at every step, as it were, disputes arise, in which the arguments on both sides leave us, by reason of our limited capacity, in a kind of doubt and equilibrium, which permits us to suspend our judgment, to examine the thing anew, and to incline the balance at length to one side more than the other. We find, for example,

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that

that the mind can hesitate a long time, and forbear determining itself, even after a mature inquiry, in respect to the following questions: Whether an oath extorted by violence is obligatory? Whether the murder of Cæsar was lawful? Whether the Roman senate could with justice refuse to confirm the promise made by the Consuls to the Samnites, in order to extricate themselves from the *Caudine Forks*; or whether they ought to have ratified and given it the force of a public treaty? &c.

Liberty has its exercise, even in regard to things that are evident.

V. Though there is no exercise of liberty in our judgment, when things present themselves to us in a clear and distinct manner; still we must not imagine that the intire use of this faculty ceases in respect to things that are evident. For in the first place, it is always in our power to apply our minds to the consideration of those things, or else to divert them from thence, by transferring somewhere else our attention. This first determination of the will, by which it is led to consider or not to consider the objects that occur to us, merits particular notice, because of the natural influence it must have on the very determination, by which we conclude to act or not to act, in consequence of our reflexion and judgment. Secondly, we have it likewise in our power to create, as it were, evidence in some cases, by dint of attention and inquiry; whereas at first setting out, we had only some glimmerings, insufficient to give us an adequate knowledge of the state of things. In fine, when we have attained this evidence, we are still at liberty to dwell more or less on the consideration thereof; which is also of great consequence, because on this depends its greater or lesser degree of impresson. These

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obscure

These remarks lead us to an important reflexion, Objection, which may serve for answer to an objection raised against liberty. "It is not in our power (say they) "to perceive things otherwise than as they offer "themselves to our mind; now our judgments are "formed on this perception of things; and it is by "these judgments that the will is determined: The "whole is therefore necessary and independent of "liberty."

But this difficulty carries little more with it Answer, than an empty appearance. Let people say what they will, we are always at liberty to open or to shut our eyes to the light; to exert, or relax our attention. Experience shews, that when we view an object in different lights, and determine to search into the bottom of matters, we descry several things that escaped us at first sight. This is sufficient to prove that there is an exercise of liberty in the operations of the understanding, as well as in the several actions thereon depending.

VI. The second question we have to examine, is Use of liberty with regard to good and evil, whether we are equally free in our determinations, in regard to good and evil.

To decide this point, we need not stir out of our selves; for here also by facts, and even by our internal experience, the question may be determined. Certain it is, that in respect to good and evil considered in general, and as such, we cannot, properly speaking, exercise our liberty, by reason that we feel ourselves drawn towards the one by an invincible propensity, and estranged from the other by a natural and insuperable aversion. Thus it has been ordered

by the author of our being, whilst man has no power in this respect to change his nature. We are formed in such a manner, that good of necessity allures us; whereas evil, by an opposite effect, repels us, as it were, and deters us from attempting to pursue it.

But this strong tendency to good, and natural aversion to evil in general, does not debar us from being perfectly free in respect to good and evil particularly considered; and though we cannot help being sensible of the first impressions which the objects make on us, yet this does not invincibly determine us to pursue or shun those objects. Let the most beautiful and most fragrant fruit, replenished with exquisite and delicious juice, be unexpectedly set before a person oppressed with thirst and heat; he will find himself instantly inclined to seize on the blessing offered to him, and to ease his inquietude by a salutary refreshment. But he can also stop, and suspend his action, in order to examine whether the good he proposes to himself, by eating this fruit, will not be attended with evil; in short, he is at liberty to weigh and deliberate, in order to embrace the safest side of the question. Besides, we are not only capable, with the assistance of reason, to deprive ourselves of a thing, whose flattering idea invites us; but moreover we are able to expose ourselves to a chagrin or pain, which we dread and would willingly avoid, were we not induced by superior considerations to support it. Can any one desire a stronger proof of liberty?

With regard  
to indifferent  
things.

VII. True it is notwithstanding, that the exercise of this faculty never displays itself more than in indifferent

different things. I find, for instance, that it depends intirely on myself to stretch out or draw back my hand; to sit down or to walk; to direct my steps to the right or left, &c. On these occasions, where the soul is left intirely to itself, either for want of external motives, or by reason of the opposition and, as it were, the equilibrium of these motives, if it determines on one side, this may be said to be the pure effect of its pleasure and good will, and of the command it has over its own actions.

VIII. Let us stop here a while to inquire, how comes it that the exercise of this power is limited to particular goods and non-evident truths, without extending itself to good in general, or to such truths as are perfectly clear. Should we happen to discover the reason thereof, it will furnish us with a new subject to admire the wisdom of the Creator in the constitution of man, and with a means at the same time of being better acquainted with the end and true use of liberty.

Why the exercise of liberty is restrained to non-evident truths, and particular goods.

And first we hope there is no body but will admit, that the end of God in creating man was to render him happy. Upon this supposition, it will be soon agreed, that man cannot attain to happiness any other way than by the knowledge of truth, and by the possession of real good. This is evidently the result of the notions above given of good and happiness. Let us therefore direct our reflexions towards this prospect. When things, that are the object of our researches, present themselves to our minds with a feeble light, and are not accompanied with that splendor and clearness, which enables us to know them

perfectly, and to judge of them with full certainty; it is proper and even necessary for us to be invested with a power of suspending our judgment; to the end that being necessarily determined to acquiesce in the first impression, we should be still at liberty to carry on our inquiry, till we arrive to a higher degree of certainty, and if possible, as far as evidence itself. Were not this the case, we should be exposed every moment to error, without any possibility of being undeceived. It was therefore extremely useful and necessary to man, that under such circumstances he should have the use and exercise of his liberty.

But when we happen to have a clear and distinct view of things and their relations, that is, when evidence strikes us, it would be of no manner of signification to have the use of liberty, in order to suspend our judgment. For certainty being then in its very highest degree, what benefit should we reap by a new examen or inquiry, were it in our power? We have no longer occasion to consult a guide, when we see distinctly the end we are tending to, and the road we are to take. It is therefore an advantage to man to be unable to refuse his assent to evidence.

IX. Let us reason pretty near in the same manner on the use of liberty with respect to good and evil. Man designed for happiness, should certainly have been formed in such a manner, as to find himself under an absolute necessity of desiring and pursuing good, and of shunning on the contrary evil in general. Were the nature of these faculties such, as to  
leave

leave him in a state of indifference, so as to be at liberty in this respect to suspend or alter his desires, plain it is, that this would be esteemed a very great imperfection in him; an imperfection that would imply a want of wisdom in the author of his being, as a thing directly opposite to the end he proposed in giving him life.

No less an inconveniency would it be on the other hand, were the necessity which man is under of pursuing good and avoiding evil to be such as would insuperably determine him to act or not to act, in consequence of the impressions made on him by each object. Such is the state of human things, that we are frequently deceived by appearances; it is very rare that good or evil presents itself to us pure and without mixture; but there is almost always a favourable and adverse side, an inconveniency mixt with utility. In order to act therefore with safety, and not to be mistaken in our account, it is generally incumbent upon us to suspend our first motions, to examine more closely into things, to make distinctions, calculations, and compensations; all which require the use of liberty. Liberty is therefore, as it were, a subsidiary faculty, which supplies the deficiencies of the other powers, and whose office ceaseth as soon as it has redressed them.

Hence let us conclude, that man is provided with all the necessary means for attaining to the end for which he is designed; and that in this, as in every other respect, the Creator has acted with wonderful wisdom.

X. After what has been said concerning the nature, operations, and use of liberty, it may seem perhaps The proof of liberty drawn from our inward  
 unne-

sense, is superior to any other.

unnecessary to attempt here to prove that man is indeed a free agent, and that we are as really invested with this as with any other faculty.

Nevertheless, as it is an essential principle, and one of the fundamental supports of our edifice, it is proper to make the reader sensible of the indubitable proof with which we are furnished by daily experience. Let us therefore consult only ourselves. Every one finds that he is master, for instance, to walk or sit, to speak or hold his tongue. Do not we also experience continually, that it depends intirely on ourselves to suspend our judgment, in order to proceed to a new inquiry? Can any one seriously deny, that in the choice of good and evil our resolutions are unconstrained; that, notwithstanding the first impression, we have it in our power to stop of a sudden, to weigh the arguments on both sides, and to do, in short, whatever can be expected from the freest agent? Were I invincibly drawn towards one particular good rather than another, I shoul feel then the same impression as that which inclines me to good in general, that is, an impression that would necessarily drag me along, an impression which there would be no possibility of resisting. Now experience makes me feel no such violence with respect to any particular good. I find I can abstain from it; I can defer using it; I can prefer something else to it; I can hesitate in my choice; in short, I am my own master to chuse, or, which is the same thing, I am *free*.

Should we be asked, how comes it, that not being free in respect to good in general, yet we are at liberty with regard to particular goods? My answer is, that the natural desire of happiness does not in-

superably draw us towards any particular good, because no particular good includes that happiness for which we have a necessary inclination.

Sensible proofs, like these, are superior to all objection, and productive of the most inward conviction, by reason it is impossible, that when the soul is modified after a certain manner, it should not feel this modification, and the state which consequently attends it. What other certainty have we of our existence? And how is it we know that we think, we act, but by our inward sense?

This sense of liberty is so much the less equivocal, as it is not momentary or transient: It is a sense that never leaves us, and of which we have a daily and continual experience.

Thus we see there is nothing better established in life, than the strong persuasion which all mankind have of liberty. Let us consider the system of humanity, either in general or particular, we shall find that the whole is built upon this principle. Reflexions, deliberations, researches, actions, judgments; all suppose the use of liberty. Hence the ideas of good and evil, of vice and virtue: hence, as a natural consequence, arises praise or blame, the censure or approbation of our own, or other people's conduct. The same may be said of the affections and natural sentiments of men towards one another, as friendship, benevolence, gratitude, hatred, anger, complaints, and reproaches: none of these sentiments could take place, unless we were to admit of liberty. In fine, as this prerogative is in some measure the key of the human system, he that does not allow it to man, subverts all order, and introduces a general confusion.

XI. It

How comes  
it that li-  
berty has  
been con-  
tacted.

XI. It is natural here to inquire, how it was ever possible for any body seriously to doubt, whether man is master of his actions, whether he is free? I should be less surprized at this doubt, were it concerning a strange or remote fact, a fact that was not transacted within ourselves. But the question is in regard to a thing, of which we have an internal immediate feeling, a constant and daily experience. Strange, that any one should call in question a faculty of the soul! May not we as well doubt of the understanding and will, as of the liberty of man? For if we are content to abide by our inward sense, there is no more room to dispute of one than of the other. But some too subtle philosophers, by considering this subject in a metaphysical light, have stript it, as it were, of its nature; and finding themselves at a loss to solve a few difficulties, they have given a greater attention to these difficulties than to the positive proofs of the thing; which insensibly led them to imagine that the notion of liberty was all an illusion. I own it is necessary, in the research of truth, to consider an object on every side, and to balance equally the arguments for and against; nevertheless we must take care we do not give to those objections more than their real weight. We are informed by experience, that in several things which in respect to us are invested with the highest degree of certainty, there are many difficulties notwithstanding, which we are incapable of resolving to our satisfaction: and this is a natural consequence of the limits of the mind. Let us conclude therefore from hence, that when a truth is sufficiently evinced by solid reasons, whatever can be objected against it, ought not to stagger

stagger or weaken our conviction, as long as they are such difficulties only as embarrass or puzzle the mind, without invalidating the proofs themselves. This rule is so very useful in the study of the sciences, that one should keep it always in sight \*. Let us resume now the thread of our reflexions.

XII. The denomination of voluntary or human actions in general is given to all those that depend on the will; and that of free, to such as come within the jurisdiction of liberty, which the soul can suspend or turn as it pleases. The opposite of voluntary is involuntary; and the contrary of free is necessary, or whatever is done by force or constraint. All human actions are voluntary, inasmuch as there are none but what proceed from ourselves, and of which we are the authors. But if violence, used by an external force, which we are incapable to resist, hinders us from acting, or makes us act without the consent of our will; as when a person stronger than ourselves lays hold of our arm to strike or wound another person, the action resulting from thence being involuntary, is not, properly speaking, our deed or action, but that of the agent from whom we suffer this violence.

Actions are voluntary, and involuntary; free, necessary, and constrained.

\* There is a wide difference between seeing that a thing is absurd, and not knowing all that regards it; between an unanswerable question in relation to a truth, and an unanswerable objection against it; though a great many confound these two sorts of difficulties. Those only of the latter order are able to prove, that what was taken for a known truth cannot be true, because otherwise some absurdity must ensue. But the others prove nothing but the ignorance we are under in relation to several things that regard a known truth. Biblioth. Raïson. Tom. 7. p. 346.

The same cannot be said of actions that are forced and constrained, only as we are determined to commit them, through fear of a great and imminent evil with which we are menaced: As for instance, were an unjust and cruel prince to oblige a judge to condemn an innocent person, by menacing to put him to death if he did not obey his orders. Actions of this sort, though forced in some sense, because we commit them with reluctance, and would never consent to them were it not for a very pressing necessity; such actions, I say, are ranked nevertheless among the number of voluntary actions, because, after all, they are produced by a deliberation of the will, which chuses between two inevitable evils, and determines to prefer the least to the greatest. This will become more intelligible by a few examples.

A person gives alms to a poor man, who exposes his wants and misery to him; this action is at the same time both voluntary and free. But suppose a man that travels alone and unarmed, falls into the hands of robbers, and that these miscreants menace him with instant death, unless he gives them all he has; the surrender which this traveller makes of his money in order to save his life, is indeed a voluntary action, but constrained at the same time, and void of liberty. For which reason there are some that distinguish these actions by the name of mixt\*, as partaking of the voluntary and involuntary. They are voluntary, by reason the principle that produces them is in the agent itself, and the will determines to commit them as the least of two evils: but they

\* See Puffendorf on the law of nature and nations, book i. chap. iv. § 9.

partake of the involuntary, because the will executes them contrary to its inclination, which it would never do, could it find any other expedient to clear itself of the dilemma.

Another necessary elucidation is, that we are to suppose that the evil with which we are menaced is considerable enough to make a reasonable impression upon a prudent or wise man, so far as to intimidate him; and besides that, the person who compels us has no right to restrain our liberty; inasmuch that we do not lie under an obligation of bearing with any hardship or inconveniency, rather than displease him. Under these circumstances, reason would have us determine to suffer the lesser evil, supposing at least that they are both inevitable. This kind of constraint lays us under what is called a moral necessity; whereas, when we are absolutely compelled to act, without being able, in any shape whatsoever, to avoid it, this is termed a physical necessity.

It is therefore a necessary point of philosophical exactness to distinguish between voluntary and free. In fact, it is easy to comprehend, by what has been now said, that all free actions are indeed voluntary, but all voluntary actions are not free. Nevertheless, the common and vulgar way of speaking frequently confounds those two terms, of which we ought to take particular notice, in order to avoid all ambiguity.

We give likewise the name of manners sometimes to free actions, inasmuch as the mind considers them as susceptible of rule. Hence we call morality the art which teaches the rules of conduct, and the method of conforming our actions to those rules.

XIII. We

Our faculties help one another reciprocally.

XIII. We shall finish what relates to the faculties of the soul by some remarks, which will help us to understand better their nature and use.

1. Our faculties assist one another in their operations, and when they are all united in the same subject, they act always jointly. We have already observed that the will supposes the understanding, and that the light of reason serves for a guide to liberty. Thus the understanding, the will, and liberty; the senses, the imagination, and memory; the instincts, inclinations, and passions; are like so many different springs, which concur all to produce a particular effect; and it is by this united concurrence we attain at length to the knowledge of truth, and the possession of solid good, on which our perfection and happiness depends.

Of reason and virtue.

XIV. 2. But in order to procure to ourselves those advantages, it is not only necessary that our faculties be well constituted in themselves, but moreover we ought to make a good use of them, and maintain the natural subordination there is between them, and the different motions which lead us towards, or divert us from, certain objects. It is not therefore sufficient to know the common and natural state of our faculties, we should likewise be acquainted with their state of perfection, and know in what their real use consists. Now truth being, as we have seen, the proper object of the understanding, the perfection of this faculty is to have a distinct knowledge of truth; at least of those important truths, which concern our duty and happiness.

ness. For such a purpose, this faculty should be formed to a close attention, a just discernment, and solid reasoning. The understanding thus perfected, and considered as having actually the principles which enable us to know and to distinguish the true and the useful, is what is properly called reason; and hence it is that we are apt to speak of reason as of a light of the mind, and as of a rule by which we ought always to be directed in our judgments and actions.

If we consider in like manner the will in its state of perfection, we shall find it consists in the force and habit of determining always right, that is, not to desire any thing but what reason dictates, and not to make use of our liberty but in order to chuse the best. This sage direction of the will is properly called Virtue, and sometimes goes by the name of Reason. And as the perfection of the soul depends on the mutual succours which the faculties, considered in their most perfect state, lend to one another; we understand likewise sometimes by reason, taken in a more vague, and more extensive sense, the soul itself, considered with all its faculties, and as making actually a good use of them. Thus the term *reason* carries with it always an idea of perfection, which is sometimes applied to the soul in general, and at other times to some of the faculties in particular.

XV. 3. The faculties, of which we are treating, are common to all mankind; but they are not found always in the same degree, neither are they determined after the same manner. Besides, they have their periods in every man; that is, their increase,

*Causes of the diversity we observe in the conduct of men.*

increase, perfection, infeebling, and decay, in the same manner almost as the organs of the body. They vary likewise exceedingly in different men: one has a brighter understanding; another a quicker sensation; this man has a strong imagination; while another is swayed by violent passions. And all this is combined and diversified an infinite number of ways, according to the difference of temperaments, education, examples, and occasions that furnish an opportunity for exercising certain faculties or inclinations rather than others: for it is the exercise that strengthens them more or less. Such is the source of that prodigious variety of geniuses, tastes, and habits, which constitutes what we call the characters and manners of men; a variety which, considered in general, very far from being unserviceable, is of great use in the views of providence.

XVI. But whatever strength may be attributed to the inclinations, passions, and habits, still it is necessary to observe, that they have never enough to impel man invincibly to act contrary to reason. Reason has it always in her power to preserve her superiority and rights. She is able, with care and application, to correct vicious dispositions, to prevent and even to extirpate bad habits; to bridle the most unruly passions by sage precautions, to weaken them by degrees, and finally to destroy them intirely, or to reduce them within their proper bounds. This is sufficiently proved by the inward feeling, that every man has of the liberty with which he determines to follow this sort of impressions; proved by the secret reproaches we make to ourselves, when

we

Reason has  
it always in  
her power  
to remain  
mistress.

we have been too much swayed by them; proved, in fine, by an infinite variety of examples. True it is, that there is some difficulty in surmounting these obstacles; but this is richly compensated by the glory attending so noble a victory, and by the solid advantages from thence arising.

## C H A P. III.

*That man thus constituted, is a creature capable of moral direction, and accountable for his actions.*

I. **A**FTER having seen the nature of man, considered in respect to right, the result is, that he is a creature really susceptible of choice and direction in his conduct. For since he is capable, by means of his faculties, of knowing the nature and state of things, and of judging from this knowledge; since he is invested with the power of determining between two or several offers made to him; in fine, since, with the assistance of liberty, he is able, in certain cases, to suspend or continue his actions, as he judges proper; it evidently follows, that he is master of his own actions, and that he exercises a kind of authority and command over them, by virtue of which he can direct and turn them which way he pleases. Hence it appears how necessary it was for us to set out, as we have done, with inquiring previously into the nature and faculties of man. For how could we have

Man is capable of direction in regard to his conduct.

to determine  
the nature  
of liberty

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discovered the rules by which he is to square his conduct, unless we antecedently know in what manner he acts, and what are the springs, as it were, that put him in motion?

He is accountable for his actions: they can be imputed to him.

II. Another remark, which is a consequence of the foregoing, is, that since man is the immediate author of his actions, he is accountable for them; and in justice and reason they can be imputed to him. This is a point of which we think it necessary to give here a short explication.

The term of *imputing* is borrowed of arithmetic, and signifies properly, to set a sum down to somebody's account. To impute an action therefore to a person, is to attribute it to him as to its real author, to set it down, as it were, to his account, and to make him answerable for it. Now it is evidently an essential quality of human actions, as produced and directed by the understanding and will, to be susceptible of imputation; that is, it is plain that man can be justly considered as the author and productive cause of those actions, and that for this very reason it is right to make him accountable for them, and to lay to his charge the effects that arise from thence as natural consequences. In fact, the true reason why a person cannot complain of being made answerable for an action, is that he has produced it himself knowingly and willingly. Every thing almost that is said and done in human society, supposes this principle generally received, and every body acquiesces in it from an inward conviction.

III. We

III. We must therefore lay down, as an incontrovertible and fundamental principle of the imputability of human actions, that every voluntary action is susceptible of imputation; or, to express the same thing in other terms, that every action or omission subject to the direction of man, can be charged to the account of the person in whose power it was to do it or let it alone; and on the contrary, every action, whose existence or non-existence does not depend on our will, cannot be imputed to us. Observe here, that omissions are ranked by civilians and moralists among the number of actions; because they apprehend them as the effect of a voluntary suspension of the exercise of our faculties.

Principle of imputability. We must not confound it with imputation.

Such is the foundation of imputability, and the true reason why an action or omission is of an imputable nature. But we must take particular notice, that though an action is imputable, it does not ensue from thence only, that it merits actually to be imputed. Imputability and imputation are two things, which we should carefully distinguish. The latter supposes, besides the imputability, some moral necessity of acting or not, after a certain manner; or, which amounts to the same, some obligation that requires a thing to be done or omitted that can be really done or omitted.

Puffendorf \* does not seem to have sufficiently distinguished between these two ideas. It is enough for our present purpose to point out the distinction,

\* See the Law of nature and nations, book i. chap. v. § 5. and the Duties of man and a citizen, book i. § 17.

deferring to treat of actual imputation, and to establish the principles thereof, till we have explained the nature of obligation, and shewn that man is actually obliged to conform his actions to rule.

What has been hitherto advanced, properly regards the nature of the human mind ; or the internal faculties of man, as they render him capable of moral direction. But in order to complete our knowledge of human nature, we should view it likewise in its extrinsic condition, in its wants and dependancies, and in the various relations wherein it is placed ; in fine, in what we may call the different states of man. For it is our situation in life that decides the use we ought to make of our faculties.

#### C H A P. IV.

*Further inquiry into what relates to human nature, by considering the different states of man.*

Definition.  
Division.

I. **T**H E different states of man are nothing more than the situation wherein he finds himself in regard to the beings that surround him, with the relations from thence resulting.

We shall be satisfied with taking here a cursory view of some of the principal states, and to render them distinguishable by their essential characteristics, without entering into an exact inquiry, which should naturally take place, when treating in particular of each state.

All these different states may be ranged under two general classes: some are primitive and original; others adventitious.

II. Primitive and original states are those in which man finds himself placed by the very hand of God, independent of any human action. Primitive and original states.

Such is, in the first place, the state of man with regard to God; which is a state of absolute dependence. For let us make but never so small a use of our faculties, and enter into the study of ourselves, it will evidently appear, that it is from this first Being we hold our life, reason, and all other concomitant advantages; and that in this and every other respect we experience daily, in the most sensible manner, the effects of the power and goodness of the Creator. 1. State of man with regard to God.

III. Another primitive and original state, is that wherein men find themselves in respect to one another. They are all inhabitants of the same globe, placed in a kind of vicinity to each other; have all one common nature, the same faculties, same inclinations, wants and desires. They cannot do without one another; and it is only by mutual assistance they are capable of attaining to a state of ease and tranquillity. Hence we observe a natural inclination in mankind that draws them towards each other, and establishes a commerce of services and benevolence between them, from whence results the common good of the whole, and the particular advantage of individuals. The natural state therefore of men among themselves, is a state of union and society; society being nothing more than the union 2. State of society.

of several persons for their common advantage. Besides, it is evident that this must be a primitive state, because it is not the work of man, but established by divine institution. Natural society is a state of equality and liberty; a state in which all men enjoy the same prerogatives, and an intire independance on any other power but God. For every man is naturally master of himself, and equally to his fellow-creatures, so long as he does not subject himself to another person's authority by a particular convention.

3. State of  
solitude  
4. Peace :  
War.

IV. The opposite state to that of society, is solitude; that is, the condition in which we imagine man would find himself, were he to live absolutely alone, abandoned to his own thoughts, and destitute of all commerce with those of his own species. Let us suppose a man arrived to the age of maturity, without having had the advantage of education or any correspondence at all with the rest of mankind, and consequently without any other knowledge but that which he has of himself acquired; such a man would be undoubtedly the most miserable of all animals. We should discover nothing in him but weakness, savageness, and ignorance; scarce would he be able to satisfy the wants of his body, exposed, poor wretch, to perish with hunger or cold, or by the ravenous teeth of wild beasts. What a vast difference between such a state and that of society, which by the mutual succours that men receive from one another, procures them all the knowledge, conveniency, and ease, that form the security, pleasure, and happiness of life? True it is, that all these advantages suppose that men, far from prejudicing one another,

another, live in harmony and concord, and entertain this union by mutual good offices. This is what we call a state of *peace*, whereas those who endeavour to do harm, and those also who find themselves obliged to guard against it, are in a state of war; a state of violence, diametrically opposite to that of society.

V. Let us observe, in the next place, that man finds himself naturally attached to the earth, from whose bosom he draws whatever is necessary for the preservation and conveniences of life. This situation produces another primitive state of man, which is likewise deserving of our attention.

State of man with regard to the goods of the earth.

Such in effect is the natural constitution of the human body, that it cannot subsist intirely of itself, and by the sole force of its temperament. Man, at all ages, stands in need of several external succours for his nourishment, as well as for repairing his strength, and keeping his faculties in proper order. For this reason our Creator has sown plentifully around us such things as are necessary for our wants, and has implanted in us at the same time the instincts and qualifications proper for applying these things to our advantage. The natural state therefore of man considered in this light, and in respect to the goods of the earth, is a state of indigence and incessant wants, against which he would be incapable to provide in a suitable manner, were he not to exercise his industry by constant labour. Such are the principal of those states that are called primitive and original.

Adventitious states.  
 1. Family.  
 2. Marriage.

VI. But man being naturally a free agent, he is capable of making great modifications in his primitive state, and of giving by a variety of establishments a new face to human life. Hence those adventitious states are formed, which are properly the work of man, wherein he finds himself placed by his own act, and in consequence of establishments, whereof he himself is the author. Let us take a cursory view of the principal of these states.

The first that presents itself to us, is the state of families. This is the most natural and most ancient of all societies, and the very foundation of that which is called national; for a people or nation is only an assemblage or composition of several families.

Families begin by marriage; and it is nature itself that invites men to this union. Hence children arise, who by perpetuating the several families, prevent the extinction of human societies, and repair the breaches made every day by death.

The family state is productive of various relations; as those of husband, wife, father, mother, children, brothers, sisters, and all the other degrees of kindred, which are the first tie of human society.

3. Weakness of man at his birth.  
 4. Natural dependance of children on their parents.

VII. Man considered in his birth is weakness and impotency itself, in regard as well to the body, as to the soul. It is even remarkable, that the state of weakness and infancy lasts longer in man than in any other animal. He is beset and pressed on all sides by a thousand wants, and destitute of knowledge, as well as strength, finds himself in an absolute incapacity of relieving them: he is therefore under a particular

particular necessity of recurring to external assistance. Providence for this reason has inspired parents with that instinct or natural tenderness, which prompts them so eagerly to delight in the most troublesome cares, for the preservation and good of those whom they have brought into the world. It is likewise in consequence of this state of weakness and ignorance in which children are born, that they are naturally subject to their parents; whom nature has invested with all the authority and power necessary for governing those, whose advantage they are to study and procure.

VIII. The property of goods is another very im-  
 portant establishment, which produces a new ad-  
 ventitious state. It modifies the right which all men  
 had originally to earthly goods; and distinguish-  
 ing carefully what belongs to individuals, ensures  
 the quiet and peaceable enjoyment of what they  
 possess; by which means it contributes to the main-  
 tenance of peace and harmony among mankind.  
 But since all men had originally a right to a common  
 use of whatever the earth produces for their several  
 wants; it is evident therefore, that if this natural  
 power is actually restrained and limited in divers re-  
 spects, this must necessarily arise from some human  
 act; and consequently the state of property, which is  
 the cause of those limitations, ought to be ranked  
 among the adventitious states.

The state of  
 property.

IX. But among all the states established by the act  
 of man, there is none more considerable than the ci-  
 vil state, or that of civil society and government. The  
 essential

Civil state  
 and govern-  
 ment.

essential character of this society, which distinguishes it from the forementioned society of *nature*, is the subordination to a supreme authority, exclusive of equality and independance. Mankind were originally divided into families only, and not into nations. Those families lived under the paternal government of the person who was their chief, as their father or grandfather. But when they came afterwards to increase and unite for their common defence, they composed a national body, governed by the will of him, or of those on whom they had conferred the authority. This is the origin of what we call civil government, and of the distinction of sovereign and subjects.

The civil state and property of goods give rise to several other adventitious states.

X. The civil state and property of goods produced several other establishments, which form the beauty and ornament of society, and from whence so many adventitious states arise: such as the different posts or offices of those who have any share in the government; as magistrates, judges, state-officers, ministers of religion, physicians, &c. To which may be added the polite arts, trades, agriculture, navigation, commerce, with their several dependancies, whereby human life is so agreeably and advantageously diversified.

True idea of the natural state of man.

XI. Such are the principal states produced by human consent. And yet, as these different modifications of the primitive state of man are the effect of his natural liberty, the new relations and different states from thence arising, may be very well considered as so many natural states; provided however that the use which men make of their liberty, in this respect,

spect, has nothing in it unconformable to their natural constitution, that is, to reason and the state of society.

It is therefore proper to observe, in relation to this subject, that when we speak of the natural state of man, we are to understand not only that natural and primitive state, in which he is placed, as it were, by the hands of nature herself; but moreover all those into which man enters by his own act and agreement, and that are conformable in the main to his nature, and contain nothing but what is agreeable to his constitution and the end for which he was formed. For since man himself, as a free and intelligent being, is able to see and know his situation, as also to discover his ultimate end, and in consequence thereof to take the right measures to attain it; it is properly in this light we should consider his natural state, to form thereof a just idea. That is, the natural state of man is, generally speaking, that which is conformable to his nature, constitution, and reason, as well as to the good use of his faculties, considered in their full maturity and perfection. We shall be particularly attentive to this remark, the importance of which will appear more sensibly by the application and use that may be made thereof on several occasions.

XII. Let us not forget to observe likewise, that there is this difference between the primitive and adventitious states, that the former being annexed, as it were, to the nature and constitution of man, such as he has received them from God, are, for this very reason, common to all mankind. The same cannot be said of the adventitious states; which, supposing an human

Difference  
between  
original and  
adventitious  
states.

man

man act or agreement, cannot of themselves be indifferently suitable to all men, but to those only that contrived and procured them.

Let us add, in fine, that several of those states may be found combined and united in the same person, provided they have nothing incompatible in their nature. Thus the same person may be father of a family, judge, minister of state, &c. all at the same time.

Such are the ideas we are to form of the nature and different states of man; and it is of all these parts united and compacted together, that the intire system of humanity is formed. These are like so many wheels of the same machine, which combined and managed by a dexterous hand, conspire all to the same end; and, on the contrary, unskilfully directed, embarrass and destroy each other. But how man, in fine, is enabled to conduct himself in this prudent manner, and what rule he is to observe in order to attain this happy end, is what we have still to inquire, and forms the subject of the following chapters.

*begin Bunker's Macquei at this Cap.*

## C H A P. V.

*That man ought to square his conduct by rule;  
the method of finding out this rule; and the  
foundations of right in general,*

Definition  
of a rule.

I. **L**ET us begin with an explication of the terms.  
A rule, in its proper signification, is an instrument, by means of which we draw the shortest  
line

line from one point to another, which for this very reason is called a straight line.

In a figurative and moral sense, a rule imports nothing else, but a principle, or maxim, which furnishes man with a sure and concise method of attaining to the end he proposes.

II. The first thing we are to inquire in regard to this subject \* is, whether it is really agreeable to the nature of man to submit his actions to a fixt and invariable rule; or whether, on the contrary, he is allowed to abandon himself indifferently to all the motions of his will, and thus to enjoy, without either limit or impediment, the extreme facility with which this faculty turns itself on all sides, in consequence of its natural flexibility.

It is not convenient, that man should live without a rule.

The reflexions we have given in the preceding chapters, are of themselves, and independent of any other argument, a sufficient and convincing proof, that the nature and constitution of man requires the establishment of some rule. Every thing in nature has its destination and end; and consequently, each creature is conducted to its end by a proper principle of direction. Man, who holds a considerable rank among the beings that surround him, participates undoubtedly of this fixt and universal order. And whether we consider him in himself as an intelligent and rational being; or view him as a member of society; or whether, in fine, we regard him as the handywork of God, and deriving from this first being his faculties, state, and existence; all these circumstances

\* See Puffendorf, Law of nature and nations, book ii. chap. i.

evidently indicate an end, a destination, and consequently imply the necessity of a rule. Had man been created to live at random without any fixt and determinate view, without knowing whither he is to direct his course, or what road he ought to take; it is evident that his noblest faculties would be of no manner of use to him. Wherefore waving all disquisitions concerning the necessity of a rule, let us endeavour rather to discover what this rule is, which alone, by enlightening the understanding, and directing our actions to an end worthy of him, is capable of forming the order and beauty of human life.

A rule sup-  
poses an  
end, an aim.

III. When we speak of a rule in relation to human actions, two things are manifestly supposed: the first, that human conduct is susceptible of direction, as we have already proved; the second, that man in all his steps and actions proposes to himself a scope or end which he is desirous to attain.

The ulti-  
mate end of  
man is hap-  
piness.

IV. Now let man reflect but never so little on himself, he will soon perceive that every thing he does is with a view of happiness, and that this is the ultimate end he proposes in all his actions, or the last term to which he reduces them. This is a first truth, of which we have a continual conviction from our own internal sense. Such, in effect, is the nature of man, that he necessarily loves himself, that he seeks in every thing and every where his own advantage, and can never be diverted from this pursuit. We naturally desire, and necessarily wish for good. This desire anticipates all our reflexions, and is not in our own election; it predominates in us, and becomes  
the

the primum mobile of all our determinations; our hearts being never inclined towards any particular good, but by the natural impression which determines us to good in general. It is not in our power to change this bent of the will, which the Creator himself has implanted in us.

V. This system of providence extends to all beings endowed with sense and knowledge. Even animals themselves have a like instinct; for they all love themselves, endeavouring at self-preservation by all sorts of means, eagerly pursuing whatever seems good or useful to them, and turning, on the contrary, from whatever appears prejudicial or bad. The same propensity shews itself in man, not only as an instinct, but moreover as a rational inclination approved and strengthened by reflexion. Hence whatsoever presents itself to us as an object proper to promote our happiness, must of necessity please us; and every thing that appears opposite to our felicity, becomes of course the object of our aversion. The more we study man, the more we are convinced that here, in reality, lies the source of all our tastes; here the grand spring which sets us in motion.

It is the system of providence.

VI. And indeed, if it be natural to every intelligent and rational being, to act always with a fixed view and determinate end; it is no less evident, that this view or end must be ultimately reduced to himself, and consequently to his own advantage and happiness. The desire therefore of happiness is as essential to a man, and as inseparable from his nature,

The desire of happiness is essential to man, and inseparable from reason.

as reason itself; for reason, as the very etymology of the word implies, is nothing more than a calculation and account. To reason, is to calculate, and to draw up an account, after balancing every thing, in order to see on which side the advantage lies. It would therefore imply a contradiction, to suppose a rational being, that could absolutely forego its interest, or be indifferent with regard to its own felicity.

Self-love is  
a principle  
that has no-  
thing vici-  
ous in itself.

VII. We must therefore take care not to consider self-love, and that sense or inclination which fixes us so strongly to our happiness, as a principle naturally vicious, and the fruit of human depravation. This would be accusing the author of our existence, and converting his noblest gifts into poison. Whatever comes from a being supremely perfect, is in itself good; and were we to condemn the sense or inclination of self-love as bad in itself, under a pretence that by a misconstruction and wrong use thereof it is the source of an infinite number of disorders, we should for the very same motives be obliged to condemn reason; because it is from the abuse of this faculty that the grossest errors and most extravagant irregularities of men proceed.

It may appear surprizing to some that we should have stopt here, to investigate and explain the truth of a principle, which one would imagine is obvious to every body, to the learned as well as the vulgar. And yet it was absolutely necessary; because this is a truth of the very last importance, which gives us the key, as it were, of the human system. It is true, that all ethic writers agree that man is made for happiness, and naturally desires it (for how is it possible

possible not to hear the voice of nature, which rises from the very bottom of the heart?) But a great many, after acknowledging this principle, seem to lose sight of it, and not attending to the consequences that flow from thence, they erect their systems on different, and sometimes quite opposite foundations.

VIII. But if it be true that man does nothing but with a view of happiness, it is no less certain that reason is the only way he has to attain it.

Man cannot attain to happiness but by the help of reason.

In order to establish this second proposition or truth, we have only to attend to the very idea of happiness, and to the notion we have of good and evil. Happiness is that internal satisfaction of the soul which arises from the possession of good; good is whatever is agreeable to man for his preservation, perfection, entertainment, and pleasure. Evil is the opposite of good.

Man incessantly experiences, that there are some things convenient, and others inconvenient to him; that the former are not all equally convenient, but some more than others; in fine, that this conveniency depends, for the most part, on the use he knows how to make of things, and that the same thing which may suit him, using it after a certain manner and measure, becomes unsuitable when this use exceeds its limits. It is only therefore by investigating the nature of things, as also the relations they have between themselves and with us, that we are capable of discovering their fitness or disagreement with our felicity, of discerning good from evil, of ranging every thing in its proper order, of setting a right

value upon each, and of regulating consequently our researches and desires.

But is there any other method of acquiring this discernment, but by forming just ideas of things and their relations, and by deducing from these first ideas the consequences that flow from thence by exact and close argumentations? Now it is reason alone that directs all these operations. Yet this is not all: for as in order to arrive at happiness, it is not sufficient to form just ideas of the nature and state of things, but it is also necessary that the will should be directed by those ideas and judgments in the series of our conduct; so it is certain, that nothing but reason can communicate and support in man the necessary strength for making a right use of liberty, and for determining in all cases according to the light of his understanding, in spite of all the impressions and motions that may lead him to a contrary pursuit.

Reason is  
therefore  
the primi-  
tive rule of  
man.

IX. Reason is therefore the only means, in every respect, that man has left to attain to happiness, and the principal end for which he has received it. All the faculties of the soul, its instincts, inclinations, and even the passions, are relative to this end; and consequently it is this same reason that is capable of pointing out the true rule of human actions, or, if you will, she herself is this primitive rule. In fact, were it not for this faithful guide, man would lead a random life, ignorant even of what regards himself, unacquainted with his own origin and destination, and with the use he ought to make of whatever surrounds him; stumbling, like a blind man, at every step;

step; lost, in fine, and bewildered in an inextricable labyrinth.

X. Thus we are conducted naturally to the first idea of the word *Right*, which in its most general sense, and that to which all the particular significations bear some relation, is nothing else but whatever reason certainly acknowledges as a sure and concise means of attaining happiness, and approves as such.

This definition is the result of the principles hitherto established. In order to be convinced of its exactness, we have only to draw these principles together, and unite them under one prospect. In fact, since right (*droit*) in its primary notion signifies whatever directs, or is well directed; since direction supposes a scope and an end, to which we are desirous of attaining; since the ultimate end of man is happiness; and, in fine, since he cannot attain to happiness but by the help of reason; does it not evidently follow, that Right in general is whatever reason approves as a sure and concise means of acquiring happiness? It is likewise in consequence of these principles, that reason giving its approbation to itself, when it happens to be properly cultivated, and arrived to that state of perfection in which it knows how to use all its discernment, bears, by way of preference or excellence, the appellation of right reason, as being the first and surest means of direction, whereby man is enabled to acquire felicity.

That we may not forget any thing in the analysis of these first ideas, it is proper to observe here, that the Latins express what we call *Right* by the

word *jus*, which properly signifies an order or precept\*. These different denominations undoubtedly proceed from this, that reason seems to command with authority whatever it avows to be a right and sure means of promoting our felicity. And as we have only to seek for what is right, in order to know what reason commands us, hence the natural connexion of these two ideas arose in respect to the rules of right reason. In a word, of two ideas naturally connected, the Latins have followed one, and we the other.

## C H A P. VI.

*General rules of conduct prescribed by reason.  
Of the nature and first foundations of obligation.*

Reason gives  
us several  
rules of  
conduct.

I. IT is already a great point gained, to have discovered the primitive rule of human actions, and to know this faithful guide, which is to direct the steps of man, and whose directions and counsels he may follow with an intire confidence. But let us not stop here; and since experience informs us that we are frequently mistaken in our judgments concerning good and evil, and that these erroneous judgments throw us into most dangerous irregularities, let us consult therefore our

\* *Jus a jubendo: Jura enim veteres Jusa vel Jussa vocabant.*  
Festus: *Jusa, Jura.*

guide,

guide, and learn which are the characters of real good and evil, in order to know in what true felicity consists, and what road we are to take in order to attain it.

II. Though the general notion of good and evil be fixed in itself, and invariable, still there are various sorts of particular goods and evils, or of things that pass for such in the minds of men.

First rule.  
To make a  
right di-  
stinction of  
good and  
evil.

I. The first counsel therefore that reason gives us, is to examine well into the nature of good and evil, and to observe carefully their several differences, in order to set upon each thing its proper value.

This distinction is easily made. A very slight attention to what we continually experience, informs us, that man being composed of body and soul, there are consequently two sorts of goods and evils, spiritual and corporeal. The first are those that proceed only from our thoughts; the second arise from the impressions of external objects on our senses. Thus, the sensible pleasure resulting from the discovery of an important truth; or the self-approbation arising from a consciousness of having discharged our duty, &c. are goods purely spiritual: as the chagrin of a geometrician for being unable to find out a demonstration; or the remorse a person feels for having committed a bad action, &c. are mere spiritual pains. With regard to corporeal goods and evils, they are sufficiently known; on one side, they are health, strength, beauty; on the other, sickness, weakness, pain, &c. These two sorts of goods and evils are interesting to man, and cannot be reckoned indifferent, by reason that man being com-

posed of body and soul, it is plain his perfection and happiness depend on the good state of these two parts.

*note*  
*introduce*  
*how to*  
*the Logic*

2. We likewise observe, that appearances frequently deceive us, and what at first sight carries with it the face of good, proves to be a real evil, whilst an apparent evil oftentimes conceals an extraordinary good. We should therefore make a distinction between real goods and evils, and those that are false and apparent. Or, which amounts to pretty near the same thing, there is sometimes a pure good and a pure evil, and sometimes there is a mixture of both, which does not obstruct our discerning what part it is that prevails, and whether the good or evil be predominant.

3. A third difference regards their duration. In this respect goods and evils have not all the same nature; some are solid and durable, others transitory and inconstant. Whereto we may add, that there are goods and evils of which we are masters, as it were, and which depend in such a manner on ourselves, that we are able to fix the one, in order to have a constant enjoyment of them, and to shun or get rid of the others. But they are not all of this kind; some goods there are that escape our most eager pursuits, whilst some evils overtake us, notwithstanding our most solicitous efforts to avoid them.

4. There are at present goods and evils, which we actually feel; and future goods and evils, which are the objects of our hopes or fears.

5. There are particular goods and evils, which affect only some individuals; and others that are common

common and universal, of which all the members of the society partake. The good of the whole is the real good; that of one of the parts, opposite to the good of the whole, is only an apparent good, and consequently a real evil.

6. From all these remarks we may in fine conclude, that goods and evils not being all of the same species, there are consequently some differences amongst them, and that compared together, we find there are some goods more excellent than others, and evils more or less incommodious. It happens likewise, that a good compared with an evil, may be either equal or greater, or lesser; from whence several differences or gradations arise, that are worthy of special notice.

These particulars are sufficient to shew the utility of the principal rule we have given, and how essential it is to our happiness to make a just distinction of goods and evils. But this is not the only counsel that reason gives us, we are going to point out some others that are not of less importance.

III. 2. True happiness cannot consist in things that are inconsistent with the nature and state of man. This is another principle, which naturally flows from the very notion of good and evil. For whatsoever is inconsistent with the nature of a being, tends for this very reason to degrade or destroy it, to corrupt or alter its constitution; which being directly opposite to the preservation, perfection, and good of this being, subverts the foundation of its felicity. Wherefore reason being the noblest part of man, and constituting his principal

*Second rule.*  
True happiness cannot consist in things that are inconsistent with the nature and state of man.

principal essence, whatever is inconsistent with reason, cannot form his happiness. To which I add, that whatever is incompatible with the state of man, cannot contribute to his felicity; and this is a point as clear as evidence can make it. Every being, that by its constitution has essential relations to other beings, which it cannot shake off, ought not to be considered merely as to itself, but as constituting a part of the whole to which it is related. And it is sufficiently manifest, that it is on its situation in regard to the beings that surround it, and on the relations of agreement or opposition it has with them, that its good or bad state, its happiness or misery, must in great measure depend.

Third rule.  
To compare  
the present  
and the fu-  
ture toge-  
ther.

IV. 3. In order to procure for ourselves a solid happiness, it is not sufficient to be attentive to the present good and evil, we must likewise examine their natural consequences; to the end, that comparing the present with the future, and balancing one with the other, we must know before-hand what may be the natural result.

Fourth rule.

4. It is therefore contrary to reason, to pursue a good that must certainly be attended with a more considerable evil\*. *however distant the evil be - Paley*

Fifth rule.

5. But on the contrary, nothing is more reasonable than to resolve to bear with an evil, from whence a greater good must certainly arise.

The truth and importance of these maxims are self-obvious. Good and evil being two opposites,

\* See the third note of Mons. Barbeyrac on the duties of man and a citizen, book i. chap. x. § 11.

the effect of one destroys that of the other; that is to say, the possession of a good, attended with a greater evil, renders us really unhappy; and on the contrary, a slight evil, which procures us a more considerable good, does not hinder us from being happy. Wherefore, every thing well considered, the first ought to be avoided as a real evil, and the second should be courted as a real good.

*after the good has ceased to exist which is natural enough*

The nature of human things requires us to be attentive to these principles. Were each of our actions restrained in such a manner, and limited within itself, as not to be attended with any consequence, we should not be so often mistaken in our choice, but should be almost sure of grasping the good. But informed as we are by experience, that things have frequently very different effects from what they seemed to promise, insomuch that the most pleasing objects are attended with bitter consequences, and on the contrary a real and solid good is purchased with labour and pains, prudence does not allow us to fix our whole attention on the present. We should extend our views to futurity, and equally weigh and consider the one and the other, in order to pass a solid judgment on them, a judgment sufficient to fix properly our resolutions.

*excellent*

V. 6. For the same reason, we ought to prefer a greater to a lesser good; we ought always to aspire to the noblest goods that suit us, and proportion our desires and pursuits to the nature and merit of each good. This rule is so evident, that it would be losing time to pretend to prove it.

*Sixth rule. To give the goods that excel most, the preference.*

VI. 7. It

Seventh  
rule.  
In some  
cases possi-  
bility only,  
and by a  
much stron-  
ger reason  
probability,  
ought to de-  
termine us.

VI. 7. It is not necessary to have an intire cer-  
tainty in regard to considerable goods and evils:  
Mere possibility, and much more so, probability,  
are sufficient to induce a reasonable person to de-  
prive himself of some trifling good, and even to suf-  
fer some slight evil, with a design of acquiring a far  
greater good, and avoiding a more troublesome  
evil.

This rule is a consequence of the foregoing ones ;  
and we may affirm, that the ordinary conduct of  
men shews they are sensibly convinced of the pru-  
dence and necessity thereof. In effect, what is the  
aim of all this tumult of business into which they  
hurry themselves ? To what end and purpose are  
all the labours they undertake, all the pains and  
fatigues they endure, all the perils to which they  
constantly expose themselves ? Their intent is to  
acquire some advantages which they imagine they  
do not purchase too dear ; though these advantages  
are neither present, nor so certain, as the sacrifices  
they must make in order to obtain them.

This is a very rational manner of acting. Reason  
requires, that in default of certainty we should take  
up with probability as the rule of our judgment  
and determination ; for probability in that case is  
the only light and guide we have. And unless it is  
more eligible to wander in uncertainty, than to fol-  
low a guide ; unless we are of opinion that our  
lamp ought to be extinguished when we are deprived  
of the light of the sun ; it is reasonable to be directed  
by probability, when we are incapable to come at  
evidence. It is easier to attain our aim by the help

of a faint or glimmering light, than by continuing in darkness \*.

VII. 8. We should be solicitous to acquire a taste for true goods, insomuch that goods of an excellent nature, and acknowledged as such, should excite our desires, and induce us to make all the efforts necessary for getting them into our possession.

Eighth rule.  
To have a  
relish for  
true goods.

This last rule is a natural consequence of the others, ascertaining their execution and effects. It is not sufficient to have enlightened the mind in respect to the nature of these goods and evils that are capable of rendering us really happy or unhappy; we should likewise give activity and efficacy to these principles, by forming the will so as to determine itself by taste and habit, pursuant to the counsels of enlightened reason. And let no one think it impossible to change

\* In the ordinary course of life, we are generally obliged to be determined by probability, for it is not always in our power to attain to a complete evidence. Seneca the philosopher has beautifully established and explained this maxim: "Huic respondebimus, nunquam expectare nos certissimam rerum comprehensionem: quoniam in arduo est veri exploratio: sed tã ire, qua ducit veri similitudo. OMNE HAC VIA PROCEdit OFFICIUM. Sic serimus, sic navigamus, sic militamus, sic uxores ducimus, sic liberos tollimus; quum omnium horum incertus sit eventus. (Ad ea accedimus, de quibus bene sperandum esse credimus.) Quis enim polliceatur serenti proventum, naviganti portum, militanti victoriam, marito pudicam uxorem, patri pios liberos? Sequimur quã ratio, non qua veritas trahit. Expecta, ut nisi bene cessura non facias, & nisi comperta veritate nihil moveris: relicto omni actu vita consistit. Dum verisimilia me in hoc aut illud impellant, non verebor beneficium dare ei, quem verisimile erit gratum esse." De Benefic. lib. 4. c. 33.

our

+ that is to say we cannot  
read the future - in a word -

our inclinations, or to reform our tastes. It is with the taste of the mind, as with that of the palate. Experience shews, that we may alter both, so as to find pleasure at length in things that before were disagreeable to us. We begin to do a thing with pain, and by an effort of reason; afterwards we familiarise ourselves to it by degrees; then a frequency of acts renders it easier to us, the repugnance ceases, we view the thing in a different light from what we did before; and use at length makes us love a thing that before was the object of our aversion. Such is the power of habit: it makes us insensibly feel so much ease and satisfaction in what we are accustomed to, that we find it difficult afterwards to abstain from it.

Our mind acquiesces naturally in these maxims; and they ought to influence our conduct.

VIII. These are the principal counsels we receive from reason. They are in some measure a system of maxims, which drawn from the nature of things, and particularly from the nature and state of man, acquaint us with what is essentially suitable to him, and include the most necessary rules for his perfection and happiness.

These general principles are of such a nature, as to force, as it were, our assent; insomuch that a clear and cool understanding, disengaged from the prejudice and tumult of passions, cannot help acknowledging their truth and prudence. Every one sees how useful it would be to man to have these principles present always in his mind, that by the application and use of them in particular cases, they may insensibly become the uniform and constant rule of his inclinations and conduct.

Maxims,

Maxims, in fact, like these are not mere speculations: they should naturally influence our morals, and be of service to us in practical life. For to what purpose would it be to listen to the advice of reason, unless we intended to follow it? Of what significance are those rules of conduct, which manifestly appear to us good and useful, if we refuse to conform to them? We ourselves are sensible that this light was given us to regulate our steps and motions. If we deviate from these maxims, we inwardly disapprove and condemn ourselves, as we are apt to condemn any other person in a similar case. But if we happen to conform to these maxims, it is a subject of internal satisfaction, and we commend ourselves, as we commend others who have acted after this manner. These sentiments are so very natural, that it is not in our power to think otherwise. We are forced to respect these principles, as a rule agreeable to our nature, and on which our felicity depends.

IX. This agreeableness sufficiently known implies a necessity of squaring our conduct by it. When we mention necessity, it is plain we do not mean a physical but moral necessity, consisting in the impression made on us by some particular motives, which determine us to act after a certain manner, and do not permit us to act rationally the opposite way.

*Of obligation generally considered.*

Finding ourselves in these circumstances, we say we are under an obligation of doing or omitting a certain thing; that is, we are determined to it by solid reasons, and engaged by cogent motives, which, like so many ties, draw our will to that side. It is in this sense a person says he is obliged. For whether

we are determined by popular opinion, or whether we are directed by civilians and ethic writers, we find that the one and the other make obligation properly consist in a reason, which being well understood and approved, determines us absolutely to act after a certain manner preferable to another. From whence it follows, that the whole force of this obligation depends on the judgment, by which we approve or condemn a particular manner of acting. For to approve, is acknowledging we ought to do a thing; and to condemn, is owing we ought not to do it. Now *ought* and to *be obliged* are synonymous terms.

We have already hinted at the natural analogy between the proper and literal sense of the word *obliged*, and the figurative signification of this same term. Obligation properly denotes a tie; \* a man *obliged*, is therefore a person who is *tied*. And as a man bound with cords or chains, cannot move or act with liberty, so it is very near the same case with a person who is *obliged*; with this difference, that in the first case, it is an external and physical impediment which prevents the effect of one's natural strength; but in the second it is only a moral tie, that is, the subjection of liberty is produced by reason, which being the primitive rule of man and his faculties, directs and necessarily modifies his operations in a manner suitable to the end it proposed.

We may therefore define obligation, considered in general and in its first origin, a restriction of natural liberty, produced by reason; inasmuch as the counsels which reason gives us, are so many motives, that determine man to act after a certain manner preferable to another.

\* *Obligatio a ligando.*

X. Such is the nature of primitive and original obligation. From thence it follows, that this obligation may be more or less strong, more or less rigorous; according as the reasons that establish it have more or less weight, and consequently as the motives from thence resulting have more or less impression on the will. For manifest it is, that the more these motives are cogent and efficacious, the more the necessity of conforming our actions to them becomes strong and indispensable.

Obligation  
may be more  
or less  
strong.

XI. I am not ignorant, that this explication of the nature and origin of obligation is far from being adopted by all civilians and ethic writers. Some pretend, *\* that the natural fitness or unfitness which we acknowledge in certain actions, is the true and original foundation of all obligation; that virtue has an intrinsic beauty which renders it amiable of itself, and that vice on the contrary is attended with an intrinsic deformity, which ought to make us detest it, and this antecedent to and independent of the good and evil, of the rewards and punishments which may arise from the practice of either.*

Dr. Clark's  
opinion on  
the nature  
and origin  
of obligati-  
on.

But this opinion, methinks, can be supported no farther than as it is reduced to that which we have just now explained. For to say that virtue has of itself a natural beauty, which renders it worthy of our love, and that vice, on the contrary, merits our aversion; is not this acknowledging, in fact, that we have *reason* to prefer one to the other? Now whatever this reason be, it certainly can never become

\* See Dr. Clark on the evidence of natural and revealed religion.

a motive capable of determining the will, but inas-  
 much as it presents to us some good to acquire, or  
 tends to make us avoid some evil; in short, only as  
 it is able to contribute to our satisfaction, and to  
 place us in a state of tranquillity and happiness. Thus  
 it is ordained by the very constitution of man, and  
 the nature of human will. For as good, in general, is  
 the object of the will; the only motive capable of  
 setting it in motion, or of determining it to one side  
 preferable to another, is the hopes of obtaining this  
 good. To abstract therefore from all interest in re-  
 spect to man, is depriving him of all motive of acting,  
 that is, reducing him to a state of inaction and indif-  
 ference. Besides, what idea should we be able to form  
 of the agreeableness or disagreeableness of human ac-  
 tions, of their beauty or turpitude, of their proportion  
 or irregularity, were not all this referred to man him-  
 self, and to what his destination, his perfection, his  
 welfare, and, in short, his true felicity requires?

Monfieur  
 Barbeyrac's  
 opinion con-  
 cerning this  
 fubject.

XII. Most civilians are of a different opinion from  
 that of Dr. Clark. “ \* They establish as a principle of  
 “ obligation, properly so called, the will of a supe-  
 “ rior being, on whom dependance is acknowledg-  
 “ ed. They pretend there is nothing but this will,  
 “ or the orders of a being of this kind, that can bri-  
 “ dle our liberty, & prescribe particular rules to our  
 “ actions. They add, that neither the relations of  
 “ proportion nor disagreement which we acknow-

\* See the judgment of an anonymous writer, *Ec.* § 15. This  
 is a small work of Mr. Leibnitz, on which Mr. Barbeyrac has  
 made some remarks, and which is inserted in the fifth edition of  
 his translation of the duties of man and a citizen.

“ ledge

“ ledge in the things themselves, nor the approba-  
 “ tion they receive from reason, lay us under an  
 “ indispensable necessity of following those ideas, as  
 “ the rules of our conduct. That our reason being  
 “ in reality nothing else but ourselves, no body, pro-  
 “ perly speaking, can lay himself under an obliga-  
 “ tion. From whence they conclude, that the max-  
 “ ims of reason, considered in themselves, and in-  
 “ dependent of the will of a superior, have nothing  
 “ obligatory in their nature.”

This manner of explaining the nature, and laying  
 the foundation of obligation, appears to me insuffici-  
 ent, because it does not ascend to the original source,  
 and real principles. True it is, that the will of a su-  
 perior obliges those who are his dependants; yet this  
 will cannot have such an effect, but inasmuch as it  
 meets with the approbation of our reason. For this  
 purpose, it is not only necessary that the superior's  
 will should contain nothing in itself opposite to the  
 nature of man; but moreover it ought to be propor-  
 tioned in such a manner to his constitution and ulti-  
 mate end, that we cannot help acknowledging it as  
 the rule of our actions; insomuch that there is no  
 neglecting it without falling into a dangerous error;  
 and, on the contrary, the only means of attaining our  
 end is to be directed by it. Otherwise, it is incon-  
 ceivable how man can voluntarily submit to the orders  
 of a superior, or determine willingly to obey him.  
 Own indeed I must, that, according to the language  
 of civilians, the idea of a superior who commands,  
 must intervene to establish an obligation, such as is  
 commonly considered. But unless we trace things  
 higher, by grounding even the authority of this  
 VOL. I. F superior

superior on the approbation he receives from reason, it will produce only an external constraint, very different from obligation, which hath of itself a power of penetrating the will, and moving it by an inward sense; infomuch that man is of his own accord, and without any restraint or violence, inclined to obey.

Two sorts of obligations; internal and external.

XIII. From all these remarks we may conclude, that the differences between the principal systems concerning the nature and origin of obligation, are not so great as they appear at first sight. Were we to make a closer inquiry into these opinions, by ascending to their primitive sources, we should find that these different ideas, reduced to their exact value, far from being opposite, agree very well together, and ought even to concur, in order to form a system connected properly with all its essential parts, in relation to the nature and state of man. This is what we intend more particularly to perform hereafter\*. It is proper at present to observe, that there are two sorts of obligations, one internal, and the other external. By internal obligation, I understand that which is produced only by our own reason, considered as the primitive rule of conduct, and in consequence of the good or evil the action in itself contains. By external obligation, we mean that which arises from the will of a being, on whom we allow ourselves dependent, and who commands or prohibits some particular things, under a commination of punishment. Whereto we must add, that these two obligations, far from being opposite to each other, have, on the contrary, a perfect agreement. For as the external obligation

\* See the second part, chap. vi.

is capable of giving a new force to the internal, so the whole force of the external obligation ultimately depends on the internal; and it is from the agreement and concurrence of these two obligations that the highest degree of moral necessity arises, as also the strongest tie, or the properest motive to make impression on man, in order to determine him to pursue steadily and never to deviate from some fixt rules of conduct; in a word, by this it is that the most perfect obligation is formed.

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C H A P. VII.

*Of right considered as a faculty, and of the obligation thereto corresponding.*

I. **B**ESIDES the general idea of right, such as has been now explained, considering it as the primitive rule of human actions; this term is taken in several particular significations, which we must here point out.

The word *right* is taken in several particular senses, which are all derived from the general notion.

But, previous to every thing else, we should not forget the primitive and general notion we have given of right. For since it is from this notion, as from its principle, that the subject of this and the following chapters is deduced; if our reasonings are exact in themselves, and have a necessary connexion with the principle, this will furnish us with a new argument in its favour. But if, unexpectedly, it should turn out otherwise, we shall have at least the advantage of detecting the error in its very source, and of being better able to correct it. Such is the effect of a just method: we are convinced that a general idea is exact,

when the particular ideas are reducible to it as different branches to their trunk.

Definition  
of right,  
considered as  
a faculty.

II. In the first place, Right is frequently taken for a personal quality, for a power of acting or faculty. It is thus we say, that every man has a right to attend to his own preservation; that a parent has a right to bring up his children; that a sovereign has a right to levy troops for the defence of the state, &c.

In this sense we must define Right, a power that man hath to make use of his liberty and natural strength in a particular manner, either in regard to himself, or in respect to other men, so far as this exercise of his strength and liberty is approved by reason.

Thus, when we say that a father has a right to bring up his children, all that is meant hereby is, that reason allows a father to make use of his liberty and natural force in a manner suitable to the preservation of his children, and proper to cultivate their understandings, and to train them up in the principles of virtue. In like manner, as reason gives its approbation to the sovereign in whatever is necessary for the preservation and welfare of the state, it particularly authorises him to raise troops and bring armies into the field, in order to oppose an enemy; and in consequence hereof we say he has a right to do it. But, on the contrary, we affirm, that a prince has no right, without a particular necessity, to drag the peasant from the plough, or to force poor tradesmen from their families; that a father has no right to expose his children, or to put them to death, &c. because these things, far from being approved, are expressly condemned by reason.

III. We

III. We must not therefore confound a simple power with right. A simple power is a physical quality; it is a power of acting in the full extent of our natural strength and liberty: but the idea of right is more confined. This includes a relation of agreeableness to a rule which modifies the physical power, and directs its operations in a manner proper to conduct man to a certain end. It is for this reason we say, that right is a moral quality. It is true there are some that rank power as well as right among the number of moral qualities\*: but there is nothing in this essentially opposite to our distinction. Those who rank these two ideas among moral entities, understand by power, pretty near the same thing as we understand by right; and custom seems to authorise this confusion; for we equally use, for instance, *paternal power*, and *paternal right*, &c. Be this as it will, we are not to dispute about words. The main point is to distinguish here between *physical* and *moral*; and it seems that the word *right*, as Puffendorf himself insinuates †, is fitter of itself than *power*, to express the moral idea. In short, the use of our faculties becomes a right, only so far as it is approved by reason, and is found agreeable to this primitive rule of human actions. And whatever a man can

We must take care to distinguish between simple power and right.

\* See Puffendorf on the law of nature and nations, book i. chap. i. § 19.

† *There seems to be this difference between the terms of power and right; that the first does more expressly import the presence of the said quality, and does but obscurely denote the manner how any one acquired it. Whereas the word right does properly and clearly shew, that the quality was fairly got, and is now fairly possessed.* Puffendorf on the law of nature and nations, book i. chap. i. § 20.

reasonably perform, becomes in regard to him a right, because reason is the only means that can conduct him in a short and sure manner to the end he proposes. There is nothing therefore arbitrary in these ideas; they are borrowed from the very nature of things, and if we compare them to the foregoing principles, we shall find they flow from thence as necessary consequences.

General  
foundation  
of the rights  
of man.

IV. If any one should afterwards inquire, on what foundation it is that reason approves a particular exercise of our strength and liberty, in preference to another; the answer is obvious. The difference of those judgments arises from the very nature of things and their effects. Every exercise of our faculties, that tends of itself to the perfection and happiness of man, meets with the approbation of reason, which condemns whatever leads to a contrary end. *Why should a*

Right pro-  
duces obli-  
gation.

*man have reason and follow it? — Olatos m. 5.*  
V. Obligation answers to right, taken in the manner above explained, and considered in its effects with regard to another person.

What we have already said, in the preceding chapter, concerning obligation, is sufficient to convey a general notion of the nature of this moral quality. But in order to form a just idea of that which comes under our present examination, we are to observe, that when reason allows a man to make a particular use of his strength and liberty, or, which is the same thing, when it acknowledges he has a particular right; it is requisite, by a very natural consequence, that in order to ensure this right to man, he should acknowledge at the same time, that other people ought  
not

not to employ their strength and liberty in resisting him in this point; but on the contrary, that they should respect his right, and assist him in the exercise of it, rather than do him any prejudice. From thence the idea of obligation naturally arises; which is nothing more than a restriction of natural liberty produced by reason; inasmuch as reason does not permit an opposition to be made to those who use their right, but on the contrary it obliges every body to favour and abet such as do nothing but what it authorises, rather than oppose or traverse them in the execution of their lawful designs.

VI. Right therefore and obligation are, as the logicians express it, two *correlative* terms: one of these ideas necessarily supposes the other; and we cannot conceive a right without a corresponding obligation. How, for example, could we attribute to a father the right of forming his children to wisdom and virtue by a perfect education, without acknowledging at the same time that children ought to submit to paternal direction, and that they are not only obliged not to make any resistance in this respect, but moreover they ought to concur, by their docility and obedience, to the execution of their parents views? Were it otherwise, reason would be no longer the rule of human actions: it would contradict itself, and all the rights it grants to man would become useless and of no effect; which is taking from him with one hand what it gives him with the other.

VII. Such is the nature of right taken for a faculty, and of the obligation thereto corresponding.

F 4

It

At what time man is susceptible of right and obligation.

It may be generally affirmed, that man is susceptible of these two qualities, as soon as he begins to enjoy life and sense. Yet we must make some difference here, between right and obligation, in respect to the time in which these qualities begin to unfold themselves in man. The obligations a person contracts as man, do not actually display their virtue till he is arrived to the age of reason and discretion. For, in order to discharge an obligation, we must be first acquainted with it, we must know what we do, and be able to square our actions by a certain rule. But as for those rights that are capable of procuring the advantage of a person without his knowing any thing of the matter, they date their origin, and are in full force from the very first moment of his existence, and lay the rest of mankind under an obligation of respecting them. For example, the right which requires that no body should injure or offend us, belongs as well to children, and even to infants that are still in their mothers wombs, as to adult persons. This is the foundation of that equitable rule of the Roman law, which declares, \* *That infants who are as yet in their mothers wombs, are considered as already brought into the world, whenever the question relates to any thing that may turn to their advantage.* But we cannot with any exactness affirm, that an infant, whether already come or coming into the world, is actu-

\* *Qui in utero est, perinde ac si in rebus humanis esset, custoditur, quotiens de commodo ipsius partus, quæritur.* L. 7. de statu homin. lib. 1. tit. 3. Another civilian establishes this rule: *Itaque pati quis injuriam, etiamsi non sentiat, potest: facere nemo, nisi qui scit se injuriam facere, etiamsi nesciat cui faciat.* L. 3. § 2. D. de injuriis. lib. 47. tit. 10.

ally subject to any obligation with respect to other men. This state does not properly commence with respect to man, till he has attained the age of knowledge and discretion.

VIII. Various are the distinctions of rights and obligations; but it will be sufficient for us to point out those only, that are most worthy of notice \*.

Several sorts of rights and obligations.

In the first place, rights are natural, or acquired. The former are such as appertain originally and essentially to man, such as are inherent in his nature, and which he enjoys as man, independent of any particular act on his side. Acquired rights, on the contrary, are those which he does not naturally enjoy, but are owing to his own procurement. Thus the right of providing for our preservation, is a right natural to man; but sovereignty, or the right of commanding a society of men, is a right acquired.

Polity

Secondly, rights are perfect, or imperfect. Perfect rights are those which may be asserted in rigour, even by employing force to obtain the execution, or to secure the exercise thereof in opposition to all those who should attempt to resist or disturb us. Thus reason would empower us to use force against any one that would make an unjust attack upon our lives, our goods, or our liberty. But when reason does not allow us to use forcible methods, in order to secure the enjoyment of the rights it grants us, then these rights are called imperfect. Thus, notwithstanding

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\* See Puffendorf on the law of nature and nations, book i. chap. i. § 19. and Grotius of the rights of war and peace, book i. chap. i. § 4, 5, 6, 7. with Barbeyrac's notes.

reason authorises those, who of themselves are destitute of means of living, to apply for succour to other men; yet they cannot, in case of refusal, insist upon it by force, or procure it by open violence. It is obvious, without our having any occasion to mention it here, that obligation answers exactly to right, and is more or less strong, perfect, or imperfect, according as right itself is perfect or imperfect.

Thirdly, another distinction worthy of our attention, is, that there are rights which may be lawfully renounced, and others that cannot. A creditor, for example, may forgive a sum due to him, if he pleases, either in the whole or part; but a father cannot renounce the right he has over his children, nor leave them in an intire independence. The reason of this difference is, that there are rights which of themselves have a natural connexion with our duties, and are given to man only as means to perform them. To renounce this sort of rights, would be therefore renouncing our duty, which is never allowed. But with respect to rights that no way concern our duties, the renunciation of them is licit, and only a matter of prudence. Let us illustrate this with another example. Man cannot absolutely, and without any manner of reserve, renounce his liberty; for this would be manifestly throwing himself into a necessity of doing wrong, were he so commanded by the person to whom he has made this subjection. But it is lawful for us to renounce a part of our liberty, if we find ourselves better enabled thereby to discharge our duties, and to acquire some certain and reasonable advantage. It is with these modifications

we must understand the common maxim, *That it is allowable for every one to renounce his right.*

Fourthly; Right, in fine, considered in respect to its different objects, may be reduced to four principal species. 1. The right we have over our own persons and actions; which is called *Liberty*. 2. The right we have over things or goods that belong to us, which is called *Property*. 3. The right we have over the persons and actions of other men, which is distinguished by the name of *Empire* or *Authority*. 4. And, in fine, the right one may have over other men's things, of which there are several sorts. It suffices, at present, to have given a general notion of these different species of right. Their nature and effects will be explained, when we come to a particular inquiry into these matters.

Such are the ideas we ought to have of right, considered as a faculty. But there is likewise another particular signification of this word, by which it is taken for *law*; as when we say, that natural right is the foundation of morality and politics; that it forbids us to break our word; that it commands the reparation of damage, &c. In all these cases, right is taken for *law*. And as this kind of right agrees in a particular manner with man, it is therefore a matter of importance to clear and explain it well, which we shall endeavour to perform in the following chapters.

## C H A P. VIII.\*

## Of Law in general.

I. **I**N the researches hitherto made concerning the rule of human actions, we have consulted only the nature of man, his essence, and what belongs to his internal part. This inquiry has shewn us, that man finds within himself, and in his own *Reason*, the rule he ought to follow; and since the counsels which reason gives him, point out the shortest and safest road to his perfection and happiness, from thence arises a principle of obligation, or a cogent motive to square his actions by this primitive rule. But in order to have an exact knowledge of the human system, we must not stop at these first considerations; we should likewise, pursuant to the method already pointed out in this work, † transfer our attention to the different states of man, and to the relations from thence arising, which must absolutely produce some particular modifications in the rules he is to follow. For, as we have already observed, these rules ought not only to be conformable to the nature of man, but they should be proportionable moreover to his state and situation.

II. Now among the primitive states of man, dependance is one of those which merits the most attention, and ought to have the greatest influence on

As man by nature is a dependent being, the law ought to be the rule of his actions.

\* See Puffendorf on the law of nature and nations, book i. chap. vi.

† See chap. iii. of this part, § 3.

the rule he is to observe. In fact, a being independent of every body else, has no other rule to pursue but the counsels of his own reason; and in consequence of this independance he is freed from all subjection to another's will; in short, he is absolute master of himself and his actions. But the case is not the same with a being who is supposed to be dependent on another, as on his superior and master. The sense of this dependance ought naturally to engage the inferior to take the will of him on whom he depends for the rule of his conduct; since the subjection in which he finds himself, does not permit him to entertain the least reasonable hopes of acquiring any solid happiness, independent of the will of his superior, and of the views he may propose in relation to him \*. Besides, this has more or less extent and effect, in proportion as the superiority of the one, and the dependance of the other, is greater or less, absolute or limited. It is obvious that all these remarks are in a particular manner applicable to man; so that as soon as he acknowledges a superior, to whose power and authority he is naturally subject; in consequence of this state, he must acknowledge likewise the will of this superior to be the rule of his actions. This is the *Right* we call *Law*.

It is to be understood however, that this will of the superior has nothing in it contrary to reason, the primitive rule of man. For were this the case, it would be impossible for us to obey him. In order to render a law the rule of human actions, it should be absolutely agreeable to the nature and constitution

\* See chap. vi. § 3.

of man, and be ultimately designed for his happiness, which reason makes him necessarily pursue. These remarks, though clear enough of themselves, will receive a greater light, when we have more particularly explained the nature of law.

Definition  
of law.

III. Law I define, a rule prescribed by the sovereign of a society to his subjects, either in order to lay an obligation upon them of doing or omitting certain things, under the commination of punishment; or to leave them at liberty to act or not in other things just as they think proper, and to secure to them, in this respect, the full enjoyment of their rights.

By thus defining law, we deviate a little from the definitions given by Grotius and Puffendorf. But the definitions of these authors are, methinks, somewhat too vague, and besides do not seem to agree with law considered in its full extent. This opinion of mine will be justified by the particular explication I am going to enter upon, provided it be compared with the passages here referred to\*.

Why law is  
defined a  
rule pre-  
scribed.

IV. I say that *law is a rule*, to signify, in the first place, what law has in common with counsel; which is, that they are both rules of conduct; and secondly, to distinguish law from the transient orders which may be given by a superior, and not being permanent rules of the subject's conduct, are not properly laws. The idea of *rule* includes prin-

\* See Grotius on the rights of war and peace, book i. chap. i. § 9. And Puffendorf on the law of nature and nations, book i. chap. vi. § 4. To which we may add Mons. Barbeyrac's notes.

cipally

cipally these two things, *universality* and *perpetuity*; and both these characters being essential to rule, generally considered, help to discriminate law from any other particular will of the sovereign.

I add, that *law is a rule prescribed*; because a simple resolution confined within the sovereign's mind, without manifesting itself by some external sign, can never be a law. It is requisite that this will be notified in a proper manner to the subjects; so that they be acquainted with what the sovereign requires of them, and with the necessity of squaring thereby their conduct. But in what manner this notification is to be made, whether *viva voce*, by writing, or otherwise, is a matter of mere indifference. Sufficient it is, that the subjects be properly instructed concerning the will of the legislator. *which class*

V. Let us finish the explication of the principal ideas that enter into the definition of law. Law is prescribed by the *sovereign*; this is what distinguishes it from *counsel*, which comes from a friend or equal; who, as such, has no power over us, and whose advices, consequently, neither have the same force, nor produce the same obligation as law, which coming from a sovereign, has for its support the command and authority of a superior\*. Counsels are followed for reasons drawn from the nature of the thing; laws are obeyed, not only on account of the reasons on which they are established, but likewise because of the authority of the sovereign

What is understood by a sovereign, sovereignty, and the right of commanding.

See the Law of nature and nations, book i. chap. vi. § 2.

that

that prescribes them. The obligation arising from counsel is merely internal; that of law is both internal and external. \*

Society, as we have already observed, is the union of several persons for a particular end, from whence some common advantage arises. The end, is the effect or advantage which intelligent beings propose to themselves, and are willing to procure. The union of several persons, is the concurrence of their will to procure the end they aim at in common. But though we make the idea of society enter into the definition of law, it must not be inferred from thence, that society is a condition absolutely essential and necessary to the enacting of laws. Considering the thing exactly, we may very well form a conception of law, when the sovereign has only a single person subject to his authority; and it is only in order to enter into the actual state of things, that we suppose a sovereign commanding a society of men. We must nevertheless observe, that the relation there is between the sovereign and the subjects, forms a society between them, but of a particular kind, which we may call *society of inequality*, where the sovereign commands, and the subjects obey.

The sovereign is therefore he who has a right to command in the last resort. To command, is directing the actions of those who are subject to us, according to our own will, and with authority or the power of constraint. I say that *the sovereign commands in the last resort*, to shew that as he has the first rank in society, his will is superior to any other, and holds all the members of the society in subjec-

\* See above, chap. vi. § 13.

tion. In fine, the right of commanding is nothing more than the power of directing the actions of others with authority. And as the power of exercising one's force and liberty is no farther a right, than as it is approved and authorized by reason, it is on this approbation of reason, as the last resort, that the right of commanding is established.

VI. This leads us to inquire more particularly into the natural foundation of empire or sovereignty; or, which amounts to the same thing, what is it that confers or constitutes a right of laying an obligation on another person, and of requiring his submission and obedience. This is a very important question in itself; important also in its effects. For the more we are convinced of the reasons, which establish on the one hand authority, and dependance on the other, the more we are inclined to make a real and voluntary submission to those on whom we depend. Besides, the diversity of sentiments, in relation to the manner of laying the foundation of sovereignty, is a sufficient proof that this subject requires to be treated with care and attention.

## C H A P. IX.

*Of the foundation of sovereignty, or the right of commanding.*

I. **I**NQUIRING here into the foundation of the right of command, we consider the thing only in a general and metaphysical manner. The

VOL. I.

G

question

First remark.  
The question is, in regard to a necessary sovereignty.

question is to know the foundation of a necessary sovereignty and dependance; that is, such as is founded on the very nature of things, and is a natural consequence of the constitution of those beings to whom it is attributed. Let us therefore wave whatever relates to a particular species of sovereignty, in order to ascend to the general ideas from whence the first principles are derived. But as general principles, when just and well founded, are easily applied to particular cases; it follows therefore, that the first foundation of sovereignty, or the reasons on which it is established, ought to be laid in such a manner, as to be easily applicable to the several species that fall within our knowledge. By this means, as we observed before, we can be fully satisfied with regard to the justness of the principles, or distinguish whether they are defective.

Second remark.  
There is neither sovereignty nor necessary dependance between beings perfectly equal.

II. Another general and preliminary remark is, that there can be neither sovereignty nor natural and necessary dependance between beings, which by their nature, faculties, and state, have so perfect an equality, that nothing can be attributed to one which is not alike applicable to the other. In fact, in such a supposition, there could be no reason, why one should arrogate an authority over the rest, and subject them to a state of dependance, of which the latter could not equally avail themselves against the former. But as this reduces the thing to an absurdity, it follows, that such an equality between several beings excludes all subordination, all empire and necessary dependance of one on the other; just as the equality of two weights keeps these in a perfect equilibrium. There must be

be therefore in the very nature of those beings, who are supposed to be subordinate one to the other, an essential difference of qualities, on which the relation of superior and inferior may be founded. But the sentiments of writers are divided in the determination of those qualities.

III. 1. Some pretend that the sole superiority of strength, or, as they express it, an irresistible power, is the true and first foundation of the right of imposing an obligation, and prescribing laws. “ This superiority of power gives, according to them, a right of reigning, by the impossibility in which it places others, of resisting him who has so great an advantage over them \*.”

*Different opinions on the origin and foundation of sovereignty.*

2. Others there are, who derive the origin and foundation of sovereignty, from the eminency or superior excellence of nature; “ which not only renders a being independent of all those who are of an inferior nature; but moreover causes the latter to be regarded as made for the former. And of this, say they, we have a proof in the very constitution of man, where the soul governs, as being the noblest part; and it is likewise on this foundation, that the empire of man over brutes is grounded †.”

3. A third opinion, which deserves also our notice, is that of Barbeyrac ‡. According to this ju-

\* See Hobbes de Cive, cap. 15. § 5.

† See Puffendorf on the law of nature and nations, book i. chap. vi. § 11.

‡ It is found in the second note on section 12. of Puffendorf on the law of nature and nations, book 1. chap. 6. and in the third note on § 5. of the duties of man and a citizen, book 1. chap. 2.

dicious author, "there is, properly speaking, only  
 "one general foundation of obligation, to which  
 "all others may be reduced, and that is, our natu-  
 "ral dependance on God, inasfinuch as he has given  
 "us being, and has consequently a right to require  
 "we should apply our faculties to the use for  
 "which he has manifestly designed them. An ar-  
 "tist, he continues, as such, is master of his own  
 "work, and can dispose of it as he pleases. Were  
 "a sculptor capable of making animated statues,  
 "this alone would intitle him to insist, that the  
 "marble shaped by his own hands, and endowed  
 "by him with understanding, shall be subject to  
 "his will.—But God is the author of the matter  
 "and form of the parts of which our being is com-  
 "posed, and he has given them all the faculties,  
 "with which they are invested. To these faculties,  
 "therefore, he has a right to prescribe what limits  
 "he pleases, and to require that men should use  
 "them in such or such a manner, &c."

Examen of  
those opi-  
nions.

1. The sole  
superiority  
of power is  
insufficient  
to found a  
right of  
command-  
ing.

IV. Such are the principal systems on the origin  
 and foundation of sovereignty and dependance.  
 Let us examine them thoroughly, and in order to  
 pass a right judgment, let us take care not to for-  
 get the distinction of physical and moral necessity,  
 nor the primitive notions of right and obligation,  
 such as have been above explained \*.

1. This being premised, I affirm, that those who  
 found the right of prescribing laws on the sole supe-  
 riority of strength, or on an irresistible power, esta-  
 blish an insufficient principle, and which, rigorously

\* Chap. vi. and vii.

considered, is absolutely false. In fact, it does not follow, that because I am incapable to resist a person, he has therefore a right to command me, that is, that I am bound to submit to him by virtue of a principle of obligation, and to acknowledge his will as the universal rule of my conduct. Right being nothing else but that which reason approves, it is this approbation only which reason gives to him who commands, that is capable of founding his right, and, by a necessary consequence, produces that inward sense, which we distinguish by the name of Obligation, and inclines us to a spontaneous submission. Every obligation therefore supposes some particular reasons that influence the conscience and bend the will, insomuch that, pursuant to the light of our own reason, we should think it criminal to resist, were it even in our power, and should conclude that we have therefore no right to do it. Now a person that alledges no other reason, but a superiority of force, does not propose a motive sufficient to oblige the will. For instance, the power which may chance to reside in a malignant being, neither invests him with any right to command, nor imposes any obligation on us to obey; because this is evidently repugnant even to the very idea of right and obligation. On the contrary, the first counsel which reason gives us in regard to a malignant power, is to resist, and, if possible, to destroy him. Now, if we have a right to resist, this right is inconsistent with the obligation of obeying, which is evidently thereby excluded. True it is, that if we clearly see that all our efforts will be useless, and that our resistance must only subject us to a greater evil; we should chuse to sub-

mit, though with reluctance for a while, rather than expose ourselves to the attacks and violence of a malignant power. But in this case we should be constrained, though not under an obligation. We endure, in spite of us, the effects of a superior force, and whilst we make an external submission, we inwardly feel our nature rise and protest against it. This leaves us always a full right to attempt all sorts of ways to shake off the unjust and oppressive yoke. There is therefore properly speaking, no obligation in that case; now the default of obligation implies the default of right\*. We have omitted making mention here of the dangerous consequences of this system, it is sufficient at present to have refuted it by principles; and perhaps we shall have occasion to take notice of these consequences another time.

2. Nor the sole excellency or superiority of nature.

V. The other two opinions have something in them that is plausible and even true; yet they do not seem to me to be intirely sufficient. The principles they establish are too vague, and have need to be reduced to a more determinate point.

2. And, indeed, I do not see, that the sole excellency of nature is sufficient to found a right of sovereignty. I will acknowledge, if you please, this excellency, and agree to it as a truth that I am well convinced of: This is the whole effect that must naturally arise from this hypothesis. But here I make a halt; and the knowledge I have of the excellency of a superior being does not alone afford me a motive sufficient to subject myself to him, and to induce me to abandon my own will, in order to

\* See chap. viii. § 6.

take his for my rule. So long as I am confined to these general heads, and am informed of nothing more, I do not feel myself inclined by an internal motion to submit; and without any reproach of conscience, I may sincerely judge, that the intelligent principle within me, is sufficient to direct my conduct. So far we confine ourselves to mere speculation. But if you should attempt to require any thing more of me, the question would then be reduced to this point: How and in what manner does this being, whom you suppose to surpass me in excellence, intend to conduct himself with regard to me; and by what effects will this superiority or excellence be displayed? Is he willing to do me good or harm, or is he, in respect to me, in a state of indifference? To these interrogations there must be absolutely some answer given; and according to the side that is chosen, I shall agree perhaps, that this being has a right to command me, and that I am under an obligation of obeying. But these reflections are, if I am not mistaken, a demonstrative proof, that it is not sufficient to alledge merely and simply the excellence of a superior being, in order to establish the foundation of sovereignty.

VI. Perhaps there is something more exact in the third hypothesis. "God, say they, is the Creator of  
 " man; it is from him he has received and holds  
 " his life, his reason, and all his faculties; he is  
 " therefore master of his work, and can of course  
 " prescribe what rules he pleases. Hence our de-  
 " pendance, hence the absolute empire of God over  
 " us naturally arises; and this is the very origin or  
 " first foundation of all authority."

3. Nor the  
 sole quality  
 of Creator.

G 4

The

respectable passage indeed -

and  
 doing  
 that he  
 has shown  
 great  
 wisdom  
 goodness  
 and power

The sum of what is here alledged to found the empire of God over man, is reduced to his supreme power. But does it follow from thence only, and by an immediate and necessary consequence, that he has a right to prescribe laws to us? That is the question. The sovereign power of God enables him to dispose of man as he has a mind, to require of him whatever he pleases, and to lay him under an absolute necessity of complying: For the creature cannot resist the Creator, and by its nature and state it finds itself in so absolute a dependance, that the Creator may, if so is his pleasure, even annihilate and destroy it. This we own, is certain; and yet it does not seem sufficient to establish the right of the Creator. There is something more than this requisite to form a moral quality of a simple power, and to convert it into right\*. In a word, it is necessary, as we have more than once observed, that the power be such as ought to be approved by reason; to the end that man may submit to it willingly, and by that inward sense which produces obligation. X

Here I beg leave to make a supposition that will set the thing in a much clearer light. Had the Creator given existence to the creature only to render it unhappy, the relation of Creator and creature would still subsist, and yet we could not possibly conceive, in this supposition, either right or obligation. The irresistible power of the Creator might indeed constrain the creature; but this constraint would never form a reasonable obligation, a moral tie; because an obligation of this nature always supposes the concurrence of the will, and an approbation or an acquiescence on the part

\* See chap. vii. § 3.

of man, from whence a voluntary submission arises. Now this acquiescence could never be given to a being, that would exert his supreme power only to oppress his creature, and render it unhappy.

The quality therefore of Creator is not alone and of itself sufficient to establish the right of command, and the obligation of obeying.

VII. But if to the idea of Creator we join (which Barbeyrac probably supposed, though he has not distinctly expressed it) the idea of a being perfectly wise and sovereignly good, who has no desire of exercising his power but for the good and advantage of his creatures; then we have every thing necessary to found a legitimate authority.

True foundation of sovereignty: Power, wisdom, and goodness joined together.

Let us only consult ourselves, and suppose, that we not only derive our existence, life, and all our faculties, from a being infinitely superior to us in power; but moreover, that we are perfectly convinced that this being, no less wise than powerful, had no other aim in creating us, but to render us happy, and that with this view he is willing to subject us to laws: certain it is, that under these circumstances, we could not avoid approving of such a power, and the exercise thereof in respect to us. Now this approbation is acknowledging the right of the superior; and consequently the first counsel that reason gives us, is to resign ourselves to the direction of such a master, to subject ourselves to him, and to conform all our actions to what we know in relation to his will. And why so? because it is evident to us, from the very nature of things, that this is the surest and shortest way to arrive at happiness,

pinels, the end to which all mankind aspire. And from the manner we are formed, this knowledge will be necessarily attended with the concurrence of our will, with our acquiescence, and submission; insomuch that if we should act contrary to those principles, and any misfortune should afterwards befall us, we could not avoid condemning ourselves, and acknowledging, that we have justly drawn upon ourselves the evil we suffer. Now this is what constitutes the true character of obligation, properly so called.

Explication  
of our opi-  
nion.

VIII. If we have therefore a mind to embrace and take in the whole, in order to form a complete definition, we must say, that the right of sovereignty arises from a superiority of power, accompanied with wisdom and goodness.

I say, in the first place, *a superiority of power*, because an equality of power, as we have observed in the very beginning, excludes all empire, all natural and necessary subordination; and besides, sovereignty and command would become useless and of no manner of effect, were they not supported by a sufficient power. What would it avail a person to be a sovereign, unless he were possessed of effectual methods to enforce his orders and make himself obeyed?

But this is not yet sufficient; wherefore I say, in the second place, that this power ought to be *wise and benevolent*: *wise*, to know and to chuse the properest means to make us happy; and *benevolent*, to be generally inclinable to use those means that tend to promote our felicity.

*in speaking of the right of human Sovereignty - if he says that this is necessary in order that a man may as usual make and execute Laws. we would be obliged to keep the Sovereignty in our hands, for few would be favoured by such Rules. I A.*

In

In order to be convinced of this, it will be sufficient to remark three cases, which are the only ones that can be here supposed. Either he is, with respect to us, an indifferent power, that is, a power willing to do us neither good nor harm, as no ways interesting himself in what concerns us; or he is a malignant power; or, in fine, he is a propitious and benevolent power.

In the first case, our question cannot take place. How superior soever a being is in regard to me, so long as he does not concern himself about me, but leaves me intirely to myself; I remain in as complete a liberty, in respect to him, as if he were not known to me, or as if he did not at all exist\*. Wherefore there is no authority on his side, nor obligation on mine.

But if we suppose a malignant power; reason, far from approving, revolts against him, as against an enemy, so much the more dangerous, as he is invested with greater power. Man cannot acknowledge such a power has a right; on the contrary, he finds himself authorized to leave no measure untried to get rid of so formidable a master, in order to be sheltered from the evils with which he might otherwise be unjustly afflicted.

\* *And therefore though that notion of the Epicureans was most senseless and impious, in which they described the Gods, as enjoying their own happiness with the highest peace and tranquillity, far removed from the troublesome care of human business, and neither smiling at the good, nor frowning at the wicked deeds of men; yet they rightly enough inferred, that upon this supposition, all religion, and all fear of divine powers, was vain and uselefs. Puffendorf, Law of nature and nations, book i. chap. vi. § 11. See Cicero de Nat. Deor. lib. 1. cap. 2.*

But let us suppose a being equally wise and beneficent. Man, instead of being able to refuse him his approbation, will feel himself inwardly and naturally inclined to submit and acquiesce intirely in the will of such a being, who is possessed of all the qualities necessary to conduct him to his ultimate end. By his *power*, he is perfectly able to procure the good of those who are subject to him, and to remove whatever may possibly injure them. By his *wisdom*, he is thoroughly acquainted with the nature and constitution of those on whom he imposes laws, and knows their faculties and strength, and in what their real interests consist. He cannot therefore be mistaken, either in the designs he proposes for their benefit, or in the means he employs in order to attain them. In fine, *goodness* inclines such a sovereign to be really willing to render his subjects happy, and constantly to direct to this end the operations of his wisdom and power. Thus the assemblage of these qualities, by uniting in the very highest degree all that is capable of deserving the approbation of reason, comprizes whatsoever can determine man, and lay him under an internal as well as external obligation of submission and obedience. Here therefore lies the true foundation of the right of sovereignty.

We must not separate the qualities which form the right of sovereignty.

IX. In order to bind and subject free and rational creatures, there is no necessity, properly speaking, for more than an empire or authority, whose wisdom and lenity would forcibly engage the approbation of reason, independent of the motives excited by the apprehension of power. But as it easily happens,  
from

from the manner that **men** are formed, that either through levity and neglect, or passion and malice, they are not so much struck as they ought, with the wisdom of the legislator, and with the excellency of his laws; it was therefore proper there should be an efficacious motive, such as the apprehension of punishment, in order to have a stronger influence over the will. For which reason it is necessary that the sovereign should be armed with power and force, to be better able to maintain his authority. Let us not separate therefore these different qualities, which form, by their concurrence, the right of the sovereign. As power alone, unaccompanied with benevolence, cannot constitute any right; so benevolence, destitute of power and wisdom, is likewise insufficient for this effect. For from this only, that a person wishes another well, it does not follow, that he is his master: neither are a few particular acts of benevolence sufficient for that purpose. A benefit requires no more than gratitude and acknowledgment; for in order to testify our gratitude, it is not necessary we should subject ourselves to the power of our benefactor. But let us join these ideas, and suppose, at one and the same time, a sovereign power, on which every one actually and really depends; a sovereign wisdom, that directs this power; and a supreme goodness, by which it is animated. What can we desire more, to establish, on the one side, the most eminent authority, and, on the other, the greatest subordination? We are compelled then, as it were, by our own reason, which will not so much as suffer us to deny, that such a superior is invested with  
a true

a true right to command, and that we are under a real obligation to obey\*.

Definition of  
subjection.  
Foundation  
of depend-  
ance.

X. The notions of sovereign and sovereignty being once settled, it is easy to fix those of subjection and dependance.

Subjects therefore are persons, that are under an obligation of obeying. And as it is power, wisdom, and benevolence, that constitute sovereignty; we must suppose, on the contrary, in subjects the weakness and wants, from whence dependance arises.

It is therefore right in Puffendorf to remark †, that what renders man susceptible of an obligation produced by an external principle, is that he naturally depends on a superior, and that moreover as a free and intelligent being, he is capable of knowing the rules given him, and of chusing to conform his actions to them. But these are rather condi-

\* *It may indeed be said, that the foundation of external obligation is the will of a superior (see above, chap. vi. § xiii.) provided this general proposition be afterwards explained by the particulars into which we have entered. But when some add, that force has nothing to do with the foundation of this obligation, and that it only serves to enable the superior to exert his right (see Barbeyrac's 1st note on the 9th section of Puffendorf's large work, book 1. chap. 6.) this notion does not appear to me to be exact; and methinks that this abstract manner of considering the thing, subverts the very foundation of the obligation here in question. There can be no external obligation without a superior, nor a superior without force, or, which is the same thing, without power: force therefore or power is a necessary part of the foundation of obligation.*

† *See the Duties of man and a citizen, book 1. chap. 2. § 4. And the Law of nature and nations, book 1. chap. 6. § 6, 8.*

tions

tions necessarily supposed, and of themselves understood, than the exact and immediate causes of subjection. More important it is to observe, that as the power of obliging a rational creature is founded on the ability and will of making him happy, if he obeys; unhappy, if he disobeys; this supposes that this creature is capable of good and evil, sensible of pleasure and pain, and besides that his state of happiness or misery may be either increased or diminished. Otherwise, he might be forced indeed, by a superior power, to act after a certain manner, but he could not be properly obliged.

XI. Such is the true foundation of sovereignty and dependance; a foundation that might be still better established, by applying these general principles to the particular species of known sovereignty or empire, such as that of God over man, that of a prince over his subjects, and the power of fathers over their children. We should be convinced thereby, that all these species of authority are originally founded on the principles above established; which would serve for a new proof of the truth of those principles\*. But it is sufficient to have hinted here in general at this remark; the particulars we reserve for another place.

The obligation produced by law, is the most perfect that can be imagined.

An authority established on such a foundation, and which comprizes whatever can be imagined most efficacious and capable to bind man, and to incline him to be steadily directed by certain rules of conduct, undoubtedly forms the completest and strongest obligation. For there is no obligation more perfect than

\* See section 1.

that

that which is produced by the strongest motives to determine the will, and the most capable, by their preponderancy, to prevail over all other contrary reasons \*. Now every thing concurs here to this effect: the nature of the rules prescribed by the sovereign, which of themselves are the fittest to promote our perfection and felicity; the power and authority with which he is invested, whereby he is enabled to decide our happiness or misery; and, in fine, the intire confidence we have in him, because of his power, wisdom, and goodness. What can we imagine more to captivate the will, to gain the heart, to oblige man, and to produce within him the highest degree of moral necessity, which constitutes the most perfect obligation? I say, *moral necessity*; for we are not to destroy the nature of man; he remains always what he is, a free and intelligent being; and as such, the sovereign undertakes to direct him by his laws. Hence it is that even the strictest obligations never force the will; but, rigorously speaking, man is always at liberty to comply or not, though, as we commonly say, at his risk and peril. But if he consults reason, and is willing to follow its dictates, he will take particular care to avoid exercising this metaphysical power, in opposition to the views of his sovereign; an opposition that must terminate in his own misery and ruin. *very true*

Obligation  
is internal  
and external  
at the same  
time.

XII. We have already observed, that there are two sorts of obligation †; the one internal, which is the work of reason only, and founded on the good or evil we perceive in the very nature of things:

\* See chap. vi. § 10.

† See chap. vi. § 13.

the other external, which is produced by the will of him whom we acknowledge our superior and master. Now the obligation produced by law, unites these two sorts of ties, which by their concurrence strengthen each other, and thus form the completest obligation that can possibly be imagined. It is probably for this reason, that most civilians acknowledge no other obligation properly so called, but that which is the effect of law, and imposed by a superior. This is true, if we mean only an external obligation, which indeed is the strongest tie of man. But it must not be inferred from thence, that we ought to admit no other sort of obligation. The principles we established, when inquiring into the first origin and the nature of obligation generally considered, and the particular remarks we have just now made on the obligation arising from law, are sufficient, if I am not mistaken, to evince, that there is a primitive, original, and internal obligation, which is inseparable from reason, and ought necessarily to concur with the external obligation, in order to communicate to the latter all the necessary force for determining and bending the will, and for influencing effectually the human heart.

By distinguishing rightly these ideas, we shall find, perhaps, that this is one way of reconciling opinions, which seem to be wide from each other, only because they are misunderstood \*. Sure it is at least, that the manner in which we have explained the foundation of sovereignty and dependance, coincides, in the main, with Puffendorf's system, as will easily

\* See part the second, chap. vi.

appear by comparing it with what this author says, whether in his large work, or in his abridgment\*.

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## C H A P. X.

*Of the end of laws; of their characters, differences, &c.*

Of the end of laws, either in regard to the subjects, or in respect to the sovereign.

I. **SOME** perhaps will complain, that we have dwelt too long on the nature and foundation of sovereignty. But the importance of the subject required us to treat it with care, and to unravel properly its principles. Besides, we apprehend, that nothing could contribute better to a right knowledge of the nature of law; and we shall presently see, that whatever in fact remains for us still to say concerning this subject, is deduced from the principles just now established.

In the first place, it may be asked, what is the end and design of laws?

This question presents itself in two different lights; namely, with respect to the subject, and with regard to the sovereign: a distinction that must be carefully observed.

The relation of the sovereign to his subjects forms a kind of society between them, which the sovereign directs by the laws he establishes†. But as society

\* See the law of nature and nations, book i. chap. vi. § 5, 6, 8, and 9. And the duties of man and a citizen, book i. chap. ii. § 3, 4, 5.

† See chap. viii. § 5.

naturally

naturally requires there should be some provision made for the good of all those who are the constituent parts thereof, it is by this principle we must judge of the end of laws: and this end, considered with respect to the sovereign, ought to include nothing in it opposite to the end of these very laws considered with regard to the subject.

II. The end of the law in regard to the subject is, that he should conform his actions to it, and by this means acquire happiness. As for what concerns the sovereign, the end he aims at for himself, by giving laws to his subjects, is the satisfaction and glory arising from the execution of the wise designs he proposes, for the preservation of those who are subject to his authority. These two ends of the law should never be separated, one being naturally connected with the other; for it is the happiness of the subject that forms the satisfaction and glory of the sovereign.

III. We should therefore take care not to imagine that laws are properly made in order to bring men under a yoke. So idle an end would be quite unworthy of a sovereign, whose goodness ought to be equal to his power and wisdom, and who should always act up to these perfections. Let us say rather, that laws are made to oblige the subject to pursue his real interest, and to chuse the surest and best way to attain the end he is designed for, which is happiness. With this view the sovereign is willing to direct his people better than they could themselves, and gives a check to their liberty, lest they should

The end of laws is not to lay a restraint upon liberty, but to direct it in a proper manner.

make a bad use of it contrary to their own and the public good. In short, the sovereign commands rational beings; it is on this footing he treats with them; all his ordinances have the stamp of reason; he is willing to reign over our hearts; and if at any time he employs force, it is in order to bring back to reason those who have unhappily strayed from it, contrary to their own good and that of society.

*for instance cutting a man's head off*

Examen of what Puffendorf says concerning this subject.

IV. Wherefore Puffendorf, methinks, speaks somewhat loosely in the comparison he draws between law and counsel, where he says, "That counsel tends to the ends proposed by those to whom it is given, and that they themselves can judge of those ends, in order to approve or disapprove them. — Whereas law aims only at the end of the person that establishes it, and if sometimes it has views in regard to those for whom it is made, it is not their business to examine them—this depends intirely on the determination of the legislator\*." It would be a much juster way, methinks, of expressing the thing, to say, that laws have a double end, relative to the sovereign and the subject; that the intent of the sovereign in establishing them, is to consult his own satisfaction and glory, by rendering his subjects happy; that these two things are inseparable; and that it would be doing injustice to the sovereign to imagine he thinks only of himself, without any regard to the good of those who are his dependants.\* Puffendorf seems here, as well as in some other places, to give a little too much into Hobbes's principles.

\* See the Law of nature and nations, book i. chap. vi. § 1.

V. We

*And we do not sovereign act so  
now at least*

V. We defined law, a rule which lays an obligation on subjects of doing or omitting certain things, and leaves them at liberty to act or not to act in other matters, according as they judge proper, &c. This is what we must explain here in a more particular manner.

Of the distinction of law into obligatory, and that of simple permission.

A sovereign has undoubtedly a right to direct the actions of those who are subject to him, according to the ends he has in view. In consequence of this right, he imposes a necessity on them of acting or not acting after a particular manner in certain cases; and this obligation is the first effect of the law. From thence it follows, that all actions, not positively commanded or forbidden, are left within the sphere of our natural liberty; and that the sovereign is hereby supposed to grant every body a permission to act in this respect as they think proper; and this permission is a second effect of the law. We may therefore distinguish the law, taken in its full extent, into an obligatory law, and a law of simple permission.

+ provide always that the Sovereign make no Law unless to reason or that whether consented in the Legislature -

"Law is a rule now I must say that where there is no rule there is no Law."

It is true, Grotius \*, and after him Puffendorf, are of opinion, that permission is not properly, and of itself, an effect or consequence of the law, but a mere inaction of the legislator. † *Whatever things, says Puffendorf, the law permits, those it neither commands nor forbids, and therefore it really doth nothing at all concerning them.*

The opinion of Grotius and Puffendorf upon this subject.

*And in fact has nothing to do with the Law -*

\* See the Rights of war and peace, book i. chap. i. § 9.

† See the Law of nature and nations, book i. chap. vi. § 15.

+ for instance if I am permitted to do what I please - I am actuated by no Law but that of my own will - which cannot be a law

But though this different manner of considering the thing be not perhaps of any great consequence, yet Barbeyrac's opinion, such as he has explained it in his notes on the forecited passages, appears to be much more exact. A permission arising from the legislator's silence cannot be considered as a simple inaction. The legislator does nothing but with deliberation and wisdom. If he is satisfied with imposing, only in some cases, an indispensable necessity of acting after a certain manner, and does not extend this necessity further, it is because he thinks it agreeable to the end he proposes, to leave his subjects at liberty in some cases to do as they please. Wherefore, the silence of the legislator imports a positive though tacit permission of whatsoever he has not forbidden or commanded, though he might have done it, and would certainly have done it, had he thought proper. Inasmuch that as the forbidden or commanded actions are positively regulated by the law, actions permitted are likewise positively determined by the same law, though after their manner and according to the nature of the thing. In fine, whoever determines certain limits, which he declares we ought not to exceed, does hereby point out how far he permits and consents we should go. Permission therefore is as positive an effect of the law as obligation. x

The rights which men enjoy in society, are founded on this permission.

VII. This will appear still more evident, if we consider, that having once supposed that we all depend on a superior, whose will ought to be the universal rule of our conduct, the rights attributed to man in this state, by virtue of which he may act safely and with impunity, are founded on the express

or

or tacit permission received from the sovereign or the law. Besides, every body agrees that the permission granted by the law, and the right from thence resulting, lay other men under an obligation not to resist the person that uses his right, but rather to assist him in this respect, than do him any prejudice. Obligation, therefore, and permission are naturally connected with each other; and this is the effect of the law, which likewise authorizes those, who are disturbed in the exercise of their rights, to employ force, or to have recourse to the sovereign, in order to remove these impediments. Hence it is, that after having mentioned in the definition of law, that it leaves us in certain cases at liberty to act or not to act, we added, that it secures the subjects in the full enjoyment of their rights \*.

VIII. The nature and end of laws shew us their matter or object. The matter of laws in general are all human actions, internal and external; thoughts, and words, as well as deeds; those which relate to another, and those which terminate in the person itself; so far, at least, as the direction of those actions may essentially contribute to the particular good of each person, to that of society in general, and to the glory of the sovereign.

The matter  
of laws.

IX. This supposes naturally the three following conditions. 1. That the things ordained by the law be possible to fulfil; for it would be folly, and even cruelty, to require of any person, under the least commination of punishment, whatever is and always has

Internal  
conditions  
of a law;  
that it be  
possible,  
useful, and  
just.

\* See chap. viii. § 3.

been above his strength. 2. The law must be of some utility; for reason will never allow any restraint to be laid on the liberty of the subject, merely for the sake of the restraint, and without any benefit or advantage arising to him. 3. In fine, the law must be in itself just; that is, conformable to the order and nature of things, as well as to the constitution of man: this is what the very idea of rule requires, which, as we have already observed, is the same as that of law.

External conditions of law; that it may be made known; and accompanied with a sanction.

X. To these three conditions, which we may call the internal characteristics of law, namely, that it be possible, just, and useful, we may add two other conditions, which in some measure are external; one, that the law be made sufficiently known; the other, that it be attended with a proper sanction.

1. It is necessary that the laws be sufficiently notified to the subject\*; for how could he regulate his actions and motions by those laws, if he had never any knowledge of them? The sovereign ought therefore to publish his laws in a solemn, clear, and distinct manner. But, after that, it is the subject's business to be acquainted with the will of the sovereign; and the ignorance or error he may lie under in this respect, cannot, generally speaking, be a legitimate excuse in his favour. This is what the civilians mean, when they lay down as a maxim, † *That ignorance or error in regard to the law is blameable and hurtful.* Were it not so, the laws would

\* See chap. viii. § 4.

† *Regula est, juris quidem ignorantiam cuique nocere.* Digest. lib. 22. tit. 6. leg. 9. pr.

be of no effect, but might always, under a pretext of ignorance, be eluded with impunity.

XI. 2. The next thing requisite is, that the law be attended with a proper sanction.

Sanction is that part of the law, which includes the penalty enacted against those who transgress it. With regard to the penalty, it is an evil with which the sovereign menaces those subjects who should presume to violate his laws, and which he actually inflicts, whenever they violate them: and this with a design of procuring some good; such as to correct the culpable, and to admonish the rest; but ultimately, that his laws being respected and observed, society should enjoy a state of security, quiet, and happiness.

All laws have therefore two essential parts: the first is the disposition of the law, which expresseth the command or prohibition; the second is the sanction, which pronounces the penalty; and it is the sanction that gives it the proper and particular force of law. For were the sovereign contented with merely ordaining or forbidding certain things, without adding any kind of menace; this would be no longer a law prescribed by authority, but merely a prudent counsel.

It is not however absolutely necessary that the nature or quality of the punishment be formally specified in the law; it is sufficient that the sovereign declares he will punish, reserving to himself the species and degree of chastisement according to his prudence.\*

We

\* *Ex quo etiam intelligitur omni legi civili annexam esse pœnam,*  
*vel*

*\* idle nonsense! The punishment is not attached to the law in general, but to the particular act which it is intended to punish.*

We must also observe, that the evil, which constitutes the punishment properly so called, ought not to be a natural production, or a necessary consequence of the action intended to be punished. It should be, as it were, an occasional evil, and inflicted by the will of the sovereign. For whatever the action may have bad of itself and dangerous in its effects and inevitable consequences, cannot be reckoned as proceeding from the law, since it would equally happen without it. The menaces therefore of the sovereign must, in order to have some weight, be inflictive of such punishments as differ from the evil that necessarily arises from the nature of the thing †. *very good -*

Whether the promise of recompence is equally capable, as the commination of punishment, to constitute the sanction of law.

XII. It may be asked, in fine, whether the sanction of laws may not as well consist in the promise of a recompence, as in the commination of punishment? I answer, that this depends, in general, on the will of the sovereign, who may use either of these ways; or even employ them both, according as his prudence directs. But since the question is to know, which is the most effectual method the sovereign can use, in order to enforce the observance of his laws; and since it is certain that man is naturally more sensibly affected by evil than good, it seems more proper to establish the sanction of law

*vel explicitè, vel implicitè; nam ubi pœna neque scripto, neque exemplo alicujus qui pœnas legis jam transgressæ dedit, definitur, ibi subintelligitur pœnam arbitrariam esse, nimirum ex arbitrio pendere legislatoris.*

Hobbes de Cive, cap. 14. § 8.

† See Locke's Essay on human understanding, book 2. chap. 28.

§ 6.

in the commination of punishment, than in the promise of recompence. People are seldom induced to violate the law, unless it be with the hope of procuring at least some apparent good. The best way therefore to prevent this deception, is to remove the bait that allures them, and to annex, on the contrary, a real and inevitable evil to disobedience. Suppose, for instance, two legislators, willing to establish the same law, proposed, one of them great rewards, and the other severe punishments, the latter would undoubtedly dispose men more effectually to compliance than the former. The most specious promises do not always determine the will; but the view of a rigorous punishment staggers and intimidates it\*. But if the sovereign, by a particular effect of his bounty and wisdom, is willing to join these two means, and to enforce the law by a double motive of observance; there is then nothing wanting to complete its force, since in every respect it is a perfect sanction.

*How excellent are the Laws of the Deity in this respect*

XIII. The obligation which the laws impose, have as great an extent as the right of the sovereign; and consequently it may be said in general, that all those who are dependent on the legislator, are subject to this obligation. But each law in particular obliges those subjects only, to whom the subject matter may be applied; and this is easily known from the very nature of each law, by which the intention of the legislator is sufficiently expressed.

Who those are whom the law obliges. Of dispensation.

\* See Puffendorf, Law of nature and nations, book i. chap. vi. § 14. with Barbeyrac's notes.

*And every human Law if made according to the Scriptures and right reason have this quality*

Never-

Nevertheless it sometimes happens, that particular persons are exempted from the obligation of observing the law; and this is what we call dispensation, on which we have a few remarks to make.

1. If the legislator can intirely abrogate a law, by a much stronger reason he can suspend the effect thereof, with regard to any particular person.

2. But we must likewise acknowledge, that none but the legislator himself is invested with this power.

3. He never ought to use it without very good reasons, and then he should act with moderation, and according to the rules of equity and prudence. For were he, without discretion or choice, to favour too great a number of people with dispensations, he would enervate the authority of the law; or were he to refuse it in cases perfectly alike, so unreasonable a partiality would certainly be attended with jealousy and discontent.

Of the duration of laws, and how they are abolished.

XIV. As for what concerns the duration of laws, and the manner in which they are abolished, we are to observe the following principles.

1. In general the duration of a law, as well as its first establishment, depends on the free will and pleasure of the sovereign, who cannot reasonably tie up his own hands in this respect.

2. And yet every law, of itself and by its nature, is supposed perpetual, when it contains nothing in its disposition, or in the circumstances attending it, that evidently denotes a contrary intention of the legislator, or that may induce us reasonably to presume that it was only a temporary ordinance. The law is a rule; now every rule is  
of

of itself perpetual; and, generally speaking, when the sovereign establishes a law, it is not with a design to repeal it.

3. But as the state of things may happen to alter in such a manner, that the law, grown useless or hurtful, can no longer be put in execution; the sovereign can, and ought, in that case, to repeal and abolish it. It would be absurd and pernicious to society, to pretend that laws once enacted ought to subsist for ever, let what inconveniency soever arise.

4. This repeal may be made in two different manners, either expressly or tacitly. For when the sovereign, well acquainted with the state of things, neglects for a long time to enforce the observance of the laws, or formally permits, that affairs relating thereto be regulated in a manner contrary to his disposition; from thence a strong presumption arises of the abrogation of this law, which falls thus of itself, though the legislator has not expressly abolished it.

It is plain we have only glanced here upon the general principles. As for the application that ought to be made of them to each species of laws, it requires some modification, pursuant to their different nature. But it is not our business to enter here into those particulars.

XV. Law may be divided, 1. into divine or human, according as it has God or man for its author.

How many  
sorts of  
laws.

2. Divine law may be subdivided into two sorts, namely, natural and positive or revealed.

Natural

Natural law is that which so necessarily agrees with the nature and state of man, that without observing its maxims, the peace and happiness of society can never be preserved. As this law has an essential agreeableness with the constitution of human nature, the knowledge thereof may be attained merely by the light of reason; and hence it is called natural.

Positive or revealed law is that which is not founded on the general constitution of human nature, but only on the will of God; though in other respects this law is established on very good reasons, and procures the advantage of those who receive it.

We meet with examples of these two sorts of laws in the ordinances which God gave formerly to the Jews. It is easy to distinguish such as were natural, from those that, being merely ceremonial or political, had no other foundation than the particular will of God, accommodated to the actual state of that people.

With regard to human laws, considered strictly as such, viz. as originally proceeding from a sovereign who presides over society, they are all positive. For though some natural laws are made the subject of human laws, they do not derive their obligatory force from the human legislator; since they would oblige all the same without any intervention on his part, because they come from God.

Before we leave these definitions, we must not forget to observe, that the science or art of making and explaining laws, and of applying them to human actions, goes by the general name of *Jurisprudence*.

## C H A P. XI.

*Of the morality of human actions* \*.

I. **L**A W being the rule of human actions, in a comparative view, we observe that the latter are either conformable or opposite to the former; and this sort of qualification of our actions in respect to the law, is called *morality*.

In what the morality of actions consists.

The term of *morality* comes from *mores* or manners. Manners, as we have already observed, are the free actions of man, considered as susceptible of direction and rule. Thus we call morality the relation of human actions to the law, by which they are directed; and we give the name of moral philosophy to the collection of those rules by which we are to square our actions.

II. The morality of actions may be considered in two different lights: 1. in regard to the manner in which the law disposes of them; and 2. in relation to the conformity or opposition of those same actions to the law.

Actions are, 1. either commanded, or forbidden, or permitted.

In the first consideration, human actions are either commanded, or forbidden, or permitted.

As we are indispensably obliged to do what is commanded, and to abstain from what is forbidden by a lawful superior, civilians consider commanded actions as necessary, and forbidden actions as im-

\* See the law of nature and nations, book i. chap. vii. and the duties of man and a citizen, book i. chap. ii. § 11. &c.

possible. Not that man is deprived of a physical power of acting contrary to law, and incapable, if he has a mind, of exercising this power. But since his acting after this manner would be opposite to right reason, and inconsistent with his actual state of dependance; it is to be presumed that a reasonable and virtuous man, continuing and acting as such, could not make so bad a use of his liberty; and this presumption is in itself too reasonable and honourable for humanity, not to meet with approbation. *Whatever (say the Roman lawyers \*) is injurious to piety, reputation, or modesty, and in general to good manners, ought to be presumed impossible.*

Remarks on  
permitted  
actions.

III. With regard to permitted actions, they are such as the law leaves us at liberty to do, if we think proper †. Upon which we must make two or three remarks.

1. We may distinguish two sorts of permission; one full and absolute, which not only gives us a right to do certain things with impunity, but moreover is attended with a positive approbation of the legislator: The other is an imperfect permission, or a kind of toleration, which implies no approbation but a simple impunity.

2. The permission of natural laws always denotes a positive approbation of the legislator; and whatever happens in consequence thereof, is innocently

\* *Nam quæ facta lædunt pietatem, existimationem, verecundiam nostram, & (ut generaliter dixerim) contra bonos mores fiunt, nec facere nos posse credendum est.* L. 15. D. de condit. Institut.

† See chap. x. § 5.

done, and without any violation of our duty. For it is evident, that God could not positively permit the least thing that is bad in its nature.

3. It is otherwise in respect to the permission of human laws. We may, indeed, justly and with certainty infer, that a sovereign has not thought proper to forbid or punish some particular things; but it does not always from thence follow, that he really approves those things, and much less that they may be innocently done, and without any breach of duty.

IV. The other manner in which we may view the morality of human actions, is with regard to their conformity or opposition to the law. In this respect, actions are divided into good or just, bad or unjust, and indifferent.

2. Actions are good or just, bad or unjust, and indifferent.

An action morally good or just, is that which in itself is exactly conformable to some obligatory law, and moreover is attended with the circumstances and conditions required by the legislator.

I said, 1. A *good or just action*; for there is properly no difference between the goodness and justice of actions; and there is no necessity to deviate here from the common language, which confounds these two ideas. The distinction which Puffendorf makes between these two qualities is quite arbitrary, and even he himself afterwards confounds them\*.

\* Compare what he says in the Law of nature and nations, book i. chap. vii. § 7. in the beginning, with § 4. of the same chapter.

2. I said, an action *morally good*; because we do not consider here the intrinsic and natural goodness of actions, by virtue of which they redound to the physical good of man; but only the relation of agreeableness they have to the law, which constitutes their moral goodness. And though these two sorts of goodness are always found inseparably united in things ordained by natural law, yet we must not confound these two different relations.

Conditions  
requisite to  
render an  
action mo-  
rally good.

V. In fine, to distinguish the general conditions, whose concurrence is necessary in order to render an action morally good, with respect to the agent; I have added, *that this action ought to be in itself exactly conformable to the law, and accompanied moreover with the circumstances and conditions required by the legislator.* And firstly, it is necessary that this action should comply exactly, and through all its parts, with the tenor of what the law ordains. For as a right line is that whose points correspond to the rule without the least deviation; in like manner an action, rigorously speaking, cannot be just, good, or right, unless it agrees exactly, and in every respect with the law. But even this is not sufficient; the action must be performed also pursuant to the manner required and intended by the legislator. And in the first place, it is necessary it be done with a competent knowledge, that is, we must know that what we do is conformable to the law: otherwise the legislator would have no regard for the action, and our labour would be intirely lost. In the next place, we must act with an upright intention and for a good end, namely, to fulfill the views of the legislator, and to

pay a due obedience to the law: For if the agent's intention be bad, the action, instead of being deemed good, may be imputed to him as vicious. In fine, we should act through a good motive, I mean a principle of respect for the sovereign, of submission to the law, and from a love of our duty; for plain it is, that all these conditions are required by the legislator.

VI. What has been above affirmed concerning good actions, sufficiently shews us the nature of those which are bad or unjust. These are, in general, such as of themselves, or by their concomitant circumstances, are contrary to the disposition of an obligatory law, or to the intention of the legislator.

Of the nature of bad or unjust actions.

There are, therefore, two general springs of injustice in human actions; one proceeds from the action considered in itself, and from its manifest opposition to what is commanded or prohibited by the law. Such as, for example, the murder of an innocent person. And all these kinds of actions intrinsically bad can never become good, whatever may be in other respects the intention or motive of the agent. We cannot employ a criminal action as a lawful means to attain an end in itself good; and thus we are to understand the common maxim, *evil must not be done, that good may come of it*. But an action intrinsically and as to its substance good, may become bad, if it be accompanied with circumstances directly contrary to the legislator's intention; as for instance, if it be done with a bad view, and through a vicious motive. To be liberal and generous towards our fellow-citizens,

is a good and commendable thing in itself; but if this generosity is practised merely with ambitious views, in order to become insensibly master of the commonwealth, and to oppress the public liberty; the perversity of the motive, and the injustice of the design, render this action criminal.

All just actions are equally just; but unjust actions are more or less unjust.

VII. All just actions are, properly speaking, equally just; by reason that they have all an exact conformity to the law. It is not the same with unjust or bad actions; which, according as they are more or less opposite to the law, are more or less vicious; similar in this respect to curve lines, which are more or less so, in proportion as they deviate from the rule. We may therefore be several ways wanting in our duty. Sometimes people violate the law deliberately, and *with malice prepense*; which is undoubtedly the very highest degree of iniquity, because this kind of conduct manifestly indicates a formal and reflective contempt of the legislator and his orders; but sometimes we are apt to sin through neglect and inadvertency, which is rather a fault than a crime. Besides, it is plain that this neglect has its degrees, and may be greater or lesser, and deserving of more or less censure. And as in every thing unsusceptible of an exact and mathematical measure, we may always distinguish at least three degrees, namely, two extremes and a middle: Hence the civilians distinguish three degrees of fault or negligence; a gross fault, a slight one, and a very slight one. It is sufficient to have mentioned these principles, the explication and distinct account whereof will naturally take place, when

when we come to the particular questions relating to them.

VIII. But we must carefully observe, that what essentially constitutes the nature of an unjust action, is its direct opposition or contrariety to the disposition of the law, or to the intention of the legislator; which produces an intrinsic defect in the matter or form of that action. For though in order to render an action morally good, it is necessary, as we have already observed, that it be intirely conformable to the law, with respect as well to the substance, as to the manner and circumstances; yet we must not from thence conclude, that the defect of some of those conditions always renders an action positively bad or criminal. To produce this effect, there must be a direct opposition, or formal contrariety between the action and the law; a simple defect of conformity being insufficient for that purpose. This defect is, indeed, sufficient to render an action not positively good or just; however, it does not become therefore bad, but only indifferent. For example, if we perform an action good in itself, without knowing for what reason, or even that it is commanded by the law; or if we act through a different motive from that prescribed by the law, but in itself innocent and not vicious; the action is reputed neither good nor bad, but merely indifferent.

IX. There is therefore such a thing as indifferent actions, which hold a middle rank, as it were, between just and unjust. These are such as are neither

Essential  
character of  
unjust ac-  
tions.

Of indif-  
ferent ac-  
tions.

commanded nor prohibited, but which the law leaves us at liberty to do or to omit, according as we think proper. That is, those actions are referred to a law of simple permission, and not to an obligatory law.

Now that such actions there are, is what no one can reasonably question. For what a number of things are there, which being neither commanded nor forbidden by any law, whether divine or human, have consequently nothing obligatory in their nature, but are left to our liberty, to do or to omit, just as we think proper? It is therefore an idle subtlety in schoolmen to pretend that an action cannot be indifferent, unless it be in an abstract consideration, as stripped of all the particular circumstances of person, time, place, intention, and manner. An action divested of all these circumstances, is a mere *Ens rationis*; and if there be really any indifferent actions, as undoubtedly there are, they must be relative to particular circumstances of person, time, and place, &c.

Division of  
good and  
bad actions.

X. Good or bad actions may be ranged under different classes, according to the object to which they relate. Good actions referred to God, are comprised under the name of *Piety*. Those which relate to ourselves, are distinguished by the words, *Wisdom, Temperance, Moderation*. Those which concern other men, are included under the terms of *Justice* and *Benevolence*. We only anticipate here the mentioning of this distinction, because we must return to it again when we come to treat of natural law. The same distinction is applicable to bad actions,

tions, which belong either to *Impiety*, *Intemperance*, or *Injustice*.

XI. It is common to propose several divisions of justice. That we may not be silent on this article, <sup>Of justice, and its different kinds,</sup> we shall observe,

1. That justice may, in general, be divided into perfect or rigorous, and imperfect or not rigorous. The former is that by which we perform towards our neighbour whatever is due to him in virtue of a perfect or rigorous right, that is, the execution of which he may demand by forcible means, unless we satisfy him freely and with a good will; and it is in this strict sense that the word *Justice* is generally understood. The second is that by which we perform towards another the duties owing to him only in virtue of an imperfect and non-rigorous obligation, which cannot be insisted upon by violent methods; but the fulfilling of them is left to each person's honour and conscience\*. These kinds of duties are generally comprehended under the appellations of humanity, charity, or benevolence, in opposition to rigorous justice, or justice properly so called. This division of justice coincides with that of Grotius, into *expletive* and *attributive*.

2. We might subdivide rigorous justice into that which is exercised between equals, and that which takes place between superior and inferior†. The former contains as many different species as there are

\* See chap. vii. § 8.

† This amounts to the same thing very near, as the *Jus rectorium* and *æquatorium* of Grotius. Book i. chap. 1. § 3. num. 3.

duties, which one man may in rigour require of every other man, considered as such, and one citizen of every fellow-citizen. The latter includes as many species as there are different societies, where some command, and others obey\*.

3. There are other divisions of justice, but such as seem useless, and far from being exact. For example, that of universal and particular justice, taken in the manner as Puffendorf explains it, appears incorrect, inasmuch as one of the members of the division is included in the other †. The subdivision of particular justice into distributive and commutative, is incomplete; because it includes only what is due to another, by virtue of some pact or engagement, notwithstanding there are many things which our neighbour may require of us in rigour, without any regard to pact or convention. And we may observe in general, by reading what Grotius and Puffendorf have wrote concerning this subject, that they are at a loss themselves, to give a clear and exact idea of these different kinds of justice. Hence it is manifest, that we had better wave all these scholastic divisions, contrived in imitation of those of Aristotle, and abide by our first division. And indeed, it is only out of respect to the common opinion, that we have taken any notice thereof ‡.

\* See Buddæus, *Elementa philos. pract.* part ii. cap. ii. § 46.

† Law of nature and nations, book i. chap. viii. § 8. And the Duties of man and a citizen, book i. chap. ii. § 14. with Barbeyrac's notes.

‡ See Grotius, *Rights of war and peace*, book i. chap. i. § 8. and Puffendorf, *Law of nature and nations*, book i. chap. vii. § 9. 10, 11, 12. with Barbeyrac's notes.

XII. Besides what we may call the quality of moral actions, they have likewise a kind of quantity, which, by comparing the good actions to one another, as also the bad in the same manner, leads us to a sort of relative estimation, in order to mark the greater or lesser degree of evil to be found in each. We shall give here the principles necessary for this estimation.

Of the relative estimations of moral actions.

1. These actions may be considered with regard to their object. The nobler the object, the higher the excellence of the good action done towards this object; and a bad action, on the contrary, becomes more criminal.

2. In respect to the quality and state of the agent. Thus a favour or benefit received of an enemy, excels that which is conferred upon us by a friend. And, on the contrary, an injury done us by a friend, is more sensible, and more atrocious, than that which is committed by an enemy.

3. In reference to the very nature of the action, according as there is more or less trouble to perform. The more a good action is difficult, supposing every thing else equal, the more worthy it is of praise and admiration. But the easier it is to abstain from a bad action, the more it is blameable and enormous in comparison to another of the same species.

4. In relation to the effects and consequences of the action. An action is so much the better or worse, in proportion as we foresee that its consequences must be more or less advantageous or hurtful.

5. We

5. We may add the circumstances of time, place, &c. which are also capable of making the good or bad actions surpass one another in excellence or badness. We have borrowed these remarks from one of Barbeyrac's notes on Puffendorf\*.

morality is  
applicable to  
actions as  
well as ac-  
tions.

XIII. Let us observe, in fine, that morality is attributed to persons as well as actions; and as actions are good or bad, just or unjust, we say likewise of men, that they are good or bad, virtuous or vicious.

A virtuous man is he that has a habit of acting conformably to the laws and his duty. A vicious man is one that has the opposite habit.

Virtue therefore consists in a habit of acting according to the laws; and vice in the contrary habit.

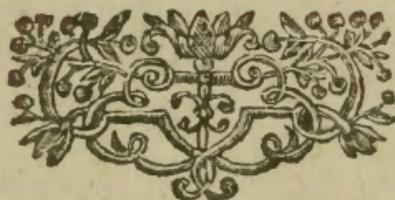
I said that virtue and vice are habits. Hence to judge properly of these two characters, we should not stop at some particular action; we ought to consider the whole series of the life and ordinary conduct of man. We should not therefore rank among the number of vicious men, those who through weakness, or otherwise, have been sometimes induced to commit a bad action; as on the other hand, those who have done a few acts of virtue, do not merit the title of honest men. There is no such thing to be found in this world as virtue in every respect complete; and the weakness inseparable from man, requires we should not judge him

\* See the Law of nature and nations, book i. chap. viii. § 5. note 1.

with

with full rigour. Since it is allowed that a virtuous man may, through weakness and surprize, commit some unjust action; so it is but right we should likewise allow, that a man who has contracted several vicious habits, may notwithstanding, in particular cases, do some good actions, acknowledged and performed as such. Let us not suppose men worse than they really are, but take care to distinguish the several degrees of iniquity and vice, as well as those of probity and virtue. *See Watts's Logica*

*The* END of the FIRST PART.



T H E

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THE  
P R I N C I P L E S  
O F  
N A T U R A L L A W.

P A R T II.  
Of the LAW of NATURE.

C H A P. I.

*In what the law of nature consists, and that there is such a thing. First considerations drawn from the existence of God and his authority over us.*

I. FTER having settled the general principles of law, our business is now to apply them to natural law in particular. The questions we have to examine in this second part are of no less importance than to know, whether man, by his nature and constitution, is really subject to laws properly so called? What are these laws?

Subject of  
this second  
part.

laws? Who is the superior that imposes them? By what method or means is it possible to know them? From whence results the obligation of observing them? What consequence may follow from our negligence in this respect? And, in fine, what advantage on the contrary may arise from the observance of these laws?

II. Let us begin with a proper definition of the terms. By natural law we understand, a law that God imposes on all men, and which they are able to discover and know by the sole light of reason, and by attentively considering their state and nature.

Natural law is likewise taken for the system, assemblage, or body of the laws of nature.

Natural jurisprudence is the art of attaining to the knowledge of the laws of nature, of explaining and applying them to human actions.

Whether  
there are  
any natural  
laws.

III. But whether there be really any natural laws, is the first question that presents itself here to our inquiry. In order to make a proper answer, we must ascend to the principles of natural theology, as being the first and true foundation of the law of nature. For when we are asked, whether there are any natural laws, this question cannot be resolved, but by examining the three following articles. 1. Whether there is a God? 2. If there is a God, whether he has a right to impose laws on man? 3. Whether God actually exercises his right in this respect, by really giving us laws, and requiring we should square thereby our actions? These three points will furnish the subject of this and the following chapters.

IV. The

IV. The existence of God, that is, of a first, intelligent, and self-existent being, on whom all things depend as on their first cause, and who depends himself on no one; the existence, I say, of such a being, is one of those truths that shew themselves to us at the first glance. We have only to attend to the evident and sensible proofs, that present themselves to us, as it were, from all parts.

Of the existence of God.

The chain and subordination of causes among themselves, which necessarily requires we should fix on a first cause; the necessity of acknowledging a first mover; the admirable structure and order of the universe; are all so many demonstrations of the existence of God, within the reach of every capacity. Let us unfold them in a few words.

Locke

Lib 4

cap 10

V. I We behold an infinite number of objects, which form all together the assemblage we call the universe. Something therefore must have always existed. For were we to suppose a time in which there was absolutely nothing, it is evident that nothing could have ever existed; because whatsoever has a beginning, must have a cause of its existence; since nothing<sup>x</sup> can produce nothing. It must be therefore acknowledged that there is some eternal being, who exists necessarily and of himself; for he can be indebted to no one else for his origin; and it implies a contradiction that such a being does not exist.

First proof. The necessity of a self-existent and intelligent being.

Moreover, this eternal being, who necessarily and of himself subsists, is endued with reason and understanding. For to pursue the same manner of arguing, were we to suppose a time in which there was nothing but inanimate beings, it would have been impos-

x nothing cannot produce something

impossible for intelligent beings, such as we now behold, ever to exist. Intellection can no more proceed from a blind and unintelligent cause, than a being, of any kind whatsoever, can come from nothing.<sup>x</sup> There must therefore have always existed a father of spiritual beings, an eternal mind, the source from whence all others derive their existence. Let what system soever be adopted concerning the nature and origin of the soul, our proof subsists still in its full force. Were it even to be supposed that the cogitative part of man is no more than the effect of a certain motion or modification of matter; yet we should still want to know how matter acquired this activity, which is not essential to it, and this particular and so much admired organization, which it cannot impart to itself. We should inquire, who is it that has modified the body in a manner proper to produce such wonderful operations as those of intellection, which reflects, which acts on the very body itself with command, which surveys the earth, and measures the heavens, recollects past transactions, and extends its views to futurity. Such a master-piece must come from the hands of an intelligent cause; wherefore it is absolutely necessary to acknowledge a first, eternal, and intelligent being.

*\* I am much question whether any man can do well acquainted with the material and intellectual nature of things that he can with safety make such an assertion - at first glance it had appear to be just - but*

We must not seek for this being in this universe.

VI. An eternal spirit, who has within himself the principle of his own existence, and of all his faculties, can be neither changed nor destroyed; neither dependent nor limited; he should even be invested with infinite perfection, sufficient to render him the sole and first cause of all, so that we may have no occasion to seek for any other.

But

But does not (some will ask) this quality of an eternal and intelligent being, belong to matter itself, to the visible world, or to some of the parts thereof?

I answer, that this supposition is absolutely contrary to all our ideas. Matter is not essentially and of itself intelligent; nor can it be supposed to acquire intellection but by a particular modification received from a cause supremely intelligent. Now this first cause cannot have such a modification from any other being; for he thinks essentially and of himself; wherefore he cannot be a material being. Besides, as all the parts of the universe are variable and dependent, how is it possible to reconcile this with the idea of an infinite and all perfect being?

As for what relates to man, his dependance and weakness are much more sensible than those of other creatures. Since he has no life of himself, he cannot be the efficient cause of the existence of others. He is unacquainted with the structure of his own body, and with the principle of life; incapable of discovering in what manner motions are connected with ideas, and which is the proper spring of the empire of the will. We must therefore look out for an efficient, primitive, and original cause of mankind, beyond the human chain, be it supposed ever so long; we must trace the cause of each part of the world beyond this material and visible world.

VII. 2. After this first proof drawn from the necessity of a first, eternal, and intelligent being, distinct from matter; we proceed to a second, which shews us the Deity in a more sensible manner, and more within the reach of common capacities. The

Second proof. The necessity of a first mover.

proof I mean, is the contemplation of this visible world, wherein we perceive a motion and order, which matter has not of itself, and must therefore receive from some other being.

Motion or active force is not an essential quality of body : extension is of itself rather a passive being ; it is easily conceived at rest, and if it has any motion, we may well conceive it may lose it without being stript of its existence ; it is a quality or state that passes, and is accidentally communicated from one body to another. The first impression must therefore proceed from an extrinsic cause ; and as Aristotle has well expressed it, \* *The first mover of bodies must not be moveable himself, must not be a body.* This has been also agreed to by Hobbes. † *But the acknowledging, says he, of one God eternal, infinite, and omnipotent, may more easily be derived, from the desire men have to know the causes of natural bodies, and their several virtues and operations, than from the fear of what was to befall them in time to come. For he that from any effect he seeth come to pass, should reason to the next and immediate cause thereof, and from thence to the cause of that cause, and plunge himself profoundly in the pursuit of causes ; shall at last come to this, that there must be (as even the heathen philosophers confessed) one first mover ; that is, a first and eternal cause of all things ; which is that which men mean by the name of God.*

Third proof.  
The structure, order,  
and beauty  
of the uni-  
verse.

VIII. 3. But if matter has not been able to move of itself, much less was it capable to move to the

\* *Aristot. Metaphys.*

† *Leviathan, chap. xii. p. 53. edit. 1651.*

exact degree, and with all the determinations, necessary to form such a world as we behold, rather than a confused chaos.

In fact, let us only cast our eyes on this universe, and we shall every where discover, even at the first glance, an admirable beauty, regularity, and order; and this admiration will increase in proportion, as in searching more closely into nature, we enter into the particulars of the structure, proportion, and use of each part. For then we shall clearly see, that every thing is relative to a certain end, and that these particular ends, though infinitely varied among themselves, are so dextrously managed and combined, as to conspire all to a general design. Notwithstanding this amazing diversity of creatures, there is no confusion; we behold several thousand different species, which preserve their distinct form and qualities. The parts of the universe are proportioned and balanced, in order to preserve a general harmony; and each of those parts has exactly its proper figure, proportions, situation, and motion, either to produce its particular effect, or to form a beautiful whole.

It is evident therefore, that there is a design, a choice, a visible reason in all the works of nature; and consequently there are marks of wisdom and understanding, obvious, as it were, even to our very senses.

XI. Though there have been some philosophers who have attributed all these phænomena to chance, yet this is so ridiculous a thought, that I question whether a more extravagant chimera ever entered into the mind of man. It is possible for any one

The world  
is not the  
effect of  
chance.

to persuade himself seriously, that the different parts of matter having been set in some unaccountable manner in motion, produced of themselves the heavens, the stars, the earth, the plants, and even animals and men, and whatever is most regular in the organization? A man that would pass the like judgment on the least edifice, on a book or picture, would be looked upon as a mad extravagant person. How much more shocking is it to common sense, to attribute to chance so vast a work, and so wonderful a composition as this universe? *very good worthy of the author*

It is not  
eternal.

X. It would be equally frivolous to alledge the eternity of the world, in order to exclude a first intelligent cause. For besides the marks of novelty we meet with in the history of mankind, as the origin of nations and empires, and the invention of arts and sciences, &c. besides the assurance we have from the most general and most ancient tradition that the world has had a beginning (a tradition which is of great weight in regard to a matter of fact, like this) besides, I say, all this, the very nature of the thing does not allow us to admit of this hypothesis no more than that of chance. For the question is still to explain whence comes this beautiful order, this regular structure and design, in a word, whence proceed those marks of reason and wisdom that are so visibly displayed in all parts of the universe. To say that it has been always so, without the intervention of an intelligent cause, does not explain the thing, but leaves us in the same embarrassment, and advances the same absurdity as those who

*in de  
Paley  
who duct  
to his matu-  
ral theology*

who a while ago were speaking to us of chance. For this is in reality telling us that whatever we behold throughout the universe, is blindly ranged, without design, choice, cause, reason, or understanding. Hence the principal absurdity of the hypothesis of chance, occurs likewise in this system; with this difference only, that by establishing the eternity of the world, they suppose a chance that from all eternity hit upon order; whereas those who attribute the formation of the world to the fortuitous junction of its parts, suppose that chance did not succeed till a certain time, when it fell in at length with order after an infinite number of trials and fruitless combinations. Both acknowledge therefore no other cause but chance, or properly speaking they acknowledge none at all; for chance is no real cause, it is a word that cannot account for a real effect, such as the arrangement of the universe.

It would not be a difficult matter to carry these proofs to a much greater length, and even to increase them with an additional number. But this may suffice for a work of this kind; and the little we have said, intitles us, methinks, to establish the existence of a *First Cause*, or of a *Creator*, as an uncontestable truth, that may serve henceforward for the basis of all our reasonings.

XI. As soon as we have acknowledged a Creator, it is evident, that he has a supreme right to lay his commands on man, to prescribe rules of conduct to him, and to subject him to laws; and it is no less evident, that man on his side finds himself, by his natural constitution, under an ob-

God has a right to prescribe laws to man.

ligation of subjecting his actions to the will of this supreme Being.

We have already shewn \*, that the true foundation of sovereignty in the person of the sovereign, is power united with wisdom and goodness; and that, on the other hand, weakness and wants in the subjects, are the natural cause of dependance. We have only therefore to see, whether all these qualities of sovereign are to be found in God; and whether men, on their side, are in a state of infirmity and wants, so as to depend necessarily on him for their happiness.

This is a  
consequence  
of his pow-  
er, wisdom,  
and good-  
ness.

XII. It is beyond doubt, that he who exists necessarily and on himself, and has created the universe, must be invested with an infinite power. As he has given existence to all things by his own will, he may likewise preserve, annihilate, or change them as he pleases.

But his wisdom is equal to his power. Having made every thing, he must know every thing, as well the causes as the effects from thence resulting. We see besides in all his works the most excellent ends, and a choice of the most proper means to attain them; in short, they all bear, as it were, the stamp of wisdom.

XIII. Reason informs us, that God is a being essentially good; a perfection which seems to flow naturally from his wisdom and power. For how is it possible for a being, who of his nature is infinitely wise and powerful, to have any inclination to hurt? Surely no sort of reason can ever determine him to it. Malice, cruelty, and injustice, are always a con-

\* See part i. chap. ix.

sequence

sequence of ignorance or weakness. Let man therefore consider but never so little the things which surround him, and reflect on his own constitution, he will discover both within and without himself the benevolent hand of his Creator, who treats him like a father. It is from God we hold our life and reason; it is he that supplies most abundantly our wants, adding the useful to the necessary, and the agreeable to the useful. Philosophers observe, that whatever contributes to our preservation, has been arrayed with some agreeable quality. \* Nourishment, repose, action, heat, cold, in short, whatever is useful to us, pleases us in its turn, and so long as it is useful. Should it cease to be so, because things are carried to a dangerous excess, we have notice therefore by an opposite sensation. The allurements of pleasure invites us to use them when they are necessary for our wants; disrelish and lassitude induce us to abstain from them, when they are likely to hurt us. Such is the happy and sweet œconomy of nature, which annexes a pleasure to the moderate exercise of our senses and faculties, insomuch that whatever surrounds us becomes a source of satisfaction, when we know how to use it with discretion. What can be more magnificent, for example, than this great theatre of the world in which we live, and this glittering decoration of heaven and earth, exhibiting a thousand agreeable objects to our view? What

\* See an excellent treatise lately published, (at Geneva, for Barrillot and son, in 12mo, 1747.) intitled, THE THEORY OF AGREEABLE SENSATIONS; where, after pointing out the rules that nature follows in the distribution of pleasure, the principles of natural theology and ethics are established.

fatisfaction does not the mind receive from the sciences, by which it is exercised, enlarged, and improved? What conveniences do not we draw from human industry? What advantages do not we derive from an intercourse with our equals! What charms in their conversation! What sweetness in friendship, and the other connexions of the heart! When we avoid the excess and abuse of things, the greatest part of human life abounds with agreeable sensations. And if to this we add, that the laws which God gives us, tend, as hereafter we shall see, to perfect our nature, to prevent all kind of abuse, and to confine us to a moderate use of the good things of life, on which the preservation, excellence, and happiness, as well public as private, of man depends; what more is there wanting to convince us, that the goodness of God is not inferior either to his wisdom or power?

We have therefore a superior undoubtedly invested with all the qualities necessary to found the most legitimate and most extensive authority: And since on our side experience shews us, that we are weak and subject to divers wants; and since every thing we have, we have from him, and he is able either to augment or diminish our enjoyments; it is evident, that nothing is wanting here to establish on the one side the absolute sovereignty of God, and on the other our unlimited dependance.

## C H A P. II.

*That God, in consequence of his authority over us, has actually thought proper to prescribe to us laws or rules of conduct.*

I. **T**O prove the existence of God, and our dependence in respect to him, is establishing the right he has of prescribing laws to man. But this is not sufficient; the question is, whether he has actually thought proper to exercise this right. He can undoubtedly impose laws on us; but has he really done it? and though we depend on him for our life, and for our physical faculties, has he not left us in a state of independance in respect to the moral use to which we are to apply them? This is the third and capital point we have still left to examine.

God exercises his authority over us, by prescribing laws to us.

II. We have made some progress already in this research, by discovering all the circumstances necessary to establish an actual legislature. On the one side we find a superior, who by his nature is possessed in the very highest degree of all the conditions requisite to establish a legitimate authority; and on the other we behold man, who is God's creature, endowed with understanding and liberty, capable of acting with knowledge and choice, sensible of pleasure and pain, susceptible of good and evil, of rewards and punishments. Such an aptitude of giving and receiving laws cannot be useless. This concurrence of relations and circumstances undoubtedly denotes an end, and must have some

First proof, drawn from the very relations of which we have been speaking.

some effect; just as the particular organization of the eye shews we are destined to see the light. Why should God have made us exactly fit to receive laws, if he intended none for us? This would be creating so many idle and useless faculties. It is therefore not only possible, but very probable, that our destination in general is such, unless the contrary should appear from much stronger reasons. Now instead of there being any reason to destroy this first presumption, we shall see that every thing tends to confirm it.

Second proof, drawn from the end which God proposed to himself with respect to man, and from the necessity of moral laws, to accomplish this end.

III. 2. When we consider the beautiful order which the supreme wisdom has established in the physical world, it is impossible to persuade ourselves, that he has abandoned the spiritual or moral world to chance and disorder. Reason, on the contrary, tells us, that a wise being proposes to himself a reasonable end in every thing he does, and that he uses all the necessary means to attain it. The end which God had in view with regard to his creatures, and particularly with respect to man, cannot be any other, on the one side, than his glory; and on the other, the perfection and happiness of his creatures, so far as their nature or constitution will admit. These two views, so worthy of the Creator, are perfectly combined. For the glory of God consists in manifesting his perfections, his power, his goodness, wisdom, and justice; and these virtues are nothing else but the love of order and of the good of the whole. Thus a being absolutely perfect and supremely happy, willing to conduct man to that state of order and happiness which suits his nature, cannot but be willing at the same time to employ whatever is necessary for

such an end ; and consequently he must approve of those means that are proper, and disapprove of such as are improper for attaining it. Had the constitution of man been merely physical or mechanical, God himself would have done whatever is expedient for his work : But man being a free and intelligent creature, capable of discernment and choice ; the means which the Deity uses to conduct him to his end, ought to be proportioned to his nature, that is, such as man may engage in, and concur with, by his own actions.

Now as all means are not equally fit to conduct us to a certain end, all human actions cannot therefore be indifferent. Plain it is, that every action, contrary to the ends which God has proposed, is not agreeable to the divine Majesty ; and that he approves, on the contrary, those which of themselves are proper to promote his ends. Since there is a choice to be made, who can question but our Creator is willing we should take the right road ; and that, instead of acting fortuitously and rashly, we should behave like rational creatures, by exercising our liberty, and the other faculties he has given us, in the manner most agreeable to our state and destination, in order to promote his views, and to advance our own happiness, together with that of our fellow-creatures ?

IV. These considerations assume a new force, when we attend to the natural consequences of the opposite system. What would become of man and society, were every one to be so far master of his actions, as to do every thing he listed, without having any other

Confirmation of the preceding proofs.

other principle of conduct than caprice or passion? Let us suppose, that God abandoning us to ourselves, had not actually prescribed any rules of life, or subjected us to laws; most of our talents and faculties would be of no manner of use to us. To what purpose would it be for man to have the light of reason, were he to follow only the impulse of instinct, without watching over his conduct? What would it avail him to have the power of suspending his judgment, were he to yield stupidly to the first impressions? And of what service would reflexion be, were he neither to chuse nor deliberate; and were he, instead of listening to the counsels of prudence, to be hurried away by blind inclinations? These faculties, which form the excellence and dignity of our nature, would not only be rendered hereby entirely frivolous, but, moreover, would become prejudicial even by their excellence; for the higher and nobler the faculty is, the more the abuse of it proves dangerous.

This would be not only a great misfortune for man considered alone, and in respect to himself; but would still prove a greater evil to him when viewed in the state of society. For this more than any other state requires laws, to the end that each person may set limits to his pretensions, without invading another man's right. Were it otherwise, licentiousness must be the consequence of independance. To leave men abandoned to themselves, is leaving an open field to the passions, and paving the way for injustice, violence, perfidy and cruelty. Take away natural laws, and that moral tie which supports justice and honesty in a whole nation, and establishes  
also

also particular duties either in families, or in the other relations of life; man would be then the most savage and ferocious of all animals. The more dexterous and artful he is, the more dangerous he would prove to his equals; his dexterity would degenerate into craft, and his art into malice. Then we should be divested of all the advantages and sweets of society; and thrown into a state of war and libertinism.

V. 3. Were any one to say, that man himself would not fail to remedy these disorders, by establishing laws in society; (beside that human laws would have very little force were they not founded on the principles of conscience;) this remark shews there is a necessity for laws in general, whereby we gain our cause. For if it be agreeable to the order of reason that men should establish a rule of life among themselves, in order to be screened from the evils they might apprehend from one another, and to procure those advantages that are capable of forming their private and public happiness; this alone ought to convince us, that the Creator, infinitely wiser and better than ourselves, must have undoubtedly pursued the same method. A good parent that takes care to direct his children by his authority and counsels, is able to preserve peace and order in his family; is it then to be imagined, that the common father of mankind should neglect to give us the like assistance? and if a wise sovereign has nothing so much at heart as to prevent licentiousness by salutary regulations; how can any one believe that God, who is a much greater friend to man than man is to his equals, has left all mankind without direction and guide,

Third proof,  
drawn from  
the goodness  
of God.

guide, even on the most important matters, on which our whole happiness depends? Such a system would be no less contrary to the goodness than to the wisdom of God. We must therefore have recourse to other ideas, and conclude that the Creator having, through a pure effect of his bounty, created man for happiness, and having implanted in him an insuperable inclination to felicity, subjecting him at the same time to live in society, he must have given him also such principles as are capable of inspiring him with a love of order, and rules to point out the means of procuring and attaining it.

Fourth  
proof, drawn  
from the  
principles of  
conduct  
which we  
actually find  
within our-  
selves.

VI. 4. But let us enter into ourselves, and we shall actually find, that what we ought to expect in this respect from the divine wisdom and goodness, is dictated by right reason, and by the principles engraved in our hearts.

If there be any speculative truths that are evident, or if there be any certain axioms that serve as a basis to sciences; there is no less certainty in some principles that are laid down in order to direct our conduct, and to serve as the foundation of morality. For example; *That the all-wise and all bountiful Creator merits the respects of the creature: That man ought to seek his own happiness: That we should prefer the greater to the lesser evil: That a benefit deserves a grateful acknowledgment: That the state of order excels that of disorder, &c.* Those maxims, and others of the same sort, differ very little in evidence from these, *The whole is greater than its part; or the cause precedes the effect, &c.* Both are dictated by pure reason; and hence we feel ourselves forced,

forced, as it were, to give our assent to them. These general principles are seldom contested; if there be any dispute, it relates only to their application and consequences. But so soon as the truth of those principles is discovered, their consequences, whether immediate or remote, are entirely as certain, provided they be well connected; the whole business being to deduce them by a train of close and conclusive argumentations.

VII. In order to be sensible of the influence which such principles, with their legitimate consequences, ought to have over our conduct, we have only to recollect what has been already said in the first part of this work \*, concerning the obligation we are under of following the dictates of reason. As it would be absurd in speculative matters, to speak and judge otherwise than according to that light which makes us discern truth from falsehood; so it would be no less preposterous to deviate in our conduct from those certain maxims which enable us to discern good from evil. When once it is manifest, that a particular manner of acting is suitable to our nature, and to the great end we have in view; and that another, on the contrary, does not suit our constitution or happiness; it follows, that man, as a free and rational creature, ought to be very attentive to this difference, and to take his resolutions accordingly. He is obliged to it by the very nature of the thing; because it is absolutely necessary when a person is desirous of the end, to be desirous also of the means; and he is obliged to it moreover, because he cannot mistake the intention and will of his superior in this respect.

These principles are obligatory of themselves.

\* Chap. vi.

VIII. In

They are  
obligatory  
by the di-  
vine will,  
and thus  
become real  
laws.

VIII. In effect God being the author of the nature of things, and of our constitution, if, in consequence of this nature and constitution, we are reasonably determined to judge after a certain manner, and to act according to our judgment, the Creator sufficiently manifests his intention, so that we can no longer be ignorant of his will. The language therefore of reason is that of God himself. When our reason tells us so clearly, *that we must not return evil for good*, it is God himself, who by this internal oracle gives us to understand what is good and just, what is agreeable to him and suitable to ourselves. We said that it is not at all probable, that the good and wise Creator should have abandoned man to himself, without a guide and direction for his conduct. We have here a direction that comes from him; and since he is invested in the very highest degree, as we have already observed, with the perfections on which a legitimate superiority is founded, who can pretend to question that the will of such a superior is a law to us? The reader, I suppose, has not forgot the conditions requisite to constitute a law; conditions that are all to be met with in the present case. 1. There is a rule. 2. This rule is just and useful. 3. It comes from a superior on whom we entirely depend. 4. In fine, it is sufficiently made known to us, by principles engraved in our hearts, and even by our own reason. It is therefore a law properly so called, which we are really obliged to observe. But let us inquire a little further, by what means this natural law is discovered, or, which amounts to the same thing, from what source

source we must derive it. What we have hitherto proved only in a general manner, will be further illustrated and confirmed by the particulars on which we are now going to enlarge. For nothing can be a stronger proof of our having hit upon the true principles, than when unfolding and considering them in their different branches, we find they are always conformable to the nature of things.

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## C H A P. III.

*Of the means by which we discern what is just and unjust, or what is dictated by natural law; namely, 1. moral instinct, and 2. reason.*

I. **W**HAT has been said in the preceding chapter already shews, that God has invested us with two means of perceiving or discerning moral good and evil; the first is only a kind of instinct; the second is reason or judgment.

First means of discerning moral good and evil, namely, instinct or inward sense.

Moral instinct I call that natural bent or inclination which prompts us to approve of certain things as good and commendable, and to condemn others as bad and blameable, independent of reflexion. Or if any one has a mind to distinguish this instinct by the name of moral sense, as Mr. Hutcheson has done, I shall then say, that it is a faculty of the mind, which instantly discerns, in certain cases, moral good and evil, by a kind of sensation and taste, independent of reason and reflexion.

Examples.

II. Thus at the sight of a man in misery or pain, we feel immediately a sense of compassion, which prompts us to relieve him. The first emotion that strikes us, after receiving a benefit, is to acknowledge the favour, and to thank our benefactor. The first disposition of one man towards another, abstracting from any particular reason he may have of hatred or fear, is a sense of benevolence, as towards his fellow-creature, with whom he finds himself connected by a conformity of nature and wants. We likewise observe, that without any great thought or reasoning, a child, or untutored peasant, is sensible that ingratitude is a vice, and exclaims against perfidy, as a black and unjust action, which highly shocks him, and is absolutely repugnant to his nature. On the contrary, to keep one's word, to be grateful for a benefit, to pay every body their due, to honour our parents, to comfort those who are in distress or misery, are all so many actions which we cannot but approve and esteem as just, good, honest, beneficent, and useful to mankind. Hence the mind is pleased to see or hear such acts of equity, sincerity, humanity, and beneficence; the heart is touched and moved; and reading them in history we are seized with admiration, and extol the happiness of the age, nation, or family, distinguished by such noble examples. As for criminal instances, we cannot see or hear them mentioned, without contempt or indignation.

Whence  
these sensa-  
tions pro-  
ceed.

III. If any one should ask, from whence comes this emotion of the heart, which prompts us, almost

without any reasoning or inquiry, to love some actions and to detest others; the only answer I am able to give, is, that it proceeds from the author of our being, who has formed us after this manner, and whom it has pleased that our nature or constitution should be such, that the difference of moral good and evil should, in some cases, affect us exactly in the same manner as physical good and evil. It is therefore a kind of instinct, like several others which nature has given us, in order to determine us with more expedition and vigour, where reflexion would be too slow. It is thus we are informed of our corporeal wants by our inward sense; while our outward senses acquaint us with the quality of the objects that may be useful or prejudicial to us, in order to lead us, as it were, mechanically to whatever is requisite for our preservation. Such is also the instinct that attaches us to life, and the desire of happiness, the primum mobile of all our actions. Such is likewise the almost blind, but necessary tenderness of parents towards their children. The pressing and indispensable wants of man required he should be directed by the way of sense, which is always quicker and readier than that of reason.

IV. God has therefore thought proper to use this method in respect to the moral conduct of man, by imprinting within us a sense or taste of virtue and justice, which anticipates, in some measure, our reason, decides our first motions, and happily supplies, in most men, the want of attention or reflexion. For what numbers of people would never

Of what use  
they are to  
us.

trouble their heads with reflecting? What multitudes are there of stupid wretches, that lead a mere animal life, and are scarce able to distinguish three or four ideas, in order to form what is called a ratiocination? It was therefore our particular advantage, that the Creator should give us a discernment of good and evil, with a love for the one, and an aversion for the other, by means of a quick and lively kind of faculty, which has no necessity to wait for the speculations of the mind.

Objection :  
These sensations are not found in all men.

Answer :  
1. We find some traces of them among the most savage people.

V. If any one should dispute the reality of these sensations, by saying they are not to be found in all men, because there are savage people who seem to have none at all ; and even among civilized nations we meet with such perverse and stubborn minds, as do not appear to have any notion or sense of virtue : I answer, 1. that the most savage people have nevertheless the first ideas above mentioned ; and if there are some who seem to give no outward signs or demonstrations thereof, this is owing to our not being sufficiently acquainted with their manners ; or because they are intirely stupified, and have stifled almost all sentiments of humanity ; or, in fine, by reason that in some respects they fall into an abuse contrary to these principles, not by rejecting them positively, but through some prejudice that has prevailed over their good sense and natural rectitude, and inclines them to make a bad application of these principles. For example, we see savages who devour their enemies whom they have made prisoners, imagining it to be the right of war, and that since they have liberty to kill them, nothing ought to hinder

der them from benefiting by their flesh, as their proper spoils. But those very savages would not treat in that manner their friends or countrymen: They have laws and rules among themselves; sincerity and plain dealing are esteemed there as in other places, and a grateful heart meets with as much commendation among them as with us.

VI. 2. With regard to those who in the most enlightened and civilized countries seem to be void of all shame, humanity, or justice, we must take care to distinguish between the natural state of man, and the depravation into which he may fall by abuse, and in consequence of irregularity and debauch. For example, what can be more natural than paternal tenderness? And yet we have seen men who seemed to have stifled it, through violence of passion, or by force of a present temptation, which suspended for a while this natural affection. What can be stronger than the love of ourselves and of our own preservation? It happens, nevertheless, that whether through anger, or some other motion which throws the soul out of its natural position, a man tears his own limbs, squanders his substance, or does himself some great prejudice, as if he were bent on his own misery and destruction.

2. We must distinguish between the natural state of man, and that of his depravation.

VII. 3. In fine, if there are people, who coolly, and without any agitation of mind, seem to have divested themselves of all affection and esteem for virtue; (besides, that monsters like these are as rare, I hope, in the moral as in the physical world;) we only see thereby the effects of an exquisite and inveterate de-

3. If there be any monsters in the moral order, they are very rare, and no consequence can be drawn from them.

pravation. For man is not born thus corrupted; but the interest he has in excusing and palliating his vices, the habit he has contracted, and the sophistical arguments to which he has recourse, may stifle, in fine, or corrupt the moral sense of which we have been speaking; as we see that every other faculty of the soul or body may by long abuse be altered or corrupted. Happily nevertheless we observe, that our spiritual senses are less subject than our corporeal ones to depravity and corruption. The principle is almost always preserved; it is a fire, that when it seems even to be extinct, may kindle again and throw out some glimmerings of light, as we have seen examples in very profligate men, under particular conjunctures.

Second  
means of  
discerning  
moral good  
and evil;  
which is  
reason.

VIII. But notwithstanding God has implanted in us this instinct or sense, as the first means of discerning moral good and evil, yet he has not stopt here; he has also thought proper that the same light which serves to direct us in every thing else, that is, reason, should come to our assistance, in order to enable us the better to discern and comprehend the true rules of conduct.

Reason I call the faculty of comparing ideas, of investigating the mutual relations of things, and from thence inferring just consequences. This noble faculty, which is the directress of the mind, serves to illustrate, to prove, to extend, and apply what our natural sense already gave us to understand, in relation to justice and injustice. As reflexion, instead of diminishing paternal tenderness, tends to strengthen it, by making us observe how agreeable it is to the relation of father and son, to the advantage  
not

not only of a family, but of the whole species; in like manner the natural sense we have of the beauty and excellence of virtue, is considerably improved by the reflexions we are taught by reason, in regard to the foundations, motives, relations, and the general as well as particular uses of this same virtue, which seemed so beautiful to us at first sight.

IX. We may even affirm, that the light of reason has three advantages here in respect to this instinct or sense.

First advantage of reason in respect to instinct; it serves to verify it.

1. It contributes to prove its truth and exactness; in the same manner as we observe in other things that study and rules serve to verify the exactness of taste, by shewing us it is neither blind nor arbitrary, but founded on reason, and directed by principles: or as those who are quick-sighted, judge with greater certainty of the distance or figure of an object, after having compared, examined, and measured it quite at their leisure, than if they had depended intirely on the first sight. We find likewise that there are opinions and customs, which make so strong and so general an impression on our minds, that to judge of them only by the sentiment they excite, we should be in danger of mistaking prejudice for truth. It is reason's province to rectify this erroneous judgment, and to counterbalance this effect of education, by setting before us the true principles on which we ought to judge of things.

X. 2. A second advantage which reason has in respect to simple instinct, is, that it unfolds the ideas better, by considering them in all their relations

Second advantage: it unfolds the principles, and from

thence in-  
fers proper  
consequen-  
ces.

and consequences. For we frequently see that those, who have had only the first notion, find themselves embarrassed and mistaken, when they are to apply it to a case of the least delicate or complicated nature. They are sensible indeed of the general principles, but they do not know how to follow them through their different branches, to make the necessary distinctions or exceptions, or to modify them according to time and place. This is the business of reason, which it discharges so much the better, in proportion as there is care taken to exercise and improve it.

Third ad-  
vantage :  
reason is an  
universal  
means, and  
applicable to  
all cases.

XI. 3. Reason not only carries its views farther than instinct, with respect to the unfolding and application of principles; but has also a more extensive sphere, in regard to the very principles it discovers, and the objects it embraces. For instinct has been given us only for a small number of simple cases, relative to our natural state, and which require a quick determination. But besides those simple cases, where it is proper that man should be drawn and determined by a first motion; there are cases of a more composite nature, which arise from the different states of man, from the combination of certain circumstances, and from the particular situation of each person; on all which it is impossible to form any rules but by reflexion, and by an attentive observation of the relations and agreements of each thing.

Such are the two faculties with which God has invested us, in order to enable us to discern between good and evil. These faculties happily joined, and subordinate one to the other, concur to the same effect. One gives the first notice, the other verifies and

and proves it; one acquaints us with the principles, the other applies and unfolds them; one serves for a guide in the most pressing and necessary cases, the other distinguishes all sorts of affinity or relation, and lays down rules for the most particular cases.

It is thus we are enabled to discern what is good and just, or, which amounts to the same thing, to know what is the divine will, in respect to the moral conduct we are to observe. Let us unite at present these two means, in order to find the principles of the law of nature.

#### C H A P. IV.

*Of the principles from whence reason may deduce the law of nature\*.*

I. IF we should be afterwards asked, what principles ought reason to make use of, in order to judge of what relates to the law of nature, and to deduce or unfold it? our answer is in general, that we have only to attend to the nature of man, and to his states or relations; and as these relations are different, there may be likewise different principles, that lead us to the knowledge of our duties.

From whence are we to deduce the principles of the law of nature?

But before we enter upon this point, it will be proper to make some preliminary remarks on what we call *principles of natural law*; in order to prevent the ambiguity or equivocation, that has often entangled this subject.

\* See on this, and the following chapter, Puffendorf's Law of nature and nations, book ii. chap. iii.

Preliminary  
remarks.  
What we  
understand  
by princi-  
ples of na-  
tural law.

II. 1. When we inquire here, which are the first principles of natural law, the question is, which are those truths or primitive rules, whereby we may effectually know the divine will in regard to man; and thus arrive, by just consequences, to the knowledge of the particular laws and duties which God imposes on us by right reason?

2. We must not therefore confound the principles here in question, with the efficient and productive cause of natural laws, or with their obligatory principle. It is unquestionable, that the will of the supreme Being is the efficient cause of the law of nature, and the source of the obligation from thence arising. But this being taken for granted, we have still to inquire how man may attain to the knowledge of this will, and to the discovery of those principles, which acquainting us with the divine intention, enable us to reduce from thence all our particular duties, so far as they are discoverable by reason only. A person asks, for example, whether the law of nature requires us to repair injuries, or to be faithful to our engagements? If we are satisfied with answering him, that the thing is incontestable, because so it is ordered by the divine will; it is plain that this is not a sufficient answer to his question; and that he may reasonably insist to have a principle pointed out, which should really convince him that such in effect is the will of the Deity; for this is the point he is in search of.

Character of  
those prin-  
ciples.

III. Let us afterwards observe, that the first principles of natural laws, ought to be not only true, but

but likewise simple, clear, sufficient, and proper for those laws.

They ought to be true; that is, they should be taken from the very nature and state of the thing. False or hypothetic principles must produce consequences of the same nature; for a solid edifice can never be raised on a rotten foundation. They ought to be simple and clear of their own nature, or at least easy to apprehend and unfold. For the laws of nature being obligatory for all mankind, their first principles should be within every body's reach, so that whosoever has common sense may be easily acquainted with them. It would be very reasonable therefore to mistrust principles that are far-fetched, or of too subtle and metaphysical a nature.

I add, that these principles ought to be sufficient and universal. They should be such as one may deduce from thence, by immediate and natural consequences, all the laws of nature, and the several duties from thence resulting; insomuch that the exposition of particulars be properly only an explication of the principles; in the same manner, pretty near, as the production or increase of a plant is only an unfolding of the seed.

And as most natural laws are subject to divers exceptions, it is likewise necessary that the principles be such as include the reasons of the very exceptions; and that we may not only draw from thence all the common rules of morality, but that they also serve to restrain these rules, according as place, time, and occasion require.

In fine, those first principles ought to be established in such a manner, as to be really the proper and  
direct

direct foundation of all the duties of natural law; infomuch that whether we descend from the principle to deduce the consequences, or whether we ascend from the consequences to the principle, our reasonings ought always to be immediately connected, and their thread, as it were, never interrupted.

Whether we ought to reduce the whole to one single principle.

IV. But, generally speaking, it is a matter of mere indifference, whether we reduce the whole to one single principle, or establish a variety of them. We must consult and follow in this respect a judicious and exact method. All that can be said on this head, is, that it is not at all necessary to the solidity or perfection of the system, that all natural laws be deduced from one single and fundamental maxim: nay, perhaps the thing is impossible. Be that as it may, it is idle to endeavour to reduce the whole to this unity.

Such are the general remarks we had to propose. If they prove just, we should reap this double advantage from them, that they will instruct us in the method we are to follow, in order to establish the true principles of natural law; and at the same time they will enable us to pass a solid judgment on the different systems concerning this subject. But it is time now to come to the point.

Man cannot attain to the knowledge of natural laws, but by examining his nature, constitution, and state.

V. The only way to attain to the knowledge of natural law, is to consider attentively the nature and constitution of man, the relations he has to the beings that surround him, and the states from thence resulting. In fact, the very term of *natural law*, and the notion we have given of it, shew that the prin-

principles of this science must be taken from the very nature and constitution of man. We shall therefore lay down two general propositions, as the foundation of the whole system of the law of nature.

*First Proposition.*

Whatever is in the nature and original constitution of man, and appears a necessary consequence of this nature and constitution, certainly indicates the intention or will of God with respect to man, and consequently acquaints us with the law of nature.

*Second Proposition.*

But in order to have a complete system of the law of nature, we must not only consider the nature of man, such as it is in itself; it is also necessary to attend to the relations he has to other beings, and to the different states from thence arising: otherwise it is evident we should have only an imperfect and defective system.

We may therefore affirm, that the general foundation of the system of natural law, is the nature of man considered under the several circumstances that attend it, and in which God himself has placed him for particular ends; inasmuch as by this means we may be acquainted with the will of God. In short, since man holds from the hand of God himself whatever he possesses, as well with regard to his existence, as to his manner of existing; it is the study of human nature only, that can fully instruct us concerning the views which God proposed to himself in giving

us our being, and consequently with the rules we ought to follow, in order to accomplish the designs of the Creator.

Three states  
of man.

VI. For this purpose we must recollect what has been already said, of the manner in which man may be considered under three different respects or states, which embrace all his particular relations. In the first place we may consider him as God's creature, from whom he has received his life, his reason, and all the advantages he enjoys. Secondly, man may be considered in himself as a being, composed of body and soul, and endowed with many different faculties; as a being that naturally loves himself, and necessarily desires his own felicity. In fine, we may consider him as forming a part of the species, as placed on the earth near several other beings of a similar nature, and with whom he is inclined, nay, by his natural condition, obliged to live in society. Such, in fact, is the system of humanity, from whence results the most common and natural distinction of our duties, taken from the three different states here mentioned; duties towards God, towards ourselves, and towards the rest of mankind\*.

Religion:  
principle of  
the natural  
laws, that  
have God  
for their ob-  
ject.

VII. In the first place, since reason brings us acquainted with God as a self-existent being, and so-

\* *We meet with this division in Cicero: Philosophy, says he, teaches us in the first place the worship of the deity; secondly, the mutual duties of men, founded on human society; and, in fine, moderation and greatness of soul. "Hæc (philosophia) nos primum ad illorum (deorum) cultum, deinde ad jus hominum, quod situm est in generis humani societate, tum ad modestiam magnitudinemque animi erudit." Cic. Tusc. quæst. lib. 1. cap. 26.*

vereign

vereign Lord of all things, and in particular as our creator, preserver, and benefactor ; it follows therefore that we ought necessarily to acknowledge the sovereign perfection of this supreme Being, and our absolute dependance on him : which by a natural consequence inspires us with sentiments of respect, love, and fear, and with an intire submission to his will. For why should God have thus manifested himself to mankind, were it not that their reason should teach them to entertain sentiments proportioned to the excellence of his nature, that is, they should honour, love, adore, and obey him ?

VIII. Infinite respect is the natural consequence of the impressi<sup>Consequen-</sup>on we receive from a prospect of all <sup>ces of this</sup> the divine perfections. We cannot refuse love and <sup>principle.</sup> gratitude to a being supremely beneficent. The fear of displeasing or offending him, is a natural effect of the idea we entertain of his justice and power, and obedience cannot but follow from the knowledge of his legitimate authority over us, of his bounty, and supreme wisdom, which are sure to conduct us by the road most agreeable to our nature and happiness. The assemblage of these sentiments, deeply engraved in the heart, is called *Piety*.

Piety, if it be real, will shew itself externally two different ways, by our morals, and by outward worship. I say, 1. by *our morals*, because a pious man, sincerely penetrated with the abovementioned sentiments, will find himself naturally inclined to speak and act after the manner he knows to be most conformable to the divine will and perfections : this is his rule and model ; from whence the practice of the most excellent virtues arises. 2. But

2. But besides this manner of honouring God, which is undoubtedly the most necessary and most real, a religious man will consider it as a pleasure and duty to strengthen himself in these sentiments of piety, and to excite them in others. Hence external worship, as well public as private, is derived. For whether we consider this worship as the first and almost only means of exciting, entertaining, and improving religious and pious sentiments in the mind; or whether we look upon it as a homage, which men, united by particular or private societies, pay in common to the Deity; or whether, in fine, both these views are joined, reason represents it to us as a duty of indispensable necessity.

This worship may vary indeed in regard to its form; yet there is a natural principle which determines its essence, and preserves it from all frivolous and superstitious practices; viz. that it consists in instructing mankind, in rendering them pious and virtuous, and in giving them just ideas of the nature of God, as also of what he requires from his creatures.

The different duties here pointed out, constitute what we distinguish by the name of *Religion*. We may define it, a connexion which attaches man to God, and to the observance of his laws, by those sentiments of respect, love, submission, and fear, which the perfections of a supreme Being, and our intire dependance on him, as an all-wise, and all-bountiful Creator, are apt to excite in the human mind.

Thus by studying our nature and state, we find, in the relation we have to the Deity, the proper principle from whence those duties of natural law, that have God for their object, are immediately derived.

IX. If

IX. If we search afterwards for the principle of those duties that regard ourselves, it will be easy to discover them, by examining the internal constitution of man, and inquiring into the Creator's views in regard to him, in order to know for what end he has endowed him with those faculties of mind and body that constitute his nature.

Self-love :  
the principle  
of those  
natural laws  
which con-  
cern our-  
selves.

Now it is evident, that God, by creating us, proposed our preservation, perfection, and happiness. This is what manifestly appears, as well by the faculties with which man is invested, which all tend to the same end; as by the strong inclination that prompts us to pursue good, and shun evil. God is therefore willing, that every one should labour for his own preservation and perfection, in order to acquire all the happiness of which he is capable according to his nature and state.

This being premised, we may affirm that self-love (I mean an enlightened and rational love of ourselves) may serve for the first principle with regard to the duties which concern man himself; inasmuch as this sensation being inseparable from human nature, and having God for its author, gives us clearly to understand in this respect the will of the supreme Being.

Yet we should take particular notice, that the love of ourselves cannot serve us as a principle and rule, but inasmuch as it is directed by right reason, according to the exigencies or necessities of our nature and state.

For thus only it becomes an interpreter of the Creator's will in respect to us; that is, it ought to be managed in such a manner, as not to offend the laws of religion or society. Otherwise this self-love

would become the source of a thousand iniquities ; and so far from being of any service, would prove a snare to us, by the prejudice we should certainly receive from those very iniquities.

Natural  
laws derived  
from this  
principle.

X. From this principle, thus established, it is easy to deduce the natural laws and duties that directly concern us. The desire of happiness is attended, in the first place, with the care of our preservation. It requires next, that (every thing else being equal) the care of the soul should be preferred to that of the body. We ought not to neglect to improve our reason, by learning to discern truth from falsehood, the useful from the hurtful, in order to acquire a just knowledge of things that concern us, and to form a right judgment of them. It is in this that the perfection of the understanding, or wisdom, consists. We should afterwards be determined, and act constantly according to this light, in spite of all contrary suggestion and passion. For it is properly this vigour or perseverance of the soul, in following the counsels of wisdom, that constitutes virtue, and forms the perfection of the will, without which the light of the understanding would be of no manner of use.

From this principle all the particular rules arise. You ask, for example, whether the moderation of the passions be a duty imposed upon us by the law of nature? In order to give you an answer, I inquire, in my turn, whether it is necessary to our preservation, perfection, and happiness? If it be, as undoubtedly it is, the question is decided. You have a mind to know whether the love of occupation, the discerning between permitted and forbidden pleasures,

pleasures, and moderation in the use of such as are permitted, whether, in fine, patience, constancy, resolution, &c. are natural duties; I shall always answer, by making use of the same principle; and, provided I apply it well, my answer cannot but be right and exact; because the principle conducts me certainly to the end, by acquainting me with the will of God.

XI. There remains still another point to investigate, namely, the principle from whence we are to deduce those natural laws that regard our mutual duties, and have society for their object. Man is made for society. Let us see whether we cannot discover this principle, by pursuing the same method. We ought always to consult the actual state of things, in order to take their result.

I am not the only person upon earth; I find myself in the middle of an infinite number of other men, who resemble me in every respect; and I am subject to this state, even from my nativity, by the very act of providence. This induces me naturally to think, it was not the intention of God that each man should live single and separate from the rest; but that, on the contrary, it was his will they should live together, and be joined in society. The Creator might certainly have formed all men at the same time, though separated from one another, by investing each of them with the proper and sufficient qualities for this kind of solitary life. If he has not followed this plan, it is probably because it was his will that the ties of consanguinity and birth should begin to form a more extensive union, which he was pleased to establish amongst men.

The more I examine, the more I am confirmed in this thought. Most of the faculties of man, his natural inclinations, his weakness, and wants, are all so many indubitable proofs of this intention of the Creator.

I. Society  
is absolutely  
necessary for  
man.

XII. Such in effect is the nature and constitution of man, that out of society he could neither preserve his life, nor display and perfect his faculties and talents, nor attain any real and solid happiness. What would become of an infant, were there not some benevolent and assisting hand to provide for his wants? He must perish, if no one takes care of him; and this state of weakness and ignorance requires even a long and continued assistance. View him when grown up to manhood, you find nothing but rudeness, ignorance, and confused ideas, which he is scarce able to convey; abandon him to himself, and you behold a savage, and perhaps a ferocious animal; ignorant of all the conveniences of life, sunk in idleness, a prey to spleen and melancholy, and almost incapable of providing against the first wants of nature. If he attains to old age, behold him relapsed into infirmities that render him almost as dependent on external aid as he was in his infancy. This dependance shews itself in a more sensible manner in accidents and maladies. What would then become of man, were he to be in a state of solitude? There is nothing but the assistance of our fellow-creatures that is able to preserve us from divers evils, or to redress them, and render life easy and happy, in whatsoever stage or situation of life.

We have an excellent picture of the use of society, drawn by Seneca \*. *On what, says he, does our security depend, but on the services we render one another? It is this commerce of benefits that makes life easy, and enables us to defend ourselves against any sudden insults or attacks. What would be the fate of mankind, were every one to live apart? So many men, so many victims to other animals, an easy prey, in short, feebleness itself. In fact, other animals have strength sufficient to defend themselves: Those that are wild and wandering, and whose ferocity does not permit them to herd together, are born, as it were, with arms; whereas man is on all sides encompassed with weakness, having neither arms, nor teeth, nor claws to render him formidable. But the strength he wants by himself, he finds when united with his equals. Nature, to make amends, has endowed him with two things,*

\* *Quo alio tuti sumus, quàm quòd mutuis juvamus officiis? Hoc uno instructior vita contraque incurfiones subitas munitior est, beneficiorum commercio. Fac nos singulos, quid sumus? præda animalium et victimæ, ac bellissimus et facillimus sanguis. Quoniam cæteris animalibus in tutelam sui satis virium est: quæcunque vaga nascuntur, & actura vitam segregem, armata sunt. Hominem imbecillitas cingit; non unguium vis, non dentium, terribilem cæteris fecit. Nudum & infirmum societas munit. Duas res dedit quæ illum, obnoxium cæteris, validissimum facerent, rationem & societatem. Itaque, qui par esse nulli poterat, si seduceretur, rerum potitur. Societas illi dominium omnium animalium dedit: Societas terris genitum, in alienæ naturæ transmisit imperium, & dominari etiam in mari iussit. Hæc morborum impetus arcuit, senectuti adminicula prospexit, solatia contra dolores dedit. Hæc sortes nos facit, quod licet contra fortunam advocare, Hanc societatem tolle, & unitatem generis humani, quæ vita susinetur, scindes. Senec. de Benef. lib. 4. cap. 18.*

*which give him a considerable force and superiority, where otherwise he would be much inferior; I mean reason and sociability, whereby he who alone could make no resistance, becomes master of the whole. Society gives him an empire over other animals; society is the cause, that, not satisfied with the element on which he was born, he extends his command over the sea. It is this same union that supplies him with remedies in his diseases, assistance in his old age, and comfort in his pains and anxieties; it is this that enables him, as it were, to bid defiance to fortune. Take away society, and you destroy the union of mankind, on which the preservation and the whole happiness of life depends.*

2. Man by his constitution is very fit for society.

XIII. As society is so necessary to man, God has therefore given him a constitution, faculties, and talents, that render him very proper for this state. Such is, for example, the faculty of speech, which enables us to convey our thoughts with facility and readiness, and would be of no manner of use out of society. The same may be said with regard to our propensity to imitation, and of that surprising mechanism which renders all the passions and impressions of the soul so easy to be communicated. It is sufficient a man appears to be moved, in order to move and soften others \*. If a person accosts us with joy painted on his countenance, he excites in us the like sentiment of joy. The tears of a stranger affect us, even before we know the cause there-

\* *Homo sum; humani nihil a me alienum puto.* Ter. Heauton,

of \* ; and the cries of a man related to us only by the common tie of humanity, make us fly to his succour by a mechanical movement previous to all deliberation.

This is not all. We see that nature has thought proper to distribute differently her talents among men, by giving to some an aptitude to perform certain things, which to others are impossible; while the latter have received, in their turn, an industry denied to the former. Wherefore, if the natural wants of men render them dependent on one another, the diversity of talents, which qualifies them for mutual aid, connects and unites them. These are so many evident signs of man's being designed for society.

XIV. But if we consult our own inclinations, we shall likewise find, that our hearts are naturally bent to wish for the company of our equals, and to dread an intire solitude as an irksome and forlorn state. And though there have been instances of people who have thrown themselves into a solitary life, yet we cannot consider this in any other light but as the effect of superstition, or melancholy, or of a singularity extremely remote from the state of nature. Were we to investigate the cause of this social inclination, we should find it was very wisely bestowed on us by the author of our being; by reason that it is in society man finds a remedy for the greatest part of his wants, and an occasion for exercising

3. Our natural inclinations prompt us to look out for society.

\* *Ut ridentibus adrident, ita flentibus adsunt*

*Humani vultus.*—Hor. de Arte poet. v. 101.

most of his faculties; it is in society he is capable of feeling and displaying those sensations on which nature has intailed so much satisfaction and pleasure; I mean, the sensations of benevolence, friendship, compassion, and generosity. For such are the charms of social affections, that from thence our purest enjoyments arise. Nothing in fact is so satisfactory and flattering to man, as to think he merits the esteem and friendship of others. Science acquires an additional value, when it can display itself abroad; and our joy becomes more sensible, when we have an opportunity of testifying it in public, or of pouring it into the bosom of a friend: it is redoubled by being communicated; for our own satisfaction is increased by the agreeable idea we have of giving pleasure to our friends, and of fixing them more steadily in our interest. Anxiety, on the contrary, is alleviated and softened by sharing it with our neighbour; just as a burden is eased when a good-natured person helps us to bear it.

Thus every thing invites us to the state of society; want renders it necessary to us, inclination makes it a pleasure, and the dispositions we naturally have for it, are a sufficient indication of its being really intended by our Creator.

Sociability.  
Principles of  
natural laws  
relative to  
other men.

XV. But as human society can neither subsist, nor produce the happy effects for which God has established it, unless mankind have sentiments of affection and benevolence for one another; it follows therefore, that our Creator and common Father is willing that every body should be animated with these sentiments, and do whatever lies in their power

to

to maintain this society in an agreeable and advantageous state, and to tie the knot still closer by reciprocal services and benefits.

This is the true principle of the duties which the law of nature prescribes to us in respect to other men. Ethic writers have given it the name of *Sociability*, by which they understand that disposition which inclines us to benevolence towards our fellow-creatures, to do them all the good that lies in our power, to reconcile our own happiness to that of others, and to render our particular advantage subordinate to the common and general good.

The more we study our own nature, the more we are convinced that this sociability is really agreeable to the will of God. For, beside the necessity of this principle, we find it engraved in our heart; where, if the Creator has implanted on one side the love of ourselves, the same hand has imprinted on the other a sentiment of benevolence for our fellow-creatures. These two inclinations, though distinct from one another, have nothing opposite in their nature; and God who has bestowed them upon us, designed they should act in concert, in order to help, and not to destroy each other. Hence good-natured and generous hearts feel a most sensible satisfaction in doing good to mankind, because in this they follow the inclination they received from nature.

XVI. From the principle of sociability, as from their real source, all the laws of society, and all our general and particular duties towards other men, are derived.

Natural laws which flow from sociability.

1. This

1. The public good ought always to be the supreme rule.

1. This union which God has established among men requires, that in every thing relating to society, the public good should be the supreme rule of their conduct, and that guided by the counsels of prudence, they should never pursue their private advantage to the prejudice of the public: For this is what their state demands, and is consequently the will of their common father.

2. The spirit of sociability ought to be universal.

2. The spirit of sociability ought to be universal. Human society embraces all those with whom we can have possibly any communication; because it is founded on the relations they all bear to one another, in consequence of their nature and state\*.

3. To observe a natural equality.

3. Reason afterwards informs us, that creatures of the same rank and species, born with the same faculties to live in society, and to partake of the same advantages, have in general an equal and common right. We are therefore obliged to consider ourselves as naturally equal, and to behave as such; and it would be bidding defiance to nature, not to acknowledge this principle of equity (which by the civilians is called *æquabilitas juris*) as one of the first foundations of society. It is on this the *lex talionis* is founded, as also that simple but universal and useful rule, that we ought to have the same dispositions in regard to other men, as we desire they should have towards us, and to behave in the same manner towards them, as we are willing they should behave to us in the like circumstances.

4. To preserve a benevolence even towards our enemies.

4. Sociability being a reciprocal obligation among men, such as through malice or injustice break the

\* See Puffendorf, Law of nature and nations, book ii. chap. iii. § 15.

band of society, cannot reasonably complain, if those they have injured do not treat them as friends, or even if they proceed against them by forcible methods.

Self-defence  
is permitted,  
revenge is  
not.

But though we have a right to suspend the acts of benevolence in regard to an enemy, yet we are never allowed to stifle its principle. As nothing but necessity can authorise us to have recourse to force against an unjust aggressor, so this same necessity should be the rule and measure of the harm we do him; and we ought to be always disposed to reconciliation so soon as he has done us justice, and we have nothing farther to apprehend.

We must therefore distinguish carefully between a just defence of one's own person, and revenge. The first does but suspend, through necessity, and for a while, the exercise of benevolence, and has nothing in it opposite to sociability. But the other stifling the very principle of benevolence, introduces, in its stead, a sentiment of hatred and animosity, a sentiment vicious in itself, contrary to the public good, and expressly condemned by the law of nature.

XVII. These general rules are very fertile of consequences.

Particular  
consequences.

We should do no wrong to any one, either in word or action; and we ought to repair all damages by us committed; for society could not subsist, were acts of injustice tolerated.

We ought to be sincere in our discourse, and steady to our engagements; for what trust could men repose in one another, and what security could they have in commercial life, were it lawful to violate their plighted faith?

We

We not only ought to do to every man the good he properly deserves, but moreover we should pay him the degree of esteem and honour due to him, according to his estate and rank; because subordination is the link of society, without which there can be no order either in families, or in civil governments.

But if the public good requires that inferiors should obey, it demands also that superiors should preserve the rights of those who are subject to them, and should govern their people only in order to render them happy.

Again: men are captivated by the heart, and by favours; now nothing is more agreeable to humanity, or more useful to society, than compassion, lenity, beneficence, and generosity. This is what induced Cicero to say \*, *There is nothing truer than that excellent maxim of Plato, viz. that we are not born for ourselves alone, but likewise for our country and friends: And if, according to the Stoics, the productions of the earth are for men, and men themselves for the good and assistance of one another; we ought certainly, in this respect, to comply with the*

\* *Sed quoniam (ut præclare scriptum est a Platone) non nobis solum nati sumus, ortusque nostri partem patria vindicat, partem amici: atque (ut placet Stoicis) quæ in terris gignuntur, ad usum hominum omnia creari, homines autem hominum causa esse generatos, ut ipsi inter se alii prodesse possent: in hoc naturam debemus ducem sequi, & communes utilitates in medium asserre, mutatione officiorum, dando, accipiendò: tum artibus, tum opera, tum facultatibus devincire hominum inter homines societatem. Cic. de Offic. lib. 1. cap. 7.*

*design of nature, and promote her intention, by contributing our share to the general interest, by mutually giving and receiving good turns, and employing all our care and industry, and even our substance, to strengthen that love and friendship which should always prevail in human society.*

Since therefore the different sentiments and acts of justice and goodness, are the only and true bonds that knit men together, and are capable of contributing to the stability, peace, and prosperity of society; we must look upon those virtues as so many duties that God imposes on us, for this reason, because whatever is necessary to his design, is of course conformable to his will.

XVIII. We have therefore three general principles of the laws of nature relative to the abovementioned three states of man: And these are, 1. Religion. 2. Self-love. 3. Sociability or benevolence towards our fellow-creatures.

These three principles have all the requisite characters.

These principles have all the characters above required. They are *true*, because they are taken from the nature of man, in the constitution and state in which God has placed him. They are *simple*, and within every body's reach, which is an important point; because, in regard to duties, there is nothing wanting but principles that are obvious to every one; for a subtlety of mind that sets us upon singular and new ways, is always dangerous. In fine, these principles are *sufficient*, and *very fertile*; by reason they embrace all the objects of our duties, and acquaint us with the will of God in the several states and relations of man.

XIX. True

Remarks on  
Puffendorf's  
system.

XIX. True it is, that Puffendorf reduces the thing within a lesser compass, by establishing sociability alone as the foundation of all natural laws. But it has been justly observed, that this method is defective. For the principle of sociability does not furnish us with the proper and direct foundation of all our duties. Those which have God for their object, and those which are relative to man himself, do not flow directly and immediately from this source, but have their proper and particular principle. Let us suppose man in solitude: He would still have several duties to discharge, such as to love and honour God, to preserve himself, to cultivate his faculties as much as possible, &c. I acknowledge that the principle of sociability is the most extensive, and that the other two have a natural connexion with it; yet we ought not to confound them, as if they had not their own particular force, independent of sociability. These are three different springs, which give motion and action to the system of humanity; springs distinct from one another, but which act all at the same time pursuant to the views of the Creator.

The critics  
have carried  
their cen-  
sures too far  
against him  
in this re-  
spect.

XX. Be it said nevertheless, in justification of Puffendorf, and according to a judicious observation made by Barbeyrac, that most of the criticisms on the former's system, as defective in its principle, have been pushed too far. This illustrious restorer of the study of natural law declares, his design was properly no more than to explain the natural duties  
of

of man\* : Now for this purpose he had occasion only for the principle of sociability. According to him, our duties towards God form a part of natural theology ; and religion is interwoven in a treatise of natural law, only as it is a firm support of society. With regard to the duties that concern man himself, he makes them depend partly on religion, and partly on sociability †. Such is Puffendorf's system : He would certainly have made his work more perfect, if embracing all the states of man, he had established distinctly the proper principles agreeable to each of those states, in order to deduce afterwards from thence all our particular duties : For such is the just extent we ought to give to natural law.

XXI. This was so much the more necessary, as notwithstanding our duties are relative to different objects, and deduced from distinct principles, yet they have, as we already hinted, a natural connexion ; inso-

Of the connexion between our natural duties.

much that they are interwoven, as it were, with one another, and by mutual assistance, the observance of some renders the practice of others more easy and certain. It is certain, for example, that the fear of God, joined to a perfect submission to his will, is a very efficacious motive to engage men to discharge what directly concerns themselves, and to do for their neighbour and for society whatever the law of nature requires. It is also certain, that the duties

\* See the Law of nature and nations, book ii. chap. iii. § 19. *Specim. controvers. cap. 5. § 25. Spicilegium controversiarum, cap. 1. § 14.*

† See the Duties of man and a citizen, book i. chap. iii. § 13.

which relate to ourselves, contribute not a little to direct us with respect to other men. For what good could the society expect from a man, who would take no care to improve his reason, or to form his mind and heart to wisdom and virtue? On the contrary, what may not we promise ourselves from those who spare no pains to perfect their faculties and talents, and are pushed on towards this noble end, either by the desire of rendering themselves happy, or by that of procuring the happiness of others? Thus whosoever neglects his duty towards God, and deviates from the rules of virtue in what concerns himself, commits thereby an injustice in respect to other men, because he subtracts so much from the common happiness. On the contrary, a person who is penetrated with such sentiments of piety, justice, and benevolence, as religion and sociability require, endeavours to make himself happy; because, according to the plan of providence, the personal felicity of every man is inseparably connected, on the one side with religion, and on the other with the general happiness of the society of which he is a member; insomuch that to take a particular road to happiness is mistaking the thing, and rambling quite out of the way. Such is the admirable harmony, which the divine wisdom has established between the different parts of the human system. What could be wanting to complete the happiness of man, were he always attentive to such salutary directions?

Of the opposition that sometimes happens between these very duties.

XXII. But as the three grand principles of our duties are thus connected, so there is likewise a natural subordination between them, that helps to decide which

which of those duties ought to have the preference in particular circumstances or cases, when they have a kind of conflict or opposition that does not permit us to discharge them all alike.

The general principle to judge rightly of this subordination is, that the stronger obligation ought always to prevail over the weaker. But to know afterwards which is the stronger obligation, we have only to attend to the very nature of our duties, and their different degrees of necessity and utility; for this is the right way to know in that case the will of God. Pursuant to these ideas, we shall give here some general rules concerning the cases above mentioned.

1. The duties of man towards God should always prevail over any other. For of all obligations, that which binds us to our all-wise and all-bountiful Creator, is without doubt the nearest and strongest.

2. If what we owe to ourselves comes in competition with our duty to society in general, society ought to have the preference. Otherwise, we should invert the order of things, destroy the foundations of society, and act directly contrary to the will of God, who by subordinating the part to the whole, has laid us under an indispensable obligation of never deviating from the supreme law of the common good. *Not true!*

3. But if, every thing else equal, there happens to be an opposition between the duties of self-love and sociability, self-love ought to prevail. For man being directly and primarily charged with the care of his own preservation and happiness, it follows therefore that in a case of intire inequality, the care of ourselves ought to prevail over that of others. *Not the case*

4. But if, in fine, the opposition is between duties relating to ourselves, or between two duties of sociability, we ought to prefer that which is accompanied with the greatest utility, as being the most important\*.

Natural law  
obligatory ;  
and natural  
law of *simple*  
*permission*.  
General principle  
of the law  
of *permission*.

XXIII. What we have hitherto explained, properly regards the natural law called *obligatory*, viz. that which having for its object those actions wherein we discover a necessary agreeableness or disagreeableness to the nature and state of man, lays us therefore under an indispensable obligation of acting or not acting after a particular manner. But in consequence of what has been said above †, we must acknowledge that there is likewise a law of *simple permission*, which leaves us at liberty in particular cases to act or not ; and by laying other men under a necessity of giving us no let or molestation, secures to us in this respect the exercise and effect of our liberty.

The general principle of this law of permission is, that we may reasonably, and according as we judge proper, do or omit whatever has not an absolute and essential agreeableness or disagreeableness to the nature and state of man ; unless it be a thing expressly ordained or forbidden by some positive law, to which we are otherwise subject.

The truth of this principle is obvious. The Creator having invested man with several faculties, and among the rest with that of modifying his actions as he thinks proper ; it is plain that in every thing

\* See Barbeyrac's fifth note on section 15. of the third chapter, book ii. of the Law of nature and nations.

† See part i. chap. x. § 5. and 6.

in which he has not restrained the use of those faculties, either by an express command or a positive prohibition, he leaves man at liberty to exercise them according to his own discretion. It is on this law of permission all those rights are founded, which are of such a nature as to leave us at liberty to use them or not, to retain or renounce them in the whole or in part; and in consequence of this renunciation, actions in themselves permitted, happen sometimes to be commanded or forbidden by the authority of the sovereign, and become obligatory by that means.

*There is  
no such  
or law  
The subject*

XXIV. This is what right reason discovers in the nature and constitution of man, in his original and primitive state. But as man himself may make divers modifications in his primitive state, and enter into several adventitious ones; the consideration of those new states fall likewise upon the object of the law of nature, taken in its full extent; and the principles we have laid down ought to serve likewise for a rule in the states in which man engages by his own act and deed.

*Two species  
of natural  
law; one  
primitive,  
the other  
secondary.*

Hence occasion has been taken to distinguish two species of natural law; the one primary, the other secondary.

The primary or primitive natural law is that which immediately arises from the primitive constitution of man, as God himself has established it, independent of any human act.

Secondary natural law is that which supposes some human act or establishment; as a civil state, property of goods, &c.

It is easy to comprehend, that this secondary natural law is only a consequence of the former; or rather it is a just application of the general maxims of natural law to the particular states of mankind, and to the different circumstances in which they find themselves by their own act; as it appears in fact, when we come to examine into particular duties.

\* Some perhaps will be surprized, that in establishing the principles of natural law, we have taken no notice of the different opinions of writers concerning this subject. But we judged it more adviseable to point out the true sources from whence the principles were to be drawn, and to establish afterwards the principles themselves, than to enter into a discussion which would have carried us too far for a work of this nature.† If we have hit upon the true one, this will be sufficient to enable us to judge of all the rest; and if any one desires a more ample and more particular instruction, he may easily find it, by consulting Puffendorf, who relates the different opinions of civilians, and accompanies them with very judicious reflections †.

*well as unless* † which is generally taken as  
 See Grotius, Rights of war and peace, book i. chap. i. § 10. and Puffendorf, Law of nature and nations, book ii. chap. iii. § 22.

† See Puffendorf; Law of nature and nations, book ii. chap. iii. § 1—14.

## C H A P. V.

*That natural laws have been sufficiently notified; of their proper characteristics, the obligation they produce, &c.*

I. **A**FTER what has been hitherto said in relation to the principles of natural laws, and the way we come to know them, there is no need to ask whether God has sufficiently notified those laws to man. It is evident we can discover all their principles, and deduce from thence our several duties, by that natural light which to no man has been ever refused. It is in this sense we are to understand what is commonly said, that this law is naturally known to all mankind. For to think with some people, that the law of nature is innate, as it were, in our minds, and actually imprinted in our souls from the first moment of our existence; is supposing a thing that is not at all necessary, and is moreover contradicted by experience. All that can be said on this subject, is, that the most general and most important maxims of the law of nature, are so clear and manifest, and have such a proportion to our ideas, and such an agreeableness to our nature, that so soon as they are proposed to us, we instantly approve of them; and as we are disposed and accustomed from our infancy to feel these truths, we consider them as born with us.

God has sufficiently notified the laws of nature to man.

II. But we must take care to observe, that when we say man may acquire the knowledge of natural laws,

Men may assist one another in this respect.

laws, by using his reason; we do not exclude the succours he may receive from elsewhere. Some there are, who having taken a particular care to cultivate their minds, are qualified to enlighten others, and to supply, by their instructions, the rudeness and ignorance of the common run of mankind. This is agreeable to the plan of providence. God having designed man for society, and given him a constitution relative to this end, the different helps which men receive of one another, ought to be equally ranked among natural means, with those which every one finds within himself, and draws from his own fund.

In effect, all men are not of themselves capable to unfold methodically the principles of natural laws, and the consequences from thence resulting. It is sufficient that middling capacities are able to comprehend at least those principles, when they are explained to them, and to feel the truth and necessity of the duties that flow from thence, by comparing them with the constitution of their own nature. But if there be some capacities of a still inferior order, they are generally led by the impressions of example, custom, authority, or some present and sensible utility. Be this as it will, every thing rightly considered, the law of nature is sufficiently notified to impower us to affirm, that no man at the age of discretion, and in his right senses, can alledge for a just excuse, an invincible ignorance on this article.

The manner  
in which the  
principles of  
the laws of  
nature have

III. Let us make a reflection, which presents itself here very naturally. It is, that whosoever attends seriously to the manner in which we have

established the principles of the laws of nature, will soon find, that the method we have followed is a fresh proof of the certainty and reality of those laws. We have waved all abstract and metaphysical speculations, in order to consult plain fact, and the nature and state of things. It is from the natural constitution of man, and from the relations he has to other beings, that we have taken our principles; and the system from thence resulting, has so strict and so necessary a connexion with this nature and state of man, that they are absolutely inseparable. If to all this we join what has been already observed in the foregoing chapters, we cannot, methinks, mistake the laws of nature, or doubt of their reality, without renouncing the purest light of reason, and running into Pyrrhonism.

been established, is a fresh proof of the reality of those laws.

IV. But as the principles of the laws of nature are, through the wisdom of the Creator, easy to discover, and as the knowledge of the duties they impose on us, is within the reach of the most ordinary capacities; it is also certain, that these laws are far from being impracticable. On the contrary, they bear so manifest a proportion to the light of right reason, and to our most natural inclinations; they have also such a relation to our perfection and happiness; that they cannot be considered otherwise than as an effect of the divine goodness towards man. Since no other motive but that of doing good, could ever induce a being, who is self-existent, and supremely happy, to form creatures endowed with understanding and sense; it must have been in consequence of this same goodness that he first vouchsafed to direct

Natural laws are the effect of the divine goodness.

them by laws. His view was not merely to restrain their liberty; but he thought fit to let them know what agreed with them best, what was most proper for their perfection and happiness; and in order to add greater weight to the reasonable motives that were to determine them, he joined thereto the authority of his commands\*.

This gives us to understand why the laws of nature are such as they are. It was necessary, pursuant to the views of the Almighty, that the laws he prescribed to mankind, should be suitable to their nature and state; that they should have a tendency of themselves to procure the perfection and advantage of individuals, as well as of the species; of particular people, as well as of the society. In short, the choice of the end determined the nature of the means.

The laws of nature do not depend on an arbitrary institution.

V. In fact, there are natural and necessary differences in human actions, and in the effects by them produced. Some agree of themselves with the nature and state of man, while others disagree, and are quite opposite thereto; some contribute to the production and maintenance of order, others tend to subvert it; some procure the perfection and happiness of mankind, others are attended with their disgrace and misery. To refuse to acknowledge these differences, would be shutting one's eyes to the light, and confounding it with darkness. These are differences of a most sensible nature; and whatever a person may say to the contrary, sense and

\* See part i. chap. x. § 3.

experience will always refute those false and idle subtleties.

Let us not therefore seek any where else but in the very nature of human actions, in their essential differences and consequences, for the true foundation of the laws of nature, and why God forbids some things, while he commands others. These are not arbitrary laws, such as God might not have given, or have given others of a quite different nature. Supreme wisdom can no more than supreme power act any thing absurd and contradictory. It is the very nature of things that always serves for the rule of his determinations. God was at liberty, without doubt, to create or not to create man; to create him such as he is, or to give him quite a different nature. But having determined to form a rational and social being, he could not prescribe any thing unsuitable to such a creature. We may even affirm, that the supposition which makes the principles and rules of the law of nature depend on the arbitrary will of God, tends to subvert and destroy even the very idea of natural law. For if these laws were not a necessary consequence of the nature, constitution, and state of man, it would be impossible for us to have a certain knowledge of them, except by a very clear revelation, or by some other formal promulgation on the part of God. But agreed it is, that the law of nature is, and ought to be known by the mere light of reason. To conceive it therefore as depending on an arbitrary will, would be attempting to subvert it, or at least would be reducing the thing to a kind of Pyrrhonism; by reason we could have no natural means of being

sure that God commands or forbids one thing rather than another. Hence, if the laws of nature depend originally on divine institution, as there is no room to question; we must likewise agree, that this is not a mere arbitrary institution, but founded, on one side, on the very nature and constitution of man; and, on the other, on the wisdom of God, who cannot desire an end, without desiring at the same time the means that alone are fit to obtain it.

Our opinion  
is not very  
wide from  
that of Gro-  
tius.

VI. It is not amiss to observe here, that the manner in which we establish the foundation of the law of nature, does not differ in the main from the principles of Grotius. Perhaps this great man might have explained his thoughts a little better. But we must own that his commentators, without excepting Puffendorf himself, have not rightly understood his meaning, and consequently have passed a wrong censure on him, by pretending, that the manner in which he established the foundation of the law of nature, is reduced to a vicious circle. *If we ask, says Puffendorf \*, which are those things that form the matter of natural laws? the answer is, that they are those which are honest or dishonest of their own nature. If we inquire afterwards, what are those things that are honest or dishonest of their own nature? there can be no other answer given, but that they are those which form the matter of natural laws.* This is what the critics put into the mouth of Grotius.

\* See Puffendorf, Law of nature and nations, book ii. chap. iii. § 4. Apol. § 19.

But

But let us see whether Grotius says really any such thing. *The law of nature*, says he \*, *consists in certain principles of right reason, which inform us, that an action is morally honest or dishonest, according to the necessary agreeableness or disagreeableness it has with a rational and sociable nature; and consequently that God, who is the author of nature, commands or forbids such actions.* Here I can see no circle: For putting the question, whence comes the natural honesty or turpitude of commanded or forbidden actions? Grotius does not answer in the manner they make him; on the contrary, he says that this honesty or turpitude proceeds from the necessary agreeableness or disagreeableness of our actions with a rational and social nature †.

VII. After having seen that the laws of nature are practicable of themselves, evidently useful, highly conformable to the ideas which right reason gives us of God, suitable to the nature and state of man, perfectly agreeable to order, and, in fine, sufficiently notified; there is no longer room to question, but laws invested with all these characteristics are obligatory, and lay men under an indispensable obligation of conforming their conduct to them. It is even certain, that the obligation which God imposes on us by this means, is the strongest of all, by reason of its being produced by the concurrence and union of the strongest motives, such as are most

The effect of the laws of nature, is an obligation of conforming thereto our conduct.

\* See Grotius, Rights of war and peace, book i. chap. i. § 10.

† See Barbeyrac's fifth note on the Law of nature and nations, book ii. chap. iii. § 4.

proper to determine the will. In fact, the counsels and maxims of reason oblige us, not only because they are in themselves very agreeable, and founded on the nature and immutable relations of things; but moreover by the authority of the supreme Being, who intervenes here, by giving us clearly to understand he is willing we should observe them, because of his being the author of this nature of things, and of the mutual relations they have among themselves. In fine, the law of nature binds us by an internal and external obligation at the same time; which produces the highest degree of moral necessity, and reduces liberty to the very strongest subjection, without destroying it\*.

Thus the obedience due to natural law is a sincere obedience, and such as ought to arise from a conscientious principle. The first effect of those laws is to direct the sentiments of our minds, and the motions of the heart. We should not discharge what they require of us, were we externally to abstain from what they condemn, but with regret and against our will. And as it is not allowable to desire what we are not permitted to enjoy; so it is our duty not only to practise what we are commanded, but likewise to give it our approbation, and to acknowledge its utility and justice.

Natural laws are obligatory in respect to all men.

VIII. Another essential characteristic of the laws of nature is, that they be universal, that is, they should oblige all men without exception. For men are not only all equally subject to God's command; but moreover, the laws of nature having their foun-

\* See part i. chap. vi. § 13.

dation in the constitution and state of man, and being notified to him by reason, it is plain they have an essential agreeableness to all mankind, and oblige them without distinction; whatever difference there may be between them in fact, and in whatever state they are supposed. This is what distinguishes natural from positive laws; for a positive law relates only to particular persons or societies.

IX. It is true that Grotius\*, and after him several divines and civilians, pretend that there are divine, positive, and universal laws, which oblige all men, from the very moment they are made sufficiently known to them. But in the first place, were there any such laws, as they could not be discovered by the sole light of reason, they must have been very clearly manifested to all mankind; a thing which cannot be fully proved: And if it should be said, that they oblige only those to whom they are made known; this destroys the idea of universality attributed to them, by supposing that those laws were made for all men. Secondly, the divine, positive, and universal laws, ought to be moreover of themselves beneficial to all mankind, at all times, and in all places; and this the wisdom and goodness of God requires. But for this purpose these laws should have been founded on the constitution of human nature in general, and then they would be true natural laws †.

Grotius's  
opinion  
with regard  
to divine,  
positive, and  
universal  
law.

\* See Rights of war and peace, book i. chap. i. § 15. with Barbeyrac's notes.

† See Barbeyrac's sixth note on Puffendorf's Law of nature and nations, book i. chap. xi. § 18.

Natural laws are immutable, and admit of no dispensation.

X. We have already observed, that the laws of nature, though established by the divine will, are not the effect of an arbitrary disposition, but have their foundation in the very nature and mutual relations of things. Hence it follows, that natural laws are immutable, and admit of no dispensation. This is also a proper characteristic of these laws, which distinguishes them from all positive law, whether divine or human.

This immutability of the laws of nature has nothing in it repugnant to the independance, supreme power, or liberty of an all-perfect Being. Since he himself is the author of our constitution, he cannot but prescribe or prohibit such things as have a necessary agreeableness or disagreeableness to this very constitution; and consequently he cannot make any change, or give any dispensation, in regard to the laws of nature\*. It is a glorious necessity in him not to contradict himself; it is a kind of impotency falsely so called, which far from limiting or diminishing his perfections, adds to their external character, and points out all their excellency.

Of the eternity of natural laws.

XI. Considering the thing as has been now explained, we may say, if we will, that the laws of nature are eternal; though, to tell the truth, this expression is very uncorrect of itself, and more adapted to throw obscurity than clearness upon our

\* See Puffendorf, Law of nature and nations, book ii. chap. iii. § 6. and Grotius, Rights of war and peace, book i. chap. i. § 10.

ideas. Those who first took notice of the eternity of the laws of nature, did it very probably out of opposition to the novelty and frequent mutations of civil laws. They meant only, that the law of nature is antecedent, for example, to the laws of Moses, of Solon, or of any other legislator, in that it is coeval with mankind; and so far they were in the right. But to affirm, as a great many divines and moralists have done, that the law of nature is coeternal with God, is advancing a proposition, which reduced to its just value is not exactly true; by reason that the law of nature being made for man, its actual existence supposeth that of mankind. But if we are only to understand hereby, that God had the ideas thereof from all eternity, then we attribute nothing to the laws of nature but what is equally common to every thing that exists\*.

We cannot finish this article better than with a beautiful passage of Cicero, preserved by Lactantius. † *Right reason*, says this philosopher, *is indeed a true law,*

\* The immutability of the laws of nature is acknowledged by all those who reason with any exactness. See Instit. lib. 1. tit. 2. § 11. Noodt. Probabil. Juris, lib. 2. cap. 11.

† *Est quidem vera lex, recta ratio, naturæ congruens, diffusa in omnes, constans, sempiterna, quæ vocet ad officium jubendo, vetando a fraude deterreat: quæ tamen neque probos frustra jubet, aut vetat; nec improbos jubendo aut vetando movet. Huic legi nec obrogari fas est, neque derogari ex hac aliquid licet; neque tota abrogari potest. Nec verò aut per senatum, aut per populum solvi hac lege possumus: neque est quærendus explanator aut interpret ejus alius. Nec erit alia lex Romæ, alia Athenis, alia nunc, alia posthac; sed omnes gentes, & omni tempore, una lex & sempiterna & immutabilis continet; unusque erit communis quasi magister & imperator omnium Deus. Ille legis hujus inventor, disceptator, lator: cui qui non parebit*

*law, agreeable to nature, common to all men, constant, immutable, eternal. It prompts men to their duty by its commands, and deters them from evil by its prohibitions.—It is not allowed to retrench any part of this law, or to make any alteration therein, much less to abolish it intirely. Neither the senate nor people can dispense with it; nor does it require any interpretation, being clear of itself and intelligible. It is the same at Rome and Athens; the same to-day and to-morrow. It is the same eternal and invariable law, given at all times and places, to all nations; because God, who is the author thereof, and has published it himself, is always the sole master and sovereign of mankind. Whosoever violates this law, renounces his own nature, divests himself of humanity, and will be rigorously chastised for his disobedience, though he were to escape what is commonly distinguished by the name of punishment.*

But let this suffice in regard to the law of nature considered as a rule to individuals. In order to embrace the intire system of man, and to unfold our principles in their full extent, it is necessary we say something likewise concerning the rules which nations ought to observe between each other, and are commonly called *the law of nations*.

*rebit ipse se fugiet, ac naturam hominis, aspernabitur; atque hoc ipso luet maximas pœnas etiamsi cœtera supplicia, quæ putantur, effugerit. Cicero de Republ. lib. 3. apud Lactant. Instit. Divin. lib. 6. cap. 8.*

## C H A P. VI.

*Of the law of nations.*

I. **A**MONG the various establishments of man, the most considerable without doubt is that of civil society, or the body politic, which is justly esteemed the most perfect of societies, and has obtained the name of *State* by way of preference.

How civil societies are formed.

Human society is simply, of itself, and with regard to those who compose it, a state of equality and independance. It is subject to God alone; no one has a natural and primitive right to command; but each person may dispose of himself, and of what he possesses, as he thinks proper, with this only restriction, that he keep within the bounds of the law of nature, and do no prejudice or injury to any man.

here!

The civil state makes a great alteration in this primitive one. The establishing a sovereignty subverts this independance wherein men were originally with regard to one another; and subordination is substituted in its stead. The sovereign becoming the depositary as it were of the will and strength of each individual, which are united in his person, all the other members of the society become subjects, and find themselves under an obligation of obeying and conducting themselves pursuant to the laws imposed upon them by the sovereign.

II. But how great soever the change may be which government and sovereignty make in the state of nature, yet we must not imagine that the civil state

The civil state does not destroy, but improve the state of nature.

properly subverts all natural society, or that it destroys the essential relations which men have among themselves, or those between God and man. This would be neither physically nor morally possible: on the contrary, the civil state supposes the nature of man, such as the Creator has formed it; it supposes the primitive state of union and society, with all the relations this state includes; it supposes, in fine, the natural dependance of man with regard to God and his laws. Government is so far from subverting this first order, that it has been rather established with a view to give it a new degree of force and consistency. It was intended to enable us the better to discharge the duties prescribed by natural laws, and to attain more certainly the end for which we were created.

True ideas  
of civil so-  
ciety.

III. In order to form a just idea of civil society, we must say, that it is no more than natural society itself modified in such a manner, as to have a sovereign that commands, and on whose will whatever concerns the happiness of society, ultimately depends; to the end that under his protection and through his care mankind may surely attain the felicity to which they naturally aspire.

States are  
considered  
under the  
notion of  
moral per-  
sons.

IV. All societies are formed by the concurrence or union of the wills of several persons, with a view of acquiring some advantage. Hence it is that societies are considered as bodies, and receive the appellation of moral persons; by reason that those bodies are in effect animated with one sole will, which regulates all their movements. This agrees particularly with the

the body politic or state. The sovereign is the chief or head, and the subjects the members; all their actions that have any relation to society, are directed by the will of the chief. Hence so soon as states are formed, they acquire a kind of personal properties: and we may consequently, with due proportion, attribute to them whatever agrees in particular with man; such as certain actions and rights that properly belong to them, certain duties they are obliged to fulfill, &c.

V. This being supposed, the establishment of states introduces a kind of society amongst them, similar to that which is naturally between men; and the same reasons which induce men to maintain union among themselves, ought likewise to engage nations or their sovereigns to keep up a good understanding with one another.

It is necessary therefore there should be some law among nations, to serve as a rule for mutual commerce. Now this law can be nothing else but the law of nature itself, which is then distinguished by the name of the law of nations. *Natural law*, says Hobbes very justly, \* is divided into the natural law of man, and the natural law of states: and the latter is what we call the *law of nations*. Thus natural law and the law of nations are in reality one and the same thing, and differ only by an external denomination. We must therefore say, that the law of nations properly so called, and considered as a law proceeding from a superior, is nothing else, but the law of nature itself, not applied to men considered simply as such;

\* *De Cive*, cap. 14. § 4.

but to nations, states, or their chiefs, in the relations they have together, and the several interests they have to manage between each other.

Certainty of  
this law.

VI. There is no room to question the reality and certainty of such a law of nations obligatory of its own nature, and to which nations, or the sovereigns that rule them, ought to submit. For if God, by means of right reason, imposes certain duties between individuals, it is evident he is likewise willing that nations, which are only human societies, should observe the same duties between themselves\*.

General  
principle of  
the law of  
nations;  
what polity  
consists in.

VII. But in order to say something more particular concerning this subject, let us observe that the natural state of nations, in respect to each other, is that of society and peace. This society is likewise a state of equality and independance, which establishes a parity of right between them; and engages them to have the same regard and respect for one another. Hence the general principle of the law of nations is nothing more than the general law of sociability, which obliges all nations that have any intercourse with one another, to practise those duties to which individuals are naturally subject.

These remarks may serve to give us a just idea of that art, so necessary to the directors of states, and distinguished commonly by the name of *Polity*. Polity considered with regard to foreign states, is that ability and address by which a sovereign provides for the preservation, safety, prosperity and glory of the nation he governs, by respecting the laws of justice

\* See chap. v. § 8.

and humanity; that is, without doing any injury to other states, but rather by procuring their advantage, so much as in reason can be expected. Thus the polity of sovereigns is the same as prudence among private people; and as we condemn in the latter any art or cunning, that makes them pursue their own advantage to the prejudice of others, so the like art would be censurable in princes, were they bent upon procuring the advantage of their own people by injuring other nations. The *Reason of state*, so often alledged to justify the proceedings or enterprises of princes, cannot really be admitted for this end, but inasmuch as it is reconcileable with the common interest of nations, or, which amounts to the same thing, with the unalterable rules of sincerity, justice, and humanity.

VIII. Grotius indeed acknowledges that the law of nature is common to all nations; yet he establishes a positive law of nations contradistinct from the law of nature; and reduces this law of nations to a sort of human law, which has acquired a power of obliging in consequence of the will and consent of all or of a great many nations\*. He adds, that the maxims of this law of nations are proved by the perpetual practice of people, and the testimony of historians.

Inquiry into Grotius's opinion concerning the law of nations.

But it has been justly observed that this pretended law of nations, contradistinct from the law of nature, and invested nevertheless with a force of obliging,

\* See Grotius, Rights of war and peace: preliminary discourse, § 13. and book i. chap. i. § 14.

whether the people consent to it or not, is a supposition destitute of all foundation\*.

For 1. all nations are with regard to one another in a natural independance and equality. If there be therefore any common law between them, it must proceed from God their common sovereign.

2. As for what relates to customs established by an exprefs or tacit consent among nations, these customs are neither of themselves nor universally, nor always obligatory. For from this only that several nations have acted towards one another for a long time after a particular manner in particular cases, it does not follow that they have laid themselves under a necessity of acting always in the same manner for the time to come, and much less that other nations are obliged to conform to those customs.

3. Again; those customs are so much the less capable of being an obligatory rule of themselves, as they may happen to be bad or unjust. The profession of a corsair or pirate was, by a kind of consent, esteemed a long while lawful, between nations that were not united by alliance or treaty. It seems likewise, that some nations allowed themselves the use of poisoned arms in time of war †. Shall we say that these were customs authorised by the law of nations, and really obligatory in respect to different people? Or shall we not rather consider them as barbarous practices; from which every just and well-governed nation ought to refrain? We can-

\* See Puffendorf, *Law of nature and nations*, book ii. chap. iii. § 23. with Barbeyrac's notes.

† See Virgil, *Æneid*, book x. ver. 139. with the 15th note of the Abbè des Fontaines.

not therefore avoid appealing always to the law of nature, the only one that is really universal, whenever we want to judge whether the customs established between nations have any obligatory effect.

4. All that can be said on this subject is, that when customs of an innocent nature are introduced among nations; each of them is reasonably supposed to submit to those customs, so long as they have not made any declaration to the contrary. This is all the force or effect that can be given to received customs; but a very different effect from that of a law properly so called.

IX. These remarks give us room to conclude, that the whole might perhaps be reconciled, by distinguishing two species of laws of nations. There is certainly an universal, necessary, and self-obligatory law of nations, which differs in nothing from the law of nature, and is consequently immutable, insomuch that the people or sovereigns cannot dispense with it, even by common consent, without transgressing their duty. There is, besides, another law of nations, which we may call arbitrary and free, as founded only on an express or tacit convention; the effect of which is not of itself universal; being obligatory only in regard to those who have voluntarily submitted thereto, and only so long as they please, because they are always at liberty to change or repeal it. To which we must likewise add, that the whole force of this sort of law of nations ultimately depends on the law of nature, which commands us to be true to our engagements. Whatever really belongs to the law of nations, may be reduced to one or other of these

Two sorts of laws of nations; one of necessity and obligatory by itself; the other arbitrary and conventional.

two species, and the use of this distinction will easily appear by applying it to particular questions which relate either to war, for example, to ambassadors, or to public treaties, and to the deciding of disputes which sometimes arise concerning these matters between sovereigns\*.

Use of the foregoing remarks.

X. It is a point of importance to attend to the origin and nature of the law of nations, such as we have now explained them. For besides that it is al-

\* Let us remark here by the way, that the ideas of the ancient Roman lawyers concerning the law of nations, are not always uniform; which creates some confusion. Some there are that understand by the LAW OF NATIONS those rules of right that are common to all men, and established amongst themselves pursuant to the light of reason; in opposition to the particular laws of each people. (See the 9th law in the Digest. de Justitia & Jure, book 1. tit. 1.) And then the law of nations signified also the law of nature. Others distinguished between these two species, as Ulpian has done in law I. of the title now mentioned. They gave the name of law of nations to that which agrees with man as such; in opposition to that which suits him as an animal. (See Puffendorf, Law of nature and nations, book 2. chap. 3. § 3. note 10.) Some, in fine, comprised the one and the other under the idea of natural law. (See law XI. Digest. de Justitia & Jure.) And hence it comes, that the better sort of Latin writers give indifferently the name of natural law, or the law of nations, to that which relates to either. This we find in the following passage of Cicero, where he says, that by the law of nature, that is, by the law of nations, one man is not allowed to pursue his advantage at the expence of another. *Neque vero hoc solum NATURA, id est, JURE GENTIUM—constitutum est, ut non liceat sui commodi causa, alteri nocere. De Offic. lib. 3. cap. 5.* See Mr. Noodt's commentary on the Digest, book 1. tit. 1. where this able lawyer explains very well the ambiguity of the distinction of natural law, and the law of nations, according to the different language of ancient civilians.

ways advantageous to form just ideas of things, this is still more necessary in matters of practice and morality. It is owing perhaps to our distinguishing the law of nations from natural law, that we have insensibly accustomed ourselves to form quite a different judgment between the actions of sovereigns and those of private people. Nothing is more usual than to see men condemned in common, for things which we praise, or at least excuse in the persons of princes. And yet it is certain, as we have already shewn, that the maxims of the law of nations have an equal authority with those of the law of nature, and are equally respectable and sacred, because they have God alike for their author. In short, there is only one sole and the same rule of justice for all mankind. Princes who infringe the law of nations, commit as great a crime as private people, who violate the law of nature: and if there be any difference in the two cases, it must be charged to the prince's account\*, whose unjust actions are always attended with more dreadful consequences than those of private people †.

\* See part i. chap. xi. § 12.

† *It is Monsieur Bernard that furnishes us with these reflections: If a private person, says he, offends without cause a person of the same station, his action is termed an injustice; but if a prince attacks another prince without cause, if he invades his territories, and ravages his towns and provinces, this is called waging war, and it would be temerity to think it unjust. To break or violate contracts or agreements, is esteemed a crime among private people: but among princes, to infringe the most solemn treaties, is prudence, is understanding the art of government. True it is, that some pretext is always sought for, but those who trump up these pretexts, give themselves very little trouble whether they are thought just or not, &c. Nouvelles de la republique des lettres, Mars 1704. page 340, 341.*

C H A P.

## C H A P. VII.

*Whether there is any morality of actions, any obligation or duty, ANTECEDENT TO THE LAWS OF NATURE, and independent of the idea of a legislator?*

Different opinions of ethic writers with respect to the first principle of morality.

I. **T**HE morality of human actions being founded, in general, on the relations of agreeableness or disagreeableness between those actions and the law, according as we have shewn in the eleventh chapter of the first part; there is no difficulty, when once we acknowledge the laws of nature, to affirm, that the morality of actions depends on their conformity or opposition to those very laws. This is a point on which all civilians and ethic writers are agreed. But they are not so unanimous in regard to the first principle or original cause of obligation and morality.

A great many are of opinion, that there is no other principle of morality but the divine will, manifested by the laws of nature. The idea of *morality*, say they, necessarily includes that of obligation; obligation supposes law; and law a legislator. If therefore we abstract from all law, and consequently from a legislator, we shall have no such thing as right, obligation, duty, or morality, properly so called\*.

\* See Puffendorf, Law of nature and nations, book i. chap. ii. § 6.

Others

Others there are, who acknowledge indeed that the divine will is really a principle of obligation, and consequently a principle of the morality of human actions; but they do not stop here. They pretend, that antecedent to all law, and independent of a legislator, there are things which of themselves, and by their own nature, are honest or dishonest; that reason having once discovered this essential and specific difference of human actions, it imposes on man a necessity of performing the one and omitting the other; and that this is the first foundation of obligation, or the original source of morality and duty.

II. What we have already said concerning the primitive rule of human actions, and the nature and origin of obligation \*, may help to throw some light on the present question. But in order to illustrate it better, let us turn back and resume the thing from its first principles, by endeavouring to assemble here, in a natural order, the principal ideas that may lead us to a just conclusion.

*Principles relating to this question.*

I. I observe in the first place, that every action considered purely and simply in itself as a natural motion of the mind or body, is absolutely indifferent, and cannot in this respect claim any share of morality.

This is what evidently appears; forasmuch as the same natural action is esteemed sometimes lawful and even good, and at other times unlawful or bad. To kill a man, for instance, is a bad action in a robber; but it is lawful or good in an executioner, or in a citizen or soldier that defends his life or coun-

\* See part i. chap. v. & vi.

try,

try, unjustly attacked : a plain demonstration, that this action considered in itself, and as a simple operation of the natural faculties, is absolutely indifferent and destitute of all morality.

2. We must take care to distinguish here between the physical and moral consideration. There is undoubtedly a kind of natural goodness or malignity in actions, which by their own proper and internal virtue are beneficial or hurtful, and produce the physical good or evil of man. But this relation between the action and its effect is only physical ; and if we stop here, we are not yet arrived at morality. It is pity we are frequently obliged to use the same expressions for the physical and moral ideas, which is apt to create some confusion. It were to be wished that languages had a greater exactness in distinguishing the nature and different relations of things by different names.

3. If we proceed further, and suppose that there is some rule of human actions, and compare afterwards these actions to the rule ; the relation resulting from this comparison is what properly and essentially constitutes morality\*.

4. From thence it follows, that in order to know which is the principal or efficient cause of the morality of human actions, we must previously be acquainted with their rule.

5. Finally let us add, that this rule of human actions may in general be of two sorts, either internal or external ; that is, it may be either found in man himself, or it must be sought for somewhere else. Let us now make an application of these principles.

\* See part i. chap. xi. § 1.

III. We have already seen \* that man finds within himself several principles to discern good from evil, and that these principles are so many rules of his conduct.

Three rules  
of human  
actions.  
1. Moral  
sense.  
2. Reason.  
3. The di-  
vine will.

The first directive principle we find within ourselves is a kind of instinct, commonly called moral sense; which pointing out readily, though confusedly and without reflection, the most sensible and most striking part of the difference between good and evil, makes us love the one, and gives us an aversion for the other, by a kind of natural sentiment.

The second principle is reason, or the reflection we make on the nature, relations, and consequences of things; which gives us a more distinct knowledge, by principles and rules, of the distinction between good and evil in all possible cases.

But to these two internal principles we must join a third, namely, the divine will. For man being the handy work of God, and deriving from the Creator his existence, his reason, and all his faculties; he finds himself thereby in an absolute dependance on that supreme being, and cannot help acknowledging him as his lord and sovereign. Therefore, as soon as he is acquainted with the intention of God in regard to his creature, this will of his master becomes his supreme rule, and ought absolutely to determine his conduct.

IV. Let us not separate these three principles. They are indeed distinct from one another, and have each their particular force; but in the actual state of man they are necessarily united. It is sense that

These three  
principles  
ought to be  
united.

\* Part i. chap. v. and part ii. chap. iii.

gives us the first notice; our reason adds more light; and the will of God, who is rectitude itself, gives it a new degree of certainty; adding withal the weight of his authority. It is on all these foundations united, we ought to raise the edifice of natural law, or the system of morality.

Hence it follows, that man being a creature of God, formed with design and wisdom, and endowed with sense and reason; the rule of human actions, or the true foundation of morality, is properly the will of the supreme Being, manifested and interpreted, either by moral sense or by reason. These two natural means, by teaching us to distinguish the relation which human actions have to our constitution, or, which is the same thing, to the ends of the Creator, inform us what is morally good or evil, honest or dishonest, commanded or forbidden.

Of the primitive cause of obligation.

V. It is already a great matter to feel and to know good and evil; but this is not enough; we must likewise join to this sense and knowledge, an obligation of doing the one, and abstaining from the other. It is this obligation that constitutes duty, without which there would be no moral practice, but the whole would terminate in mere speculation. But which is the cause and principle of obligation and duty? Is it the very nature of things discovered by reason? Or is it the divine will? This is what we must endeavour here to determine.

All rules are of themselves obligatory.

VI. The first reflection that occurs to us here, and to which very few, methinks, are sufficiently attentive, is, that every rule whatsoever of human actions,

actions, carries with it a moral necessity of conforming thereto, and produces consequently a sort of obligation. Let us illustrate this remark.

The general notion of rule presents us with the idea of a sure and expeditious method to attain a particular end. Every rule supposes therefore a design, or the will of attaining to a certain end, as the effect we want to produce, or the object we intend to procure. And it is perfectly evident, that were a person to act merely for the sake of acting, without any particular design or determinate end; he ought not to trouble his head about directing his actions one way more than another; he should never mind either counsel or rule. This being premised, I affirm that every man who proposes to himself a particular end, and knows the means or rule which alone can conduct him to it, and put him in possession of what he desires, such a man finds himself under a necessity of following this rule, and of conforming his actions to it. Otherwise he would contradict himself; he would and he would not; he would desire the end, and neglect the only means which by his own confession are able to conduct him to it. Hence I conclude, that every rule, acknowledged as such, that is, as a sure and only means of attaining the end proposed, carries with it a sort of obligation of being thereby directed. For so soon as there is a *reasonable necessity* to prefer one manner of acting to another, every reasonable man, and who intends to behave as such, finds himself thereby engaged and tied, as it were, to this manner, being hindered by his reason from acting to the contrary. That is, in  
other

other terms, he is really obliged ; because obligation, in its original idea, is nothing more than a restriction of liberty, produced by reason, inasmuch as the counsels which reason gives us, are motives that determine us to a particular manner of acting, preferable to any other. It is therefore true, that all rules are obligatory.

Obligation  
may be  
more  
or less  
strong.

VII. This obligation, indeed, may be more or less strong, more or less strict, according as the reasons on which it is founded are more or less numerous, and have more or less power and efficacy of themselves to determine the will.

If a particular manner of acting appears to me evidently fitter than any other for my preservation and perfection, fitter to procure my bodily health and the welfare of my soul ; this motive alone obliges me to act in conformity to it : And thus we have the first degree of obligation. If I find afterwards, that besides the advantage now mentioned, such a conduct will secure the respect and approbation of those with whom I converse ; this is a new motive which strengthens the preceding obligation, and adds still more to my engagement. But if, by pushing my reflections still farther, I find at length that this manner of acting is perfectly agreeable to the intention of my Creator, who is willing and intends I should follow the counsels which reason gives me, as so many real laws he prescribes to me himself ; it is visible, that this new consideration strengthens my engagement, ties the knot still faster, and lays me under an indispensable necessity of acting after such or such a manner. For what is there  
more

more proper to determine finally a rational being, than the assurance he has of procuring the approbation and benevolence of his superior, by acting in conformity to his will and orders; and of escaping his indignation, which must infallibly pursue a rebellious creature.

VIII. Let us follow now the thread of the consequences arising from these principles.

If it be true, that every rule is of itself obligatory, and that reason is the primitive rule of human actions; it follows, that reason only, independent of the law, is sufficient to impose some obligation on man, and consequently to furnish room for morality and duty, commendation and censure.

There will remain no manner of doubt on this subject, if abstracting for a moment from superiority and law, we examine at first the state of man alone, considered merely as a rational being. Man proposes to himself his own good, that is, the welfare of his body and soul. He searches afterwards for the means of procuring those advantages; and so soon as he has discovered them, he approves of some particular actions, and condemns others; and consequently he approves or condemns himself, according as he acts after a manner conformable or opposite to the dictates of his reason. Does not all this evidently demonstrate, that reason puts a restraint on liberty, and lays us therefore under an obligation of doing or abstaining from particular things?

Let us proceed. Suppose that man in the fore-mentioned state becomes the father of a family, and has a mind to act reasonably; would it be an indif-

Reason alone is sufficient to impose some obligation on man.

ferent thing to him, to take care of, or to neglect his children, to provide for their subsistence and education, or to do neither one nor the other? Is it not, on the contrary, evident, that as this different conduct necessarily procures either the good or evil of his family; the approbation or censure which reason gives it, renders it morally good or bad, worthy of praise or blame?

It would be an easy matter to pursue this way of arguing, and apply it to all the states of man. But what we have already said, shews it is sufficient to consider man as a rational being, to be convinced that reason pointing out the road which alone can lead him to the end he aims at, lays him under a necessity of following this road, and of regulating thereby his conduct: that consequently reason alone is sufficient to establish a system of morality, obligation, and duties; because when once we suppose it is reasonable to do or to abstain from certain things, this is really owning our obligation.

Objection.  
No body can  
oblige him-  
self.

IX. “ But the idea of obligation, some will say,  
“ imports necessarily a being that obliges, and who  
“ ought to be distinct from the person obliged. To  
“ suppose that he who obliges, and he who is  
“ obliged, are one and the same person, is suppos-  
“ ing that a man may make a contract with him-  
“ self; which is quite absurd. Right reason is, in  
“ reality, nothing but an attribute of the person  
“ obliged; it cannot be therefore a principle of  
“ obligation; no body being capable of imposing  
“ on himself an indispensable necessity of acting  
“ or not acting after such or such a manner. For  
“ sup-

“ supposing a necessity, it must not be removeable at the will and pleasure of the person subject to it ; otherwise it would be void of effect. If therefore the person on whom the obligation is imposed, is the same as he who imposes it, he can disengage himself from it whenever he pleases ; or rather, there is no obligation ; as when a debtor inherits the estate and rights of his creditor, the debt is void. Now duty is a debt, and neither of them can be admitted but between different persons \*.”

X. This objection is more specious than solid. Answer.  
In fact, those who pretend that there is properly neither obligation nor morality without a superior and law, ought necessarily to suppose one of these two things : 1. either that there is no other rule of human actions besides law : 2. or if there be any other, none but law is an obligatory rule.

The first of these suppositions is evidently unsupportable : and after all that has been said concerning this subject, we think it quite useless to stop here to refute it. Either reason has been idly and without a design bestowed upon man, or we must allow it to be the general and primitive rule of his actions and conduct. And what is there more natural than to think that a rational being ought to be directed by reason ? If we should endeavour to evade this argument, by saying, that though reason be the rule of human actions, yet there is nothing but law that can be an

\* *Nemo sibi debet* (says Seneca de Benef. lib. 5. cap. 8.) *hoc verbum debere non habet nisi inter duos locum.*

obligatory rule; this proposition cannot be maintained, unless we consent to give the name of obligation to some other restriction of liberty, as well as to that which is produced by the will and order of a superior; and then it would be a mere dispute about words. Or else we must suppose, that there neither actually is, nor can even be conceived, any obligation at all, without the intervention of the will of a superior; which is far from being exactly true.

The source of the whole mistake, or the cause of the ambiguity, is our not ascending to the first principles, in order to determine the original idea of obligation. We have already said, and again we say it, that every restriction of liberty, produced or approved by right reason, forms a real obligation. That which properly and formally obliges, is the dictate of our conscience, or the internal judgment we pass on such or such a rule, the observance whereof appears to us just, that is, conformable to the light of right reason.

A fresh objection.

XI. “ But does not this manner of reasoning, “ some will reply, contradict the clearest notions, “ and subvert the ideas generally received, which “ make obligation and duty depend on the intervention of a superior, whose will manifests itself by “ the law? What sort of thing is an obligation imposed by reason, or which a man imposeth upon “ himself? Cannot he always get rid of it, when he “ has a mind; and if the creditor and debtor, as “ we have already observed, be one and the same “ person, can it be properly said that there is any “ such thing as a debt?”

This reply is grounded on an ambiguity, or sup- Answer.  
 poses the thing in question. It supposes all along,  
 that there neither is, nor can be, any other obligation,  
 but that which proceeds from a superior or law. I  
 agree, that such is the common language of civilians ;  
 but this makes no manner of alteration in the na-  
 ture of the thing. What comes afterwards proves  
 nothing at all. It is true that man may, if he has  
 a mind, withdraw himself from the obligations which  
 reason imposes on him ; but if he does, it is at his  
 peril, and he is forced himself to acknowledge, that  
 such a conduct is quite unreasonable. But to con-  
 clude from thence that reason alone cannot oblige  
 us, is going too far ; because this consequence would  
 equally invalidate the obligation imposed by a supe-  
 rior. For, in fine, the obligation produced by law  
 is not subversive of liberty ; we have always a power  
 to submit to it or not, and run the hazard of the  
 consequence. In short, the question is not concern-  
 ing force or constraint, it is only in relation to a  
 moral tie, which in what manner soever it be con-  
 sidered, is always the work of reason.

XII. True it is, that duty, pursuant to its pro- Duty may  
 be taken in  
 a loose or  
 strict sense.  
 per and strict signification, is a debt ; and that when  
 we consider it thus, it presents the idea of an action  
 which somebody has a right to require of us. I  
 agree likewise, that this manner of considering duty  
 is just in itself. Man constitutes part of a system,  
 or whole ; in consequence whereof he has necessa-  
 ry relations to other beings ; and the actions of  
 man viewed in this light, having always some rela-  
 tion to another person, the idea of duty, com-

monly speaking, includes this relation. And yet, as it frequently happens in morality, that we give sometimes a more extensive, and at other times a more limited sense to the same term, nothing hinders us from bestowing the more ample signification on the word *duty*, by taking it in general for an action conformable to right reason. And then, it may be very well said, that man, considered even alone, and as a separate being, has particular duties to fulfill. It is sufficient for this end, that there be some actions which reason approves, and others which it condemns. These different ideas have nothing in them that is opposite; on the contrary, they are perfectly reconciled, and receive mutual strength and assistance from each other.

Result of  
what has  
been hither-  
to said.

XIII. The result of what we have been now saying, is as follows.

1. Reason being the first rule of man, it is also the first principle of morality, and the immediate cause of all primitive obligation.

2. Man being, by his nature and state, in a necessary dependance on the Creator, who has formed him with design and wisdom, and proposed some particular views to himself in creating him; the will of God is another rule of human actions, another principle of morality, obligation, and duty.

3. We may therefore say, there are in general two sorts of morality or obligation; one antecedent to the law, and the work of reason; the other subsequent to the law, and properly the effect thereof;

it

it is on this that the forementioned distinction of internal and external obligation is founded\*.

4. True it is, that those different species of obligation have not all the same force. That which arises from the law, is without doubt the most perfect; it lays the strongest restriction on liberty, and merits therefore the name of obligation by way of preference. But we must not from thence infer that it is the only one, and that there can be none of any other kind. One obligation may be real, though it be different from, and even weaker than another.

5. It is so much the more necessary to admit these two sorts of obligation and morality, as that which renders the obligation of law the most perfect, is its uniting the two species; being internal and external both at the same time †. For were there no attention given to the very nature of the laws, and were the things they command or prohibit, not to merit the approbation or censure of reason; the authority of the legislator would have no other foundation but that of power; and laws being then no more than the effect of an arbitrary will, they would produce rather a constraint, properly so called, than any real obligation.

6. These remarks are especially, and in the exactest manner, applicable to the laws of nature. The obligation these produce is of all others the most efficacious and extensive; because, on one side, the disposition of these laws is in itself very reasonable, being founded on the nature of the actions, their specific differences, and the relation or opposition

\* See part i. chap. vi. § 13.

† See part i. chap. ix. § 12.

they have to particular ends. On the other side, the divine authority, which enjoins us to observe these rules as laws he prescribes to us, adds a new force to the obligation they produce of themselves, and lays us under an indispensable necessity of conforming our actions to them.

7. From these remarks it follows, that those two ways of establishing morality, whereof one sets up reason and the other the will of God for its principle, ought not to be placed in opposition, as two incompatible systems, neither of which can subsist without destroying or excluding the other. On the contrary, we should join these two methods, and unite the two principles, in order to have a complete system of morality, really founded on the nature and state of man. For man, as a rational being, is subject to reason; and as a creature of God, to the will of the supreme Being. And as these two qualities have nothing opposite or incompatible in their nature, consequently these two rules, reason and the divine will, are perfectly reconciled; they are even naturally connected, and strengthened by their junction. And indeed it could not be otherwise; for, in fine, God himself is the author of the nature and mutual relations of things; and particularly of the nature of man, of his constitution, state, reason, and faculties: The whole is the work of God, and ultimately depends on his will and institution.

This manner of establishing morality does not weaken the system of natural law.

XIV. This manner of establishing the foundation of obligation and duty, is so far from weakening the system of natural law or morality, that we may affirm, it rather gives it a greater solidity and force.

This

This is tracing the thing to the very source; it is laying the foundation of the edifice. I grant, that in order to reason well on morality, we ought to take things as they are, without making abstractions; that is, we should attend to the nature and actual state of man, by uniting and combining all the circumstances that essentially enter into the system of humanity. But this does not hinder us from considering likewise the system of man in its particulars, and as it were by parts, to the end, that an exact knowledge of each of those parts may help us to understand better the whole. It is the only method we can take in order to attain this end.

XV. What has been hitherto set forth, may help to explain and justify at the same time a thought of Grotius in his preliminary discourse, § 11. This author having established, after his manner, the principles and foundation of natural law, on the constitution of human nature, adds, *that all he has been saying would in some measure take place, were we even to grant there was no God; or that he did not concern himself about human affairs.* It is obvious, by his very manner of expressing himself, that he does not intend to exclude the divine will from the system of natural law. This would be mistaking his meaning; because he himself establishes this will of the Creator as another source of right. All he means is, that independent of the intervention of God, considered as a legislator, the maxims of natural law having their foundation in the nature of things and in the human constitution; reason alone imposes already on man a necessity of following those maxims, and  
lays

Grotius's  
opinion ex-  
amined.

lays him under an obligation of conforming his conduct to them. In fact, it cannot be denied but that the ideas of order, agreeableness, honesty, and conformity to right reason, have at all times made an impression on man, at least to a certain degree, and among nations somewhat civilized. The human mind is formed in such a manner, that even those who do not comprehend these ideas in their full exactness and extent, have, nevertheless, a confused notion thereof, which inclines them to acquiescence so soon as they are proposed.

In order to have a perfect system of morality, we should join it with religion.

XVI. But while we acknowledge the reality and certainty of those principles, we ought likewise to own, that if we proceed no farther, we are got but half way our journey; this would be unreasonably attempting to establish a system of morality independent of religion. For were we even to grant, that such a system is not destitute of all foundation; yet it is certain it could never produce of itself so effectual an obligation, as when it is joined with the divine will. Since the authority of the supreme Being gives the force of laws, properly so called, to the maxims of reason, these maxims acquire thereby the highest degree of strength they can possibly have, to bind and subject the will, and to lay us under the strictest obligation. But (once more we repeat it) to pretend therefore, that the maxims and counsels of reason considered in themselves, and detached, as it were, from God's command, are not at all obligatory, is carrying the thing too far; it is concluding beyond our premises, and admitting only one species of obligation. Now this is not  
only

only unconformable to the nature of things, but, as we have already observed, it is weakening even the obligation resulting from the will of the legislator. For the divine ordinances make a much stronger impression on the mind, and are followed with a greater subjection in the will, in proportion as they are approved by reason, as being in themselves perfectly agreeable to our nature, and extremely conformable to our constitution and state.

## C H A P. VIII.

*Consequences of the preceding chapter: reflections on the distinctions of just, honest, and useful.*

I. **T**HE reflections contained in the foregoing chapter give us to understand, that there is a vast deal of ambiguity and mistake in the different sentiments of writers, in relation to morality or the foundation of natural laws. They do not always ascend to the first principles, neither do they define and distinguish exactly; they suppose an opposition between ideas that are reconcilable, and ought even to be joined together. Some reason in too abstract a manner on the human system; and following only their own metaphysical speculations, never attend sufficiently to the actual state of things, and to the natural dependance of man. Others considering principally this dependance, reduce the whole to the will and orders of the sovereign master, and seem thus to lose sight of the very nature and internal constitution

There is a great deal of ambiguity and mistake concerning this subject.

stitution of man, from which it cannot however be separated. These different ideas are just in themselves; yet we must not establish the one, by excluding the other, or by explaining it to the other's prejudice. Reason, on the contrary, requires us to unite them, in order to find the true principles of the human system, whose foundations must be sought for in the nature and state of man.

Of just, honest, useful, order, and fitness.

II. It is very common to use the words *utility*, *justice*, *honesty*, *order*, and *fitness*; but these different notions are seldom defined in an exact manner, and some of them are frequently confounded. This want of exactness must necessarily create ambiguity and confusion; wherefore, if we intend to make things clear, we must take care to define and distinguish properly.

An useful action may, methinks, be defined, that which of itself tends to the preservation and perfection of man.

A just action, that which is considered as conformable to the will of a superior who commands.

An action is called honest, when it is considered as conformable to the maxims of right reason, agreeable to the dignity of our nature, deserving of the approbation of man, and consequently procuring respect and honour to the person that does it.

By order we can understand, nothing else but the disposition of several things, relative to a certain end, and proportioned to the effect we intend to produce.

Finally, as to fitness or agreeableness, it bears a very great affinity with order. It is a relation of conformity between several things, one of which is of itself proper for the preservation and perfection of the other,

other, and contributes to maintain it in a good and advantageous state.

III. We must not therefore confound the words *just, useful, and honest*; for they are three distinct ideas. But though distinct from one another, they have no opposition; they are three relations, which may all agree, and be applied to one single action, considered under different respects. And if we ascend so high as the first origin, we shall find that they are all derived from one common source, or from one and the same principle, as three branches from the same stock. This general principle is the approbation of reason. Reason necessarily approves whatever conducts us to real happiness: and as that which is agreeable to the preservation and perfection of man; that which is conformable to the will of the sovereign master on whom he depends; and that which procures him the esteem and respect of his equals; as all this, I say, contributes to his happiness, reason cannot but approve of each of these things separately considered, much less can it help approving, under different respects, an action in which all these properties are found united.

IV. For such is the state of things, that the ideas of *just, honest, and useful*, are naturally connected, and as it were inseparable; at least if we attend, as we ought to do, to real, general, and lasting utility. We may say, that such an utility becomes a kind of characteristic to distinguish what is truly just, or honest, from what is so only in the erroneous opinions of men. This is a beautiful and judicious remark of Cicero.

## The PRINCIPLES of

Cicero. \* *The language and opinions of men are very wide, says he, from truth and right reason, in separating the honest from the useful, and in persuading themselves that some honest things are not useful, and other things are useful but not honest. This is a dangerous notion to human life.—Hence we see that Socrates detested those sophists, who first separated those two things in opinion, which in nature are really joined.*

In fact, the more we investigate the plan of divine providence, the more we find the Deity has thought proper to connect the moral good and evil with the physical, or, which is the same thing, the just with the useful. And though in some particular cases the thing seems otherwise, this is only an accidental disorder, which is much less a natural consequence of the system, than an effect of the ignorance or malice of man. Whereto we must add, that in case we do not stop at the first appearances, but proceed to consider the human system in its full extent, we shall find, that every thing well considered, and all compensations made, these irregularities will be one day or other redressed, as we shall more fully shew when we come to treat of the sanctions of natural laws.

\* *In quo lapsa consuetudo deflexit de via, sensimque eò deducta est, ut honestatem ab utilitate secernens, & constituerit honestum esse aliquod quod utile non esset, & utile quod non honestum: quâ nulla pernicietas major hominum vitæ potuit adferri. Cic. de Offic. lib. 2. cap. 3. Itaque accepimus, Socratem execrari solitum eos, qui primum hæc naturâ coherentia opinione distraxissent. Idem, lib. 3. cap. 13. See likewise Grotius, Rights of war and peace, preliminary discourse, § 17. and following; and Puffendorf, Law of nature and nations, book ii. chap. iii. § 10, 11.*

V. Here a question is sometimes proposed; whether a thing be just, because God commands it, or whether God commands it, because it is just? Whether an action is just, because God commands it?

Pursuant to our principles, the question is not at all difficult. A thing is just, because God commands it; this is implied by the definition we gave of justice. But God commands such or such things, because these things are reasonable in themselves, conformable to the order and ends he proposed to himself in creating mankind, and agreeable to the nature and state of man. These ideas, though distinct in themselves, are necessarily connected, and can be separated only by a metaphysical abstraction.

VI. Let us, in fine, observe that this harmony or suprising agreement, which naturally occurs between the ideas of just, honest, and useful, constitutes the whole beauty of virtue, and informs us at the same time in what the perfection of man consists. In what the beauty of virtue and the perfection of man consists.

In consequence of the different systems above mentioned, moralists are divided with regard to the latter point. Some place the perfection of man in such a use of his faculties as is agreeable to the nature of his being. Others in the use of our faculties and the intention of our Creator. Some, in fine, pretend that man is perfect, only as his manner of thinking and acting is proper to conduct him to the end he aims at, namely, his happiness.

But what we have above said sufficiently shews, that these three methods of considering the perfection of man, are very little different, and ought not to be set in opposition. As they are interwoven with  
one

one another, we ought rather to combine and unite them. The perfection of man consists really in the possession of natural or acquired faculties, which enable us to obtain, and actually put us in possession of solid felicity; and this in conformity to the intention of our Creator, engraved in our nature, and clearly manifested by the state wherein he has placed us\*.

A modern writer has judiciously said; *that to obey only through fear of authority, or for the hope of recompence, without esteeming or loving virtue for the sake of its own excellency; is mean and mercenary. On the contrary, to practise virtue with an abstract view of its fitness and natural beauty, without having any thought of the Creator and Conductor of the universe; is failing in our duty to the first and greatest of Beings. He only who acts jointly through a principle of reason, through a motive of piety, and with a view of his principal interest, is an honest, wise, and pious man; which constitutes, without comparison, the worthiest and completest of characters.*

\* *Theory of agreeable sensations, chap. viii.*

## C H A P. IX.

*Of the application of natural laws to human actions; and first of conscience\*.*

I. **A**S soon as we have discovered the foundation and rule of our duties, we have only to recollect what has been already said in the eleventh chapter of the first part of this work, concerning the morality of actions, to see in what manner natural laws are applied to human actions, and what effect ought from thence to result.

What is meant by applying the laws to human actions.

The application of the laws to human actions is nothing else, but the judgment we pass on their morality, by comparing them with the law; a judgment whereby we pronounce that those actions being either good, bad, or indifferent, we are obliged either to perform or omit them, or that we may use our liberty in this respect: and that according to the side we have taken, we are worthy of praise or blame, approbation or censure.

This is done in two different manners. For either we judge on this footing of our own actions, or of those of another person. In the first case, our judgment is called conscience: but the judgment we pass on other men's actions, is termed imputation. These are, undoubtedly, subjects of great importance, and of universal use in morality, which deserve therefore to be treated with some care and circumspection.

\* See the Law of nature and nations, book i. chap. iii. § 4. and following: and the Duties of man and a citizen, book i. chap. i. § 5, 6.

What is  
conscience.

II. Conscience is properly no more than reason itself, considered as instructed in regard to the rule we ought to follow, or to the law of nature; and judging of the morality of our own actions, and of the obligations we are under in this respect, by comparing them to this rule, pursuant to the ideas we entertain thereof.

Conscience is also very frequently taken for the very judgment we pass on the morality of actions; a judgment which is the result of perfect reasoning, or the consequence we infer from two express or tacit premisses. A person compares two propositions, one of which includes the law, and the other the action; and from thence he deduces a third, which is the judgment he makes of the quality of his action. Such was the reasoning of Judas: *Whosoever delivers up an innocent man to death, commits a crime*; here is the law. *Now this is what I have done*; here is the action. *I have therefore committed a crime*; this is the consequence, or judgment which his conscience passed on the action he committed.

Conscience  
supposes a  
knowledge  
of the law.

III. Conscience supposes therefore a knowledge of the law; and particularly of the law of nature, which being the primitive source of justice, is likewise the supreme rule of conduct. And as the laws cannot serve us for rules, but inasmuch as they are known, it follows therefore, that conscience becomes thus the immediate rule of our actions: for it is evident we cannot conform to the law, but so far as we have notice thereof.

IV. This

IV. This being premised, the *first rule* we have First rule. to lay down concerning this matter, is, that we must enlighten our conscience, as well as consult it, and follow its counsels.

We must enlighten our conscience; that is, we must spare no care or pains to be exactly instructed with regard to the will of the legislator, and the disposition of his laws, in order to acquire just ideas of whatever is commanded, forbidden, or permitted. For plain it is, that were we in ignorance or error in this respect, the judgment we should form of our actions would be necessarily vicious, and consequently lead us astray. But this is not enough. We must join to this first knowledge, the knowledge also of the action. And for this purpose, it is not only necessary to examine this action in itself; but we ought likewise to be attentive to the particular circumstances that accompany it, and the consequences that from thence may follow. Otherwise we should run a risk of being mistaken in the application of the laws, whose general decisions admit of several modifications, according to the different circumstances that accompany our actions; which necessarily influences their morality, and of course our duties. Thus it is not sufficient for a judge to be well acquainted with the tenor and purport of the law, before he pronounces sentence; he should likewise have an exact knowledge of the fact and all its different circumstances.

But it is not merely with a view of enlightening our reason, that we ought to acquire all this knowledge; it is principally in order to apply it occa-

sionally to the direction of our conduct. We should therefore, whenever it concerns us to act, consult previously our conscience, and be directed by its counsels. This is properly an indispensable obligation. For, in fine, conscience being, as it were, the minister and interpreter of the will of the legislator, the counsels it gives us, have all the force and authority of a law, and ought to produce the same effect upon us.

Second and  
third rules.

V. It is only therefore by enlightening our conscience, that it becomes a sure rule of conduct, whose dictates may be followed with a perfect confidence of exactly fulfilling our duty. For we should be grossly mistaken, if under a notion that conscience is the immediate rule of our actions, we were to believe that every man may lawfully do whatever he imagines the law commands or permits. We ought first to know whether this notion or persuasion is justly founded. For as Puffendorf \* observes, conscience has no share in the direction of human actions, but inasmuch as it is instructed concerning the law, whose office it properly is to direct our actions. If we have therefore a mind to determine and act with safety, we must on every particular occasion observe the two following rules, which are very simple of themselves, easy to practice, and naturally follow our first rule, of which they are only a kind of elucidation †.

\* See the Law of nature and nations, book i. chap. iii. § 4.

† See Barbeyrac's first note on the Duties of man and a citizen, book i. chap. i. § 5.

*Second rule.* Before we determine to follow the dictates of conscience, we should examine thoroughly whether we have the necessary lights and helps to judge of the things before us. If we happen to want these lights and helps, we can neither decide, nor much less undertake any thing, without an inexcusable and dangerous temerity. And yet nothing is commoner than to transgress against this rule. What multitudes, for example, determine on religious disputes, or difficult questions concerning morality or politics, though they are no way capable of judging or reasoning about them?

*Third rule.* Supposing that in general we have necessary lights and helps to judge of the affair before us, we must afterwards see whether we have actually made use of them; insomuch, that without a new inquiry we may follow what our conscience suggests. It happens every day that for want of attending to this rule, we let ourselves be quietly prevailed upon to do a great many things, which we might easily discover to be unjust, had we given heed to certain clear principles, the justice and necessity of which is universally acknowledged.

When we have made use of the rules here laid down, we have done whatever we could and ought; and it is morally certain, that by thus proceeding we can be neither mistaken in our judgment, nor wrong in our determinations. But if, notwithstanding all these precautions, we should happen to be mistaken, which is not absolutely impossible; this would be an infirmity, inseparable from human nature, and would carry its excuse along with it in the eye of the supreme legislator.

Antecedent  
and subse-  
quent con-  
science.  
Fourth rule.

VI. We judge of our actions either before, or after we have done them; wherefore there is an antecedent and a subsequent conscience.

This distinction gives us an opportunity to lay down a *fourth rule*; which is, that a prudent man ought to consult his conscience before and after he has acted.

To determine to act, without having previously examined, whether what we are going to do be good or evil, manifestly indicates an indifference for our duty, which is a most dangerous state in respect to man; a state capable of throwing him into the most fatal excesses. But as, in this first judgment, we may happen to be determined by passion, and to proceed with precipitation, or upon a very slight examen; it is therefore necessary to reflect again on what we have done, either in order to be confirmed in the right side, if we have embraced it; or to correct our mistake if possible, and to guard against the like faults for the future. This is so much the more important, as experience shews us, that we frequently judge quite differently between a past and a future transaction; and that the prejudices or passions which may lead us astray, when we are to take our resolution, oftentimes disappear either in the whole or part, when the action is over; and leave us then more at liberty to judge rightly of the nature and consequences of the action.

The habit of making this double examen, is the essential character of an honest man; and indeed nothing can be a better proof of our being seriously inclined to discharge our several duties.

VII. The effect resulting from this revifal of our conduct, is very different, according as the judgment we pafs on it, absolves or condemns us. In the first case, we find ourselves in a state of fatisfaction and tranquillity, which is the surest and sweetest recompence of virtue. A pure and untainted pleasure accompanies always those actions that are approved by reason; and reflection renews the sweets we have tasted, together with their remembrance. And indeed what greater happiness is there than to be inwardly fatisfied, and to be able with a just confidence to promise ourselves the approbation and benevolence of the fovereign Lord on whom we depend? If, on the contrary, conscience condemns us, this condemnation must be accompanied with inquietude, trouble, reproaches, fear, and remorse; a state so dismal, that the ancients have compared it to that of a man tormented by the furies. *Every crime, fays the fatyrist, is difapproved by the very person that commits it; and the first punishment the criminal feels, is, that he cannot avoid being self-condemned, were he even to find means of being acquitted before the prætor's tribunal.*

Subsequent  
conscience is  
either quiet,  
or uneasy.

*Exemplo quodcunque malo committitur, ipsi  
Displicet auctori: prima hæc est ultio, quod, se  
Judice, nemo nocens absolvitur, improba quamvis  
Gratia fallaci prætoris vicerit urna.*

Juven. Sat. 13. ver. 1.

*He that commits a sin, shall quickly find  
The pressing guilt lie heavy on his mind;  
Though bribes or favour shall assert his cause,  
Pronounce him guiltless, and elude the laws:*

Q 4

None

*None quits himself ; his own impartial thought  
Will damn, and conscience will record the fault.*

Creech.

Hence the subsequent conscience is said to be quiet or uneasy, good or bad.

Decisive and  
dubious  
conscience,  
Fifth, sixth,  
and seventh  
rule.

VIII. The judgment we pass on the morality of our actions is likewise susceptible of several different modifications, that produce new distinctions of conscience, which we should here point out. These distinctions may, in general, be equally applied to the two first species of conscience above mentioned ; but they seem more frequently and particularly to agree with the antecedent conscience.

Conscience is therefore either decisive or dubious, according to the degree of persuasion a person may have concerning the quality of the action.

When we pronounce decisively, and without any hesitation, that an action is conformable or opposite to the law, or that it is permitted, and consequently we ought to do or omit it, or else that we are at liberty in this respect ; this is called a decisive conscience. If, on the contrary, the mind remains in suspense, through the conflict of reasons we see on both sides, and which appear to us of equal weight, insomuch that we cannot tell to which side we ought to incline ; this is called a dubious conscience. Such was the doubt of the Corinthians, who did not know whether they could eat things sacrificed to idols, or whether they ought to abstain from them. On the one side, the evangelical liberty seemed to permit it ; on the other, they were restrained through apprehension of seeming to give thereby a kind of consent to idolatrous acts.

Not

Not knowing what resolution to take, they wrote to St. Paul to remove their doubt.

This distinction makes room also for some rules.

*Fifth Rule.* We do not intirely discharge our duty, by doing with a kind of difficulty and reluctance, what the decisive conscience ordains ; we ought to set about it readily, willingly, and with pleasure\*. On the contrary, to determine without hesitation or repugnance, against the motions of such a conscience, is shewing the highest degree of depravation and malice, and renders a person incomparably more criminal than if he were impelled by a violent passion or temptation †.

*Sixth Rule.* With regard to a dubious conscience, we ought to use all endeavours to get rid of our uncertainty, and to forbear acting, so long as we do not know whether we do good or evil. To behave otherwise, would indicate an indirect contempt of the law, by exposing one's self voluntarily to the hazard of violating it, which is a very bad conduct. The rule now mentioned ought to be attended to, especially in matters of great importance.

*Seventh Rule.* But if we find ourselves in such circumstances as necessarily oblige us to determine to act, we must then, by a new attention endeavour to distinguish the safest and most probable side, and whose consequences are least dangerous. Such is generally the opposite side to passion ; it being the

† See part ii. chap. v. § 7.

\* See Grotius, Rights of war and peace, book ii. chap. xx. § 19.

safest way, not to listen too much to our inclinations. In like manner, we run very little risk of being mistaken in a dubious case, by following rather the dictates of charity than the suggestion of self-love.

Scrupulous  
conscience.  
Eighth rule.

IX. Besides the dubious conscience, properly so called, and which we may likewise distinguish by the name of irresolute, there is a scrupulous conscience, produced by slight and frivolous difficulties that arise in the mind, without seeing any solid reason for doubting.

*Eighth Rule.* Such scruples as these ought not to hinder us from acting, if it be necessary; and as they generally arise either from a false delicacy of conscience, or from gross superstition, we should soon get rid of them, were we to examine the thing with attention.

Right and  
erroneous  
conscience.  
Ninth rule.

X. Let us afterwards observe, that the decisive conscience, according as it determines good or evil, is either right or erroneous.

Those, for example, who imagine we ought to abstain from strict revenge, though the law of nature permits a legitimate defence, have a right conscience. On the other hand, those who think that the law which requires us to be faithful to our engagements, is not obligatory towards heretics, and that we may lawfully break through it in respect to them, have an erroneous conscience.

But what must we do in case of an erroneous conscience?

*Ninth Rule.* I answer, that we ought always to follow the dictates of conscience, even when it is

erro-

erroneous, and whether the error be vincible or invincible.

This rule may appear strange at first sight, since it seems to prescribe evil; because there is no manner of question, but that a man who acts according to an erroneous conscience, espouses a bad cause. Yet this is not so bad, as if we were to determine to do a thing, with a firm persuasion of its being contrary to the decision of the law; for this would denote a direct contempt of the legislator and his orders, which is a most criminal disposition. Whereas the first resolution, though bad in itself, is nevertheless the effect of a laudable disposition to obey the legislator, and conform to his will.

But it does not from thence follow, that we are always excusable in being guided by the dictates of an erroneous conscience; this is true only when the error happens to be invincible. If on the contrary it is surmountable, and we are mistaken in respect to what is commanded or forbidden, we sin either way, whether we act according to, or against the decisions of conscience. This shews (to mention it once more) what an important concern it is to enlighten our conscience, because, in the case just now mentioned, the person with an erroneous conscience is actually under a melancholy necessity of doing ill, whichever side he takes. But if we should happen to be mistaken with regard to an indifferent thing, which we are erroneously persuaded is commanded or forbidden, we do not sin in that case, but when we act contrary to the light of our own conscience.

Demonstrative and probable conscience.  
Tenth rule.

XI. In fine, there are two sorts of right conscience; the one clear and demonstrative, and the other merely probable.

The clear and demonstrative conscience is that which is founded on certain principles, and on demonstrative reasons, so far as the nature of moral things will permit; insomuch that one may clearly and distinctly prove the rectitude of a judgment made on such or such an action. On the contrary, though we are convinced of the truth of a judgment, yet if it be founded only on verisimilitude, and we cannot demonstrate its certainty in a methodical manner, and by incontestible principles, it is then only a probable conscience.

The foundations of probable conscience are in general authority and example, supported by a confused notion of a natural fitness, and sometimes by popular reasons, which seem drawn from the very nature of things. It is by this kind of conscience that the greatest part of mankind are conducted, there being very few who are capable of knowing the indispensable necessity of their duties, by deducing them from their first sources by regular consequences; especially when the point relates to maxims of morality, which being somewhat remote from the first principles, require a longer chain of reasonings. This conduct is far from being unreasonable. For those who have not sufficient light of themselves to judge properly of the nature of things, cannot do better than recur to the judgment of enlightened persons; this being the only resource left them to act with safety. We might in this respect  
compare

compare the persons above mentioned to young people, whose judgment has not yet acquired its full maturity, and who ought to listen and conform to the counsels of their superiors. The authority therefore, and example of sage and enlightened men, may in some cases, in default of our own lights, prove a reasonable principle of determination and conduct.

But, in fine, since those foundations of probable conscience are not so solid as to permit us absolutely to build upon them, we must therefore establish, as a *Tenth Rule*, that we ought to use all our endeavours to increase the degree of verisimilitude in our opinions, in order to approach as near as possible to the clear and demonstrative conscience; and we must not be satisfied with probability, but when we can do no better.

## C H A P. X.

*Of the merit and demerit of human actions; and of their imputation relative to the laws of nature\*.*

I. **I**N explaining the nature of human actions, considered with regard to right †, we observed, that an essential quality of these actions is to be susceptible of imputation; that is, the agent may be reasonably looked upon as the real author thereof,

Distinction of imputability and imputation. Of the nature of a moral cause.

\* See on this, and the following chapter, Puffendorf's Law of nature and nations, book i. chap. v. and chap. ix.

† Part i. chap. iii.

may have it charged to his account, and be made answerable for it; insomuch that the good or bad effects from thence arising, may be justly attributed and referred to him, as to the efficient cause, concerning which we have laid down this principle, that every voluntary action is of an imputable nature.

We give in general the name of moral cause of an action to the person that produced it, either in the whole or part, by a determination of his will; whether he executes it himself physically and immediately, so as to be the author thereof; or whether he procures it by the act of some other person, and becomes thereby its cause. Thus whether we wound a man with our own hands, or set assassins to way-lay him, we are equally the moral cause of the evil from thence resulting.

It was observed likewise, that we must not confound the imputability of human actions with their actual imputation. The former, as has been just now mentioned, is a quality of the action; the latter is an act of the legislator, or judge, who lays to a person's charge an action that is of an imputable nature.

Of the nature of imputation. It supposes a knowledge of the law, as well as of the fact.

II. Imputation is properly therefore a judgment by which we declare, that a person being the author or moral cause of an action commanded or forbidden by the laws, the good or bad effects that result from this action, ought to be actually attributed to him; that he is consequently answerable for them, and as such is worthy of praise or blame, of recompence or punishment.

This

This judgment of imputation, as well as that of conscience, is made by applying the law to the action, and comparing one with the other, in order to decide afterwards the merit of the fact, and to make the author consequently feel the good or evil, the punishment or recompence which the law has thereto annexed. All this necessarily supposes an exact knowledge of the law and of its right sense, as well as of the fact and such circumstances thereof, as may any way relate to the determination of the law. A want of this knowledge must render the application false, and the judgment erroneous.

III. Let us produce a few examples. One of the Examples *Horatii*, who remained conqueror in the combat between the brothers of this name, and the three *Curiatii*, inflamed with anger against his sister for bewailing the death of one of the *Curiatii* her lover, and for bitterly reproaching him therewith, instead of congratulating him for his victory, slew her with his own hand. He was accused before the *Duumvirs*; and the question was, whether the law against murderers ought to be applied to the present case, in order to make him undergo the punishment? This was the opinion of the judges, who in fact condemned the young Roman. But an appeal being made to the people, they judged quite otherwise. Their notion was, that the law ought not to be applied to the fact; because a Roman lady, who seemed to be more concerned about her own particular interest, than sensible of the good of her country, might in some measure be considered and treated as an enemy; wherefore they pronounced the young  
man

man innocent. Let us add another example of an advantageous imputation, or of a judgment of recompence. Cicero, in the beginning of his consulate, discovered the conspiracy of Catiline, which menaced the republic with ruin. In this delicate conjuncture he behaved with so much prudence and address, that the conspiracy was stifled without any noise or sedition, by the death of a few of the criminals. And yet J. Cæsar, and some other enemies of Cicero, accused him before the people, for having put citizens to death contrary to rule, and before the senate or people had passed judgment against them. But the people attending to the circumstances of the fact, to the danger the republic had escaped, and to the important service Cicero had done, so far from condemning him as an infringer of the laws, decreed him the glorious title of *father of his country*.

Principles.  
 1. We ought  
 not to infer  
 actual im-  
 putation  
 from impu-  
 tability  
 only.

IV. In order to settle the principles and foundations of this matter, we must observe, 1. That we ought not to conclude the actual imputation of an action merely from its imputability. An action, to merit actual imputation, must necessarily have the concurrence of these two conditions: first, that it be of an imputable nature, and secondly, that the agent be under some obligation of doing or omitting it. An example will clear up the thing. Let us suppose two young men with the same abilities and conveniences, but under no obligation of knowing algebra: one of them applies himself to this science, and the other does not; though the action of the one and the other's omission, are by themselves of an imputable

putable nature; yet in this case they can be neither good nor bad. But were we to suppose that these two young men are designed by their prince, the one for some office of state, and the other for a military employment; in this case, their application or neglect in instructing themselves in jurisprudence, for example, or in the mathematics, would be justly imputed to them. The reason is, they are both indispensibly obliged to acquire such knowledge as is necessary for discharging properly the offices or employments to which they are called. Hence it is evident, that as imputability supposeth the power of acting or not acting; actual imputation requires, moreover, that a person be under an obligation of doing either one or the other.

V. 2. When we impute an action to a person, we render him, as has been already observed, answerable for the good or bad consequences of what he has done. From thence it follows, that in order to make a just imputation, there must be some necessary or accidental connexion between the thing done or omitted, and the good or bad consequences of the action or omission; and besides, the agent must have had some knowledge of this connexion, or at least he must have been able to have a probable foresight of the effects of his action. Otherwise the imputation cannot take place, as will appear by a few examples. A gunsmith sells arms to a man who has the appearance of a sensible, sedate person, and does not seem to have any bad design. And yet this man goes instantly to make an unjust attack on another person, and kills him. Here the

2. Imputation supposes some connexion between the action and its consequences.

VOL. I. R gunsmith

gunsmith is not at all chargeable, having done nothing but what he had a right to do; and besides, he neither could nor ought to have foreseen what happened. But if a person carelessly leaves a pair of pistols charged on a table, in a place exposed to every body, and a child insensible of the danger happens to wound or kill himself; the former is certainly answerable for the misfortune: by reason this was a clear and immediate consequence of what he has done, and he could and ought to have foreseen it.

We must reason in the same manner with respect to an action productive of some good. This good cannot be attributed to a person, that has been the cause of it without knowledge or thought thereof. But in order to merit thanks and acknowledgment, there is no necessity of our being intirely sure of success; it is sufficient there was room to reasonably presume it, and were the effect absolutely to fail, the intention would not be the less commendable.

3. Founda-  
tions of me-  
rit and de-  
merit.

VI. 3. But in order to ascend to the first principles of this theory, we must observe, that as man is supposed to be obliged by his nature and state to follow certain rules of conduct; the observance of those rules constitutes the perfection of his nature and state; and, on the contrary, the infringing of them forms the degradation of both. Now we are made after such a manner, that perfection and order please us of themselves; while imperfection and disorder, and whatever relates thereto, naturally displease us. Consequently, we acknowledge that those who answering the end they were designed for,

for, perform their duty, and contribute thus to the good and perfection of the human system, are deserving of our approbation, esteem, and benevolence; that they may reasonably expect these sentiments in their favour, and have some sort of a right to the advantageous effects which naturally arise from thence. We cannot, on the contrary, avoid condemning those, who, through a bad use of their faculties, degrade their own state and nature; we confess they are worthy of disapprobation and blame, and that it is agreeable to reason, the bad effects of their conduct should fall upon themselves. Such are the foundations of merit and demerit.

VII. Merit therefore is a quality which intitles us to the approbation, esteem, and benevolence of our superiors or equals, and to the advantages from thence resulting. Demerit is an opposite quality, which rendering us worthy of the censure and blame of those with whom we converse, obliges us, as it were, to acknowledge that it is reasonable they should entertain those sentiments towards us; and that we are under a melancholy obligation of bearing the bad effects that flow from thence.

*In what merit and demerit consists.*

These notions of merit and demerit, have therefore, it is plain, their foundation in the very nature of things, and are perfectly agreeable to common sense and the notions generally received. Praise and blame, where people judge reasonably, always follow the quality of actions, according as they are morally good or bad. This is clear with respect to the legislator: He must contradict himself in the grossest manner, were he not to approve what is conformable,

ble, and to condemn what is opposite to his laws. And as for those that depend on him, this very dependance obliges them to regulate their judgment on this subject.

4. Merit and demerit have their degrees; and so has imputation.

VIII. 4. We have already \* observed, that some actions are better than others, and that bad ones may likewise be more or less so, according to the different circumstances that attend them, and the disposition of the person that does them. Merit and demerit have therefore their degrees; they may be greater or lesser. Wherefore when we are to determine exactly how far an action ought to be imputed to a person, we should have regard to these differences; and the praise or blame, the recompence or punishment, ought likewise to have their degrees in proportion to the merit or demerit. Thus, according as the good or evil proceeding from an action is more or less considerable; according as there was more or less facility or difficulty to perform or to abstain from this action; according as it was done with more or less reflection and liberty; and finally, according as the reasons that ought to have determined us thereto, or diverted us from it, were more or less strong, and the intention and motives were more or less noble and generous; the imputation is made after a more or less efficacious manner, and its effects are more or less profitable or pernicious.

5. Imputation is either simple or efficacious.

IX. 5. Imputation, as we have already hinted, may be made by different persons; and it is easy to

\* Part i. chap. xi. § 12.

comprehend, that in those different cases, the effects thereof are not always the same; but that they must be more or less important, according to the quality of the persons, and the different right they have in this respect. Sometimes imputation is confined simply to praise or blame; and at other times it goes further. This gives us room to distinguish two sorts of imputation, one simple, and the other efficacious. The first consists only in approving or disapproving the action; insomuch that no other effect arises from thence with regard to the agent. But the second is not confined to blame or praise; it produces moreover some good or bad effect with regard to the agent; that is, some real and positive good or evil that befalls him.

X. 6. Simple imputation may be made indifferently by every one, whether they have or have not a particular and personal interest in the doing or omitting of the action: it is sufficient they have a general and indirect interest. And as we may affirm that all the members of society are interested in the due observance of the laws of nature, hence they have all a right to praise or condemn another man's actions according as they are conformable or contrary to those laws. They have even a kind of obligation in this respect. The regard they owe to the legislator and his laws, requires it of them; and they would be wanting in their duty to society and to individuals, were they not to testify, at least by their approbation or censure, the esteem they have for probity and virtue, and their aversion, on the contrary, to iniquity and vice,

6. Effects of one and the other.

But with regard to efficacious imputation, in order to render it lawful, we should have a particular and direct interest in the performing or omitting of the action. Now those who have such an interest, are, firstly, persons whom it concerns to regulate the actions; secondly, such as are the object thereof, namely, those towards whom we act, and to whose advantage or prejudice the thing may turn. Thus a sovereign who has enacted laws, who commands certain things with a promise of recompence, and prohibits others under a commination of punishment, ought without doubt to concern himself about the observance of his laws, and has consequently a right to impute the actions of his subjects after an efficacious manner, that is, to reward or punish them. The same may be said of a person who has received some injury or damage by another man's action: this very thing gives him a right to impute the action efficaciously to its author, in order to obtain a just satisfaction, and a reasonable indemnification.

7. If all those who are concerned, do not impute an action, it is supposed not to have been done.

XI. 7. It may therefore happen, that several persons have a right to impute each on his side, the same action to the person that did it; because this action may interest them in different respects. And in that case, if any of the persons concerned has a mind to relinquish his right, by not imputing the action to the agent so far as it concerns himself; this does not in any shape prejudice the right of the rest, which is no way in his power. When a man does me an injury, I may indeed forgive him, as to what concerns myself; but this does not diminish the

the

the right the sovereign may have to take cognizance of the injury, and to punish the author, as an infringer of the law, and a disturber of the civil order and government. But if those who are interested in the action, are willing not to impute it, and all jointly forgive the injury and the crime; in this case the action ought to be morally esteemed as never committed, because it is not attended with any moral effect.

XII. 8. Let us, in fine, observe, that there is some difference between the imputation of good and bad actions. When the legislator has established a certain recompence for a good action, he obliges himself to give this recompence, and he grants a right of demanding it to those who have rendered themselves worthy thereof by their submission and obedience. But with respect to penalties enacted against bad actions, the legislator may actually inflict them, if he has a mind, and has an incontestible right to do it; insomuch that the criminal cannot reasonably complain of the evil he is made to undergo, because he has drawn it upon himself through his disobedience. But it does not from thence ensue, that the sovereign is obliged to punish to the full rigour; he is always master to exercise his right, or to shew grace; to intirely remit or to diminish the punishment; and he may have very good reasons for doing either.

8. Difference between the imputation of good and bad actions.

## C H A P. XI.

*Application of those principles to different species of actions, in order to judge in what manner they ought to be imputed.*

What actions are actually imputed?

I. **W**E might be satisfied with the general principles above laid down, were it not useful to make an application of them, and to point out particularly those actions or events for which we are, or are not answerable.

1. And in the first place it follows, from what has been hitherto said, that we may impute to a person every action or omission, of which he is the author or cause, and which he could or ought to have done or omitted.

Actions of such as have not the use of reason.

2. The actions of those that have not the use of reason, such as infants, fools and madmen, ought not to be imputed to them. The want of knowledge hinders, in such cases, imputation. For these persons being incapable of knowing what they are doing, or of comparing it with the laws; their actions are not properly human actions, nor do they include any morality. If we scold or beat a child, it is not by way of punishment; it is only a simple correction, by which we propose principally to hinder him from contracting a bad habit.

Of what's done in drunkenness.

3. With regard to what is done in drunkenness, this state voluntarily contracted does not hinder the imputation of a bad action.

II. 4. We

II. 4. We do not impute things that are really above a person's strength; no more than the omission of a thing commanded, if there has been no opportunity of doing it. For the imputation of an omission manifestly supposes these two things; first, that a person has had sufficient strength and means to act; and secondly, that he could have made use of those means, without any prejudice to some other more indispensable duty, or without drawing upon himself a considerable evil, to which there was no obligation of being exposed. It must be understood however, that the person has not brought himself into an incapacity of acting through his own fault; for then the legislator might as lawfully punish those who have reduced themselves to this incapacity, as if they had refused to act when they were capable of complying. Such was at Rome the case of those who cut off their thumbs, in order to disable themselves from handling arms, and to be exempted from the service. In like manner a debtor is not excusable, when, through his own misconduct, he has rendered himself unable to discharge his debts. And we even become deservedly responsible for a thing in itself impossible, if we have undertaken to do it, when we knew, or might easily have known, that it surpassed our strength; in case any body happens by this means to be injured.

Of things that are impossible.  
Of the want of opportunity.

III. 5. The natural qualities of body or mind cannot of themselves be imputed, either as good or evil. But a person is deserving of praise, when by his application and care these qualities are perfected, or these defects are mended; and, on the contrary,

one

Of natural qualities.

one is justly accountable for the imperfections and infirmities that arise from bad conduct or neglect.

Of events  
produced by  
external  
causes.

6. The effects of external causes and events, of what kind soever, cannot be attributed to a person, either as good or evil, but inasmuch as he could and ought to procure, hinder, or direct them, and as he has been either careful or negligent in this respect. Thus we charge a good or bad harvest to a husbandman's account, according as he has tilled well or ill the ground, whose culture was committed to his care.

Of what  
is done  
through ig-  
norance or  
error.

IV. 7. As for things done through error or ignorance, we may affirm in general, that a person is not answerable for what he has done through invincible ignorance, especially as it is involuntary in its origin and cause. If a prince travels through his own dominions disguised and *incognito*, his subjects are not to blame for not paying him the respect and honour due to him. But we should reasonably impute an unjust sentence to a judge, who neglecting to instruct himself either in the fact or the law, should happen to want the knowledge necessary to decide with equity. But the possibility of getting instruction, and the care we ought to take for this purpose, are not strictly considered in the common run of life; we only look upon what is possible or impossible in a moral sense, and with a due regard to the actual state of humanity.

Ignorance or error, in point of laws and duties, generally passes for voluntary, and does not obstruct the imputation of actions or omissions from thence arising.

arising. This is a consequence of the principles\* already established. But there may happen some particular cases, wherein the nature of the thing, which of itself is difficult to investigate, joined to the character and state of the person, whose faculties being naturally limited, have likewise been uncultivated for want of education and assistance, renders the error unfurmoutable, and consequently worthy of excuse. It concerns the prudence of the legislator to weigh these circumstances, and to modify the imputation on this footing.

V. 8. Though temperament, habits, and passions, have of themselves a great force to determine some actions; yet this force is not such as absolutely hinders the use of reason and liberty, at least in respect to the execution of the bad designs they inspire. This is what all legislators suppose; and a very good reason they have to suppose it †. Natural dispositions, habits, and passions, do not determine men invincibly to violate the laws of nature. These disorders of the soul are not incurable; with some pains and assiduity one may contrive to remove them, according to Cicero's observation, who alledges to this purpose the example of Socrates ‡.

Of the effect of temperament, habits, or passions.

But if instead of endeavouring to correct these vicious dispositions, we strengthen them by habit, this does not render us inexcusable. The power of habit is, indeed, very great; it even seems to im-

\* See part i. chap. i. § 12.

† See part i. chap. ii. § 16.

‡ Tuscul. quæst. lib. 4. cap. 37.

pel us by a kind of necessity. And yet experience shews it is not impossible to master it, when we are seriously resolved to make the attempt. And were it even true that inveterate habits had a greater command over us than reason; yet as it was in our power not to contract them, they do not at all diminish the immorality of bad actions, and consequently they cannot hinder them from being imputed. On the contrary, as a virtuous habit renders actions more commendable; so the habit of vice cannot but augment its blame and demerit. In short, if inclinations, passions, or habits, could frustrate the effect of laws, it would be needless to trouble our heads about any direction of human actions; for the principal object of laws in general is to correct bad inclinations, to prevent vicious habits, to hinder their effects, and to eradicate the passions; or at least to contain them within their proper limits.

VI. 9. The different cases hitherto exposed, contain nothing very difficult or puzzling. There are some others a little more embarrassing, which require a particular discussion.

The first question is, what we are to think of forced actions; whether they are of an imputable nature, and ought actually to be imputed?

I answer, 1. That a physical violence, and such as absolutely cannot be resisted, produces an involuntary action, which so far from meriting to be actually imputed, is not even of an imputable nature\*. In this case, the author of the violence is the true and

\* See § 1.

only cause of the action, and as such is the only person answerable for it; whilst the immediate agent being merely passive, the fact can be no more attributed to him than to the sword, to the stick, or to any other weapon with which the blow or wound was given.

2. But if the constraint arises from the apprehension or fear of some great evil, with which we are menaced by a person more powerful than ourselves, and who is able instantly to inflict it; it must be allowed, that the action done in consequence of this fear, does not cease to be voluntary, and therefore, generally speaking, it is of an imputable nature\*.

In order to know afterwards whether it ought actually to be imputed, it is necessary to inquire, whether the person on whom the constraint is laid, is under a rigorous obligation of doing or abstaining from a thing, at the hazard of suffering the evil with which he is menaced. If so, and he determines contrary to his duty, the constraint is not a sufficient reason to screen him absolutely from imputation. For generally speaking, it cannot be questioned but a lawful superior can lay us under an indispensable obligation of obeying his orders, at the hazard of bodily pain, and even at the risk of our lives.

VII. Pursuant to these principles, we must distinguish between indifferent actions, and those that are morally necessary. An action indifferent of its nature, extorted by main force, cannot be imputed to

Forced actions are in themselves either good, bad, or indifferent.

\* See part i. chap. ii. § 12.

the person constrained; because, not being under any obligation in this respect, the author of the violence has no right to require any thing of him. And as the law of nature expressly forbids all manner of violence, it cannot authorise it at the same time, by laying the person that suffers the violence, under a necessity of executing a thing to which he has given only a forced consent. Thus every forced promise or convention is null of itself, and has nothing in it obligatory as a promise or convention; on the contrary, it may and ought to be imputed as a crime to the author of the violence. But were we to suppose that the person who uses the constraint, exercises in this respect his own right, and pursues the execution thereof; the action, though forced, is still valid, and attended with all its moral effects. Thus a debtor, who void of any principle of honesty, satisfies his creditor only through imminent fear of imprisonment, or of execution on his goods, cannot complain against this payment, as made by constraint and violence. For being under an obligation of paying his just debts, he ought to have done it willingly and of his own accord, instead of being obliged to it by force.

As for good actions, to which a person is determined by force, and, as it were, through fear of blows or punishment, they pass for nothing, and merit neither praise nor recompence. The reason hereof is obvious. The obedience required by the law ought to be sincere; and we should discharge our duties through a conscientious principle, voluntarily, and with our own consent and free will.

Finally,

Finally, with regard to actions manifestly bad or criminal, to which a person is forced through fear of some great evil, and especially death; we must lay down as a general rule, that the unhappy circumstances under which a person labours, may indeed diminish the crime of a man unequal to this trial, who commits a bad action in spite of himself, and against his own inward conviction; yet the action remains intrinsically vicious, and worthy of censure; wherefore it may be, and actually is imputed, unless the exception of necessity can be alledged in the person's favour.

VIII. This last rule is a consequence of the principles hitherto established. A man who determines through fear of some great evil, but without suffering any physical violence, to do a thing visibly criminal, concurs in some manner to the action, and acts voluntarily, though with regret. It does not absolutely surpass the fortitude of the human mind to resolve to suffer, nay to die, rather than be wanting in our duty. We see a great many people who have a courage of this kind for very frivolous subjects, which make a lively impression on them; and though the thing be really difficult, yet it is not impossible. The legislator may therefore impose a rigorous obligation of obeying, and have just reasons for so doing. The interest of society frequently requires examples of undaunted constancy. It was never a question among civilized nations, and those that had imbibed any principles of morality, whether, for example, it was lawful to betray one's country for the preservation of life? and it is well known that

Why a bad action, though forced, may be imputed.

that the opposite maxim was a received principle among the Greeks and Romans. Several heathen moralists have strongly inculcated this doctrine, namely, that the dread of pains and torments ought not to prevail upon any man to make him do things contrary to religion or justice. *If you are summoned as a witness, says a Latin poet, in a dubious and equivocal affair, tell the truth, and do not be afraid; tell it, were even Phalaris to menace you with his bull unless you bore false witness. Fix it as a maxim in your mind, that it is the greatest of evils to prefer life to honour; and never attempt to preserve it at the expence of the only thing that can render it desirable.*

— *Ambiguæ si quando citabere testis  
Incertæque rei; Phalaris licet imperet, ut sis  
Falsus, Et admoto dicitur perjuriam tauro,  
Summum crede nefas animam præferre pudori,  
Et propter vitam vivendi perdere causas.*

JUVEN. sat. 8. ver. 80.

*And if a witness in a doubtful cause,  
Where a brib'd judge means to elude the laws;  
Though Phalaris's brazen bull were there,  
And he would dictate what he'd have you swear,  
Be not so profligate, but rather chuse  
To guard your honour, and your life to lose,  
Rather than let your virtue be betray'd,  
Virtue! the noblest cause for which you're made.*

STEPNEY.

This

Such is the rule. It may happen nevertheless, as we have already hinted, that the necessity a person is under, may furnish a favourable exception, so as to hinder the action from being imputed. To explain this, we should be obliged to enter into some particulars that belong to another place. It is sufficient here to observe, that the circumstances a person is under, give us frequent room to form a reasonable presumption, that the legislator himself excuses him from suffering the evil with which he is menaced, and therefore allows him to deviate from the decision of the law; and this may be always presumed, when the side a person takes, in order to extricate himself from his perplexity, includes a lesser evil than that with which he is menaced.

IX. But Puffendorf's principles concerning this question seem to be neither just in themselves, nor well connected. He lays down as a rule, that constraint, as well as physical and actual violence, excludes all imputation, and that an action extorted through fear, ought no more to be imputed to the immediate agent, than to the sword which a person uses in giving a wound. To which he adds, that with regard to some very infamous actions, it is a mark of a generous mind to chuse rather to die than to serve as an instrument to such flagitious deeds, and that cases like these ought to be excepted \*. But it has been justly observed, that this author gives too

Puffen-  
dorf's  
opinion.

\* See the Duties of man and a citizen, book i. chap. i. § 24. and the Law of nature and nations, book i. chap. v. § 9. with Barbeyrac's notes.

great an extent to the effect of constraint; and that the example of the ax or sword, which are mere passive instruments, proves nothing at all. Besides, if the general principle is solid, we don't see why he should have excepted particular cases; or at least he ought to have given us some rule to distinguish those exceptions with certainty.

Of actions  
in which  
more per-  
sons than  
one are con-  
cerned.

X. 10. But if the person who does a bad action through fear, is generally answerable for it, the author of the constraint is not less so; and we may justly render him accountable for the share he has had therein.

This gives us an opportunity to add a few reflections on those cases in which several persons concur to the same action; and to establish some principles whereby we may determine in what manner the action of one person is imputable to another. This subject being of great use and importance, deserves to be treated with exactness.

1. Every man, strictly speaking, is answerable only for his own actions, that is, for what he himself has done or omitted: for with regard to another person's actions, they cannot be imputed to us, but inasmuch as we have concurred to them, and as we could and ought to have procured, hindered, or at least directed them after a certain manner. The thing speaks for itself. For to impute another man's actions to a person, is declaring that the latter is the efficient, though not the only cause thereof; and consequently that this action depended in some measure on his will, either in its principle, or execution.

2. This

2. This being premised, we may affirm that every man is under a general obligation of doing all he can to induce every other person to discharge his duty, and to prevent him from committing a bad action, and consequently not to contribute thereto himself, either directly or indirectly, with a premeditated purpose and will.

3. By a much stronger reason we are answerable for the actions of those over whom we have a particular inspection, and whose direction is committed to our care; wherefore the good or evil done by those persons, is not only imputable to themselves, but likewise to those to whose direction they are subject; according as the latter have taken or neglected the care that was morally necessary, such as the nature and extent of their commission and power required. It is on this footing we impute, for example, to the father of a family, the good or bad conduct of his children.

4. Let us observe likewise, that in order to be reasonably esteem'd to have concurred to another man's action, it is not at all necessary for us to be sure of procuring or hindering it, by doing or omitting particular things; it is sufficient, in this respect, that we have some probability, or verisimilitude. And as, on the one side, this default of certainty does not excuse neglect; on the other, if we have done all that we ought, the want of success cannot be imputed to us; the blame in that case falls intirely upon the immediate author of the action.

5. In fine, it is proper also to remark, that in the question now before us, we are not inquiring into the degree of virtue or malice which is found

in the action itself, and rendering it better or worse, augments its praise or censure, its recompence or punishment. All that we want, is to make a proper estimate of the degree of influence a person has had over another man's action, in order to know whether he can be considered as the moral cause thereof, and whether this cause is more or less efficacious. To distinguish this properly, is a matter of some importance.

Three sorts  
of moral  
causes ;  
principal ;  
subaltern ;  
and colla-  
teral.

XI. In order to measure, as it were, this degree of influence, which decides the manner wherein we can impute to any one, another man's action, there are several circumstances and distinctions to observe, without which we should form a wrong judgment of things. For example, it is certain that a simple approbation, generally speaking, has much less efficacy to induce a person to act, than a strong persuasion, or a particular instigation. And yet the high opinion we conceive of a person, and the credit from thence arising, may occasion a simple approbation to have sometimes as great, and perhaps a greater influence over a man's action, than the most pressing persuasion, or the strongest instigation from another quarter.

We may range under three different classes, the moral causes that influence another man's action. Sometimes it is a principal cause, insomuch that the person who executes is only a subaltern agent ; sometimes the immediate agent, on the contrary, is the principal cause, while the other is only the subaltern ; and at other times they are both collateral causes, which have an equal influence over the action.

XII. A

NATURAL LAW.

XII. A person ought to be esteemed the principal cause, who by doing or omitting some things, influences in such a manner another man's action or omission, that, were it not for him, this action or omission would not have happened, though the immediate agent has knowingly contributed to it. An officer, by express order of his general or prince, performs an action evidently bad: in this case the prince or general is the principal cause, and the officer only the subaltern. David was the principal cause of the death of Urias, though Joab contributed thereto, being sufficiently apprized of the king's intention. In like manner Jezabel was the principal cause of the death of Naboth\*.

I mentioned that the immediate agent must have contributed knowingly to the action. For suppose he could not know whether the action be good or bad, he can then be considered only as a simple instrument; but the person who gave the orders, being in that case the only and absolute cause of the action, is the only one answerable for it. Such in general is the case of subjects, who serve by order of their sovereign in an unjust war.

But the reason why a superior is deemed the principal cause of what is done by those that depend on him, is not properly their dependance; it is the order he gives them, without which it is supposed they would not of themselves have attempted the action. From whence it follows, that every other person, who has the same influence over the actions of his equals, or even of his superiors, may for the

\* See 2 Sam. chap. ii. and 1 Kings, chap. xxi.

same reason be considered as the principal cause. This is what we may very well apply to the counsellors of princes, or to ecclesiastics that have an ascendancy over their minds, and who make a wrong use of it sometimes, in order to persuade them to things which they would never have determined to do of themselves. In this case, praise or blame falls principally on the author of the suggestion or counsel\*.

XIII. A collateral cause is he who in doing or omitting certain things, concurs sufficiently, and as much as in him lies, to another man's action; insomuch that he is supposed to co-operate with him; though one cannot absolutely presume, that without his concurrence the action would not have been committed. Such are those who furnish succours to the immedi-

\* We shall transcribe here, with pleasure, the judicious reflections of M. Bernard (*Nouvelles de la republique des lettres*, August 1702. p. 291.) In England it is very common to charge the faults of the prince to the ministers; and I own, that very often the charge is just. But the crimes of the ministers do not always excuse the faults of the sovereign; for after all, they have reason and understanding as well as other people, and are masters to do as they please. If they let themselves be too much governed by those that have the freest access to them, it is their fault. They ought on several occasions to see with their own eyes, and not to be led by the nose by a wicked and avaricious courtier. But if they are incapable to manage matters themselves, and to distinguish good from evil, they ought to resign the care of government to others that are capable: For I do not know, why we may not apply to princes who govern ill, the saying of Charles Borromeus, in respect to bishops who do not feed properly their flocks: IF THEY ARE INCAPABLE OF SUCH AN EMPLOYMENT, WHY SO MUCH AMBITION? IF THEY ARE CAPABLE, WHY SO MUCH NEGLECT?

ate agent; or thole who shelter and protect him; for example, he who while another breaks open the door, watches all the avenues of the house, in order to favour the robbery, &c. A conspiracy among several people, renders them generally all guilty alike. They are all supposed equal and collateral causes, as being associated for the same fact, and united in interest and will. And though each of them has not an equal part in the execution, yet their actions may be very well charged to one another's account.

XIV. Finally, a subaltern cause is he who has but a small influence or share in another man's action, and is only a slight occasion thereof by facilitating its execution; insomuch that the agent, already absolutely determined to act, and having all the necessary means for so doing, is only encouraged to execute his resolution; as when a person tells him the manner of going about it, the favourable moment, the means of escaping, &c. or when he commends his design, and animates him to pursue it.

May not we rank in the same class the action of a judge, who, instead of opposing an opinion supported by a generality of votes, but by himself adjudged erroneous, should acquiesce therein, either through fear or complaisance? Bad example must be also ranked among the subaltern causes. For generally speaking, examples of this nature make impression only on those who are otherwise inclined to evil, or subject to be easily led astray; insomuch that those who set such examples, contribute but very weakly to the evil committed by imitation. And yet there are some examples so very efficacious,

by reason of the character of the persons that set them, and the disposition of those who follow them, that if the former had refrained from evil, the latter would never have thought of committing it. Such are the bad examples of superiors, or of men who by their knowledge and reputation have a great ascendancy over others; these are particularly culpable of all the evil which ensues from the imitation of their actions. We may reason in the same manner with respect to several other cases. According as circumstances vary, the same things have more or less influence on other men's actions, and consequently those who by so doing concur to these actions, ought to be considered sometimes as principal, sometimes as collateral, and sometimes as subaltern causes.

Application  
of these di-  
stinctions.

XV. The application of these distinctions and principles is obvious. Supposing every thing else equal, collateral causes ought to be judged alike: But principal causes merit without doubt more praise or blame, and a higher degree of recompence or punishment than subaltern causes. I said, *supposing every thing else equal*; for it may happen through a diversity of circumstances, which augment or diminish the merit or demerit of an action, that the subaltern cause acts with a greater degree of malice than the principal one, and the imputation is thereby aggravated in respect to the subaltern. Let us suppose, for example, that a person in cool blood assassinate a man, at the instigation of one who was animated thereto by some atrocious injury he had received from his enemy. Though the instigator is the principal au-  
thor

thor of the murder, yet his action, done in a transport of choler, will be esteemed less heinous than that of the murderer, who, calm and serene himself, was the base instrument of the other's passion.

We shall close this chapter with a few remarks: And 1. though the distinction of three classes of moral causes, in respect to another man's action, be in itself very well founded, we must own, nevertheless, that the application thereof to particular cases is sometimes difficult. 2. In dubious cases, we should not easily charge, as a principal cause, any other person but the immediate author of the action; we ought to consider those who have concurred thereto, rather as subaltern, or at the most as collateral causes. 3. In fine, it is proper to observe, that Puffendorf, whose principles we have followed, settles very justly the distinction of moral causes; but not having exactly defined these different causes, in the particular examples he alledges, he refers sometimes to one class what properly belonged to another. This has not escaped *Monf. Barbeyrac*, whose judicious remarks have been here of particular use to us\*.

\* See *Barbeyrac's* notes on the Duties of man and a citizen, book i. chap. i. § 27.

## C H A P. XII.

*Of the authority and sanction of natural laws \* :  
and 1. of the good or evil that naturally and  
generally follows from virtue or vice.*

What is  
meant by  
the autho-  
rity of na-  
tural law.

I. **W**E understand here, by the authority of natural laws, the force they receive from the approbation of reason, and especially from their being acknowledged to have God for their author : This is what lays us under a strict obligation of conforming our conduct to them, because of the sovereign right which God has over his creatures. What has been already explained, concerning the origin and nature, reality and certainty of those laws, is sufficient, methinks, to establish also their authority. Yet we have still some small matter to say in relation to this subject. The force of laws, properly so called, depends principally on their sanction †. This is what gives a stamp, as it were, to their authority. It is therefore a very necessary and important point, to inquire whether there be really any such thing as a sanction of natural laws, that is, whether they are accompanied with comminations and promises, punishments and rewards.

\* See Puffendorf, Law of nature and nations, book ii. chap. iii. § 21.

† See part i. chap. x. § 11.

II. The

II. The first reflection that presents itself to our minds, is, that the rules of conduct, distinguished by the name of natural laws, are proportioned in such a manner to our nature, to the original dispositions and natural desires of our soul, to our constitution, to our wants and actual situation in life, that it evidently appears they are made for us. For in general, and every thing well considered, the observance of those laws is the only means of procuring a real and solid happiness to individuals, as well as to the public; whereas the infraction thereof precipitates men into disorders prejudicial alike to individuals, as to the whole species. This is, as it were, the first sanction of natural laws.

The observance of natural laws forms the happiness of man and society.

III. in order to prove our point, and to establish rightly the state of the question, we must observe, 1. that when the observance of natural laws is said to be capable alone of forming the happiness of man and society, we do not mean that this happiness can be ever perfect, or superior to all expectation; humanity having no pretence to any thing of this kind; and if virtue itself cannot produce this effect, it is not at all probable that vice has any advantage over her in this respect.

Eclaircissements on the state of the question.

2. As we are inquiring which is the proper rule that man ought to go by, our question is properly reduced to this point, whether in general, and every thing considered, the observance of natural laws is not the properest and surest means to conduct man to his end, and to procure him the purest, the completest, and the most durable happiness that can possibly be enjoyed in this world; and not only with regard

regard to some persons, but to all mankind; not only in particular cases, but likewise through the whole course of life.

On this footing, it will not be a difficult task to prove, as well by reason as by experience, that the proper and ordinary effect of virtue is really such as has been mentioned, and that vice, or the irregularity of passions, produces a quite opposite effect.

Proof of the  
abovementioned  
truth, by  
reason.

IV. We have already shewn, in discoursing of the nature and state of humanity, that in what manner and light soever we consider the system of humanity, man can neither answer his end, nor perfect his talents and faculties, nor acquire any solid happiness, or reconcile it with that of his fellow-creatures, but by the help of reason; that it ought to be therefore his first care to improve his reason, to consult it, and follow the counsels thereof; that it informs him, there are some things which are fit and others unfit for him; that the former have not all an equal fitness, nor in the same manner: that he ought therefore to make a proper distinction between good and evil, in order to regulate his conduct: that true happiness cannot consist in things incompatible with his nature and state: and, in fine, that since the future ought to be equally the object of his views as the present and past, it is not sufficient, in order to attain certain happiness, to consider merely the present good or evil of each action; but we should likewise recollect what is past, and extend our views to futurity, in order to combine the whole, and see what ought to be the result thereof in the intire duration of our being. These are so many  
evident

evident and demonstrable truths. Now the laws of nature are no more than consequences of these primitive truths; whence it appears that they have necessarily, and of themselves, a great influence on our happiness. And how is it possible to call this in question, after having seen in the course of this work, that the sole method to discover the principles of those laws, is to set out with the study of the nature and state of man, and to inquire afterwards into what is essentially agreeable to his perfection and happiness.

V. But that which appears so clear and so well established by reason, is rendered incontestible by experience. In fact, we generally observe, that virtue, that is, the observance of the laws of nature, is of itself a source of internal satisfaction, and that it is infinitely advantageous in its effects, whether in particular to individuals, or to human society in general, whereas vice is attended with quite different consequences.

Proofs by experience.  
1. Virtue is of itself the principle of an inward satisfaction; and vice a principal of disquiet and trouble.

Whatever is contrary to the light of reason and conscience, cannot but be accompanied with a secret disapprobation of mind, and afford us vexation and shame. The heart is afflicted with the idea of the crime, and the remembrance thereof is always bitter and sorrowful. On the contrary, every conformity to right reason is a state of order and perfection, which the mind approves; and we are framed in such a manner, that a good action becomes the seed, as it were, of a secret joy; and we always recollect it with pleasure. And indeed, what can be sweeter or more comfortable, than to be able to bear an inward testimony

testimony to ourselves, that we are what we ought to be, and that we perform what is reasonably our duty, what fits us best, and is most conformable to our natural destination? Whatever is natural, is agreeable; and whatever is according to order, is a subject of satisfaction and content.

Of external goods and evils, which are the consequence of virtue and vice,

VI. Besides this internal principle of joy, which attends the practice of natural laws, we find it produces externally all sorts of good effects. It tends to preserve our health, and to prolong our days; it exercises and perfects the faculties of the mind; it renders us fit for labour, and for all the functions of domestic and civil life; it secures to us the right use and possession of all our goods and property; it prevents a great number of evils, and softens those it cannot prevent; it procures us the confidence, esteem, and affection of other men; from whence result the greatest comforts of social life, and the most effectual helps for the success of our undertakings.

Observe on what the public security, the tranquillity of families, the prosperity of states, and the absolute welfare of every individual are founded. Is it not on the grand principles of religion, temperance, modesty, beneficence, justice, and sincerity? Whence arise, on the contrary, the greatest part of the disorders and evils that trouble society, and break in upon the happiness of man? Whence, but from the neglect of those very principles? Besides the iniquity and infamy that generally accompanies irregularity and debauch, vice is likewise attended with a multitude of external evils, such as the infeebling of  
the

the body and mind, distempers and untoward accidents, poverty very often and misery, violent and dangerous parties, domestic jars, enmities, continual fears, dishonour, punishments, contempt, hatred, and a thousand crosses and difficulties in every thing we undertake. One of the ancients has very elegantly said\*, *that malice drinks one half of her own poison.*

VII. But if such are the natural consequences of virtue and vice in respect to the generality of mankind, these effects are still greater among those who by their condition and rank have a particular influence on the state of society, and determine the fate of other men. What calamities might not the subjects apprehend, if their sovereigns were to imagine themselves superior to rule, and independent of all law; if directing every thing to themselves, they were to listen only to their own whims and caprice, and to abandon themselves to injustice, ambition, avarice, and cruelty? What good, on the contrary, must not arise from the government of a wise and virtuous prince; who considering himself under a particular obligation of never deviating from the rules of piety, justice, moderation, and beneficence, exercises his power with no other view, but to maintain order within, and security without, and places his glory in ruling his subjects uprightly, that is, in making them wise and happy? We need only have recourse to history, and consult experience, to be

These different effects of virtue and vice are still greater among those who are invested with power and authority.

\* Seneca, ep. 82. *Quemadmodum Atalanta noster dicere solebat, malitia ipsa maximam partem veneni sui bibit.*

convinced that these are real truths, which no reasonable person can contest.

Confirmati-  
on of this  
truth by the  
confession of  
all nations.

VIII. This is a truth so generally acknowledged, that all the institutions which men form among themselves for their common good and advantage, are founded on the observance of the laws of nature; and that even the precautions taken to secure the effect of these institutions, would be vain and useless, were it not for the authority of those very laws. This is what is manifestly supposed by all human laws in general; by the establishments for the education of youth; by the political regulations which tend to promote the arts and commerce; and by public as well as private treaties. For of what use would all those things be, or what benefit could accrue from thence, were we not previously to establish them on justice, probity, sincerity, and the sacred inviolability of an oath, as on their real foundation and basis?

Confirma-  
tion of the  
same truth  
by the ab-  
surdity of  
the con-  
trary.

IX. But in order to be more sensibly satisfied of this truth, let any one try, that pleases, to form a system of morality on principles directly opposite to those we have now established. Let us suppose that ignorance and prejudice take place of knowledge and reason; that caprice and passion are substituted instead of prudence and virtue: let us banish justice and benevolence from society, and from the commerce of mankind, to make room for unjust self-love, which calculating every thing for itself, takes no notice of other people's interest, or of the public advantage. Let us extend and apply these principles to the particular conditions of human life, and

we

we shall see what must be the result of a system of this kind, were it ever to be received and pass for a rule. Can we imagine it would be able to produce the happiness of society, the good of families, the advantage of nations, and the welfare of mankind? No one has ever yet attempted to maintain such a paradox; so evident and glaring is the absurdity thereof.

X. I am not ignorant, that injustice and passion are capable in particular cases of procuring some pleasure or advantage. But not to mention that virtue produces much oftener and with greater certainty the same effects; reason and experience inform us, that the good procured by injustice is not so real, so durable, nor so pure, as that which is the fruit of virtue. This is because the former being unconformable to the state of a rational and social being, is defective in its principle, and has only a deceitful appearance\*. It is a flower which having no root, withers and falls almost as soon as it blossoms.

*Answer to  
some parti-  
cular objec-  
tions.*

With regard to such evils and misfortunes as are annexed to humanity, and to which it may be said, that virtuous people are exposed as well as others; certain it is, that virtue has here also a great many advantages. In the first place, it is very proper of itself to prevent or remove several of those evils; and thus we observe that wise and sober people actually escape a great many precipices and snares into which the vicious and inconsiderate are hurried. 2. In cases wherein wisdom and prudence cannot prevent those evils, yet it gives the soul a sufficient vigour to

See part i. chap. vi. § 3.

support them, and counterbalances them with sweets and consolations which contribute to abate in great measure their impressiōn. Virtue is attended with an inseparable contentment, of which nothing can bereave us; and our essential happiness is very little impaired by the transitory, and, in some measure, external accidents that sometimes disturb us.

*Surprised I am, (says Iſocrates,) \* that any one should imagine, that those who adhere constantly to piety and justice, must expect to be more unhappy than the unrighteous, and have not a right to promise themselves greater advantages from the gods and men. For my part, I am of opinion, that the virtuous alone abundantly enjoy whatever is worthy of our pursuit; and the wicked, on the contrary, are entirely ignorant of their real interests. He that prefers injustice to justice, and makes his sovereign good consist in depriving another*

\* Θαυμάζω δ' εἴ τις οἶμαι τὴν εὐσέβειαν καὶ τὴν δικαιοσύνην ἀσκησίας, καὶ καρτερῆν καὶ μένειν ἐν τέτοις ἐθίλοις, ἑλαττοῖο ἔξιν τῶν πονηρῶν· ἀλλ' ἔχ' ἡλεμένους καὶ παρὰ θεοῖς καὶ παρὰ ἀνθρώποις πλείον οἴσεται, τῶν ἄλλων. ἐγὼ μὲν γὰρ οἶμαι τέττες μόνους, ὧν δεῖ πλεονεκτεῖν, τὴν δ' ἄλλως εἰδὲ γινώσκειν εἰδὲν ὧν βελτίον ἐστίν. ὁρῶ γὰρ τὴν μὲν τὴν ἀδικίαν περιμῶντας, καὶ τὸ λαβεῖν τι τῶν ἀλλοθέρων μέγιστον ἀγαθὸν νομίζοντας, ἕμοια πάσχοιτας τοῖς δευαζομένοις τῶν ζῶων, καὶ καταρχαὶς μὲν ἀπολαύοντας ὧν ἀν λάθωσιν, ὀλίγα δ' ὑπερον ἐν τοῖς μεγίστοις κακοῖς ὄντας· τὴν δὲ μετ' εὐσεβείας καὶ δικαιοσύνης ζῶντας, ἐν τε τοῖς παρῆσι χρόνοις ἀσφαλῶς διάγουσας, καὶ περὶ τὸ σύμπαντος αἰῶνος ἡδύς τὰς ἐλπίδας ἔχουσας· καὶ ταυτ' εἰ μὴ κατὰ πάλλων ἕτως εἶθιγαι συμβαίνειν, ἀλλὰ τὸ γ' ὡς ἐπὶ τὸ πολλὸν τέτοι γίγνεται τὸν τρόπον. χρὴ δὲ τὴν εὐφροσύνην, πρὸς τὸ μέλλον αἰεὶ συνοῖσειν ἢ καθορᾶμεν, τὸ πολλακίς ὠφέλιον τέτο φαίνεσθαι προαιρημένους. πάντων δ' ἀλογώτατον πετόνθασιν, ὅσοι κάλλιον μὲν ἐπιθήδευμα νομίζουσιν εἶναι, καὶ θεοφιλέτερον τὴν δικαιοσύνην τῆς ἀδικίας· χειρὸν δ' εἶναι βιώσεται τὴν ταυτὴν χρωμένους, τῶν τὴν πονηρίαν προσηκρότων. *Iſocrat. Orat. de Permutatione.*

man of his property, is like, methinks, to those brute creatures that are caught by the bait: the unjust acquisition flatters his senses at first, but he soon finds himself involved in very great evils. Those on the contrary who take up with justice and piety, are not only safe for the present, but have likewise reason to conceive good hopes for the remainder of their lives. I own, indeed, that this does not always happen; yet it is generally confirmed by experience. Now in things whose success cannot be infallibly foreseen, it is the business of a prudent man to embrace that side which most generally turns out to his advantage. But nothing is more unreasonable than the opinion of those, who believing that justice has something in it more beautiful and more agreeable to the gods than injustice, imagine nevertheless that those who embrace the former are more unhappy than such as abandon themselves to the latter.

XI. Thus every thing duly considered, the advantage is without comparison on the side of virtue. It manifestly appears, that the scheme of the divine wisdom was to establish a natural connexion between physical and moral evil, as between the effect and the cause; and, on the contrary, to intail physical good, or the happiness of man, on moral good, or the practice of virtue: insomuch, that generally speaking, and pursuant to the original institution of things, the observance of natural laws is as proper and necessary to advance both the public and particular happiness, as temperance and good regimen is naturally conducive to the preservation of health. And as these natural rewards and punishments of virtue and vice, are an effect of the divine institution;

The advantage always ranges itself on the side of virtue; and this is the first sanction of the laws of nature.

they may be really considered, as a kind of sanction of the laws of nature, which adds a considerable authority to the maxims of right reason.

General difficulty drawn from the exceptions, which render this first sanction insufficient.

XII. And yet we must acknowledge, that this first sanction does not as yet seem sufficient to give all the authority and weight of real laws, to the counsels of reason. For if we consider the thing strictly, we shall find, that by the constitution of human things, and by our natural dependance upon one another, the general rule above mentioned is not so fixt and invariable, but it admits of divers exceptions, by which the force and effect thereof must certainly be weakened.

The goods and evils of nature and fortune, are distributed unequally, and not according to each person's merit.

1. Experience, in general, shews us, that the degree of happiness or misery which every one enjoys in this world, is not always exactly proportioned and measured to the degree of virtue or vice of each particular person. Thus health, the goods of fortune, education, situation of life, and other external advantages, generally depend on a variety of conjunctures, which render their distribution very unequal; and these advantages are frequently lost by accidents, to which all men are equally subject. True it is, that the difference of rank or riches does not absolutely determine the happiness or misery of life: yet agree we must, that extreme poverty, the privation of all necessary means of instruction, excessive labour, afflictions of the mind, and pains of the body, are real evils, which a variety of casualties may bring as well upon virtuous as other men.

The evils produced by injustice fall

2. Besides this unequal distribution of natural goods and evils, honest men are no more sheltered than others,

others from divers evils arising from malice, injustice, as well up-  
 violence, and ambition. Such are the persecutions of on the inno-  
 tyrants, the horrors of war, and so many other pub- cent as the  
 lic or private calamities to which the good and the guilty.  
 bad are indiscriminately subject. It even frequently  
 happens, that the authors of all those miseries are  
 those who feel least their effects, either because of  
 their extraordinary success and good fortune, or be-  
 cause their insensibility is arrived to that pitch, as to  
 let them enjoy, almost without trouble and remorse,  
 the fruit of their iniquities.

3. Again. It is not unusual to see innocence ex- Sometimes  
 posed to calumny, and virtue itself become the ob- even virtue  
 ject of persecution. Now in those particular cases, itself is the  
 in which the honest man falls, as it were, a victim cause of per-  
 to his own virtue, what force can the laws of se- secution.  
 cution be said to have, and how can their authority be  
 supported? Is the internal satisfaction arising from the  
 testimony of a good conscience, capable alone to de-  
 termine man to sacrifice his property, his repose, his  
 honour, and even his life? And yet those delicate  
 conjunctures frequently happen; and the resolution  
 then taken, may have very important and extensive  
 consequences in relation to the happiness and misery  
 of society.

XIII. Such is indeed the actual state of things. The means  
 On the one side we see, that in general the observance which hu-  
 of natural laws is alone capable of establishing some man pru-  
 order in society, and of constituting the happiness dence em-  
 of man; but on the other it appears, that virtue and ploys to re-  
 vice are not always sufficiently characterised by their medy those  
 effects, and by their common and natural conse- disorders, are  
 quences, likewise in-  
 sufficient.

quences, to make this order on all occasions prevail.

Hence arises a considerable difficulty against the moral system by us established. All laws, some will say, ought to have a sufficient sanction to determine a reasonable creature to obey, by the prospect of its own good and interest, which is always the primum mobile of its actions. Now though the moral system you have spoke of, gives in general a great advantage to its followers, over those who neglect it; yet this advantage is neither so great, nor so sure, as to be capable to indemnify us sufficiently in each particular case for the sacrifices we are obliged to make in the discharge of our duty. This system is not therefore as yet supported with all the authority and force necessary for the end that God proposes; and the character of law, especially of a law proceeding from an all-wise being, requires still a more distinct, surer, and more extensive sanction.

That legislators and politicians have been sensible of this deficiency, is manifest, by their endeavouring to supply it in the best manner they are able. They have published a civil law, which tends to strengthen the law of nature: they have denounced punishments against vice, promised rewards to virtue, and erected tribunals. This is undoubtedly a new support of justice, and the best human method that could be contrived to prevent the forementioned inconveniences. And yet this method does not provide against every disorder, but leaves still a great vacuum in the moral system.

For 1. there are several evils, as well natural as arising from human injustice, from which all the

power of man cannot preserve even the most virtuous. 2. Human laws are not always drawn up in conformity to justice and equity. 3. Let them be supposed never so just, they cannot extend to every case. 4. The execution of those laws is sometimes committed to weak, ignorant, or corrupt men. 5. How great soever the integrity of a magistrate may be, still there are many things that escape his vigilance: he cannot see and redress every grievance. 6. It is not an unexampled case, that virtue instead of finding a protector in its judge, meets with an implacable enemy. What resource shall be left to innocence in that case? To whom shall she fly for succour, if the very person that ought to undertake her protection and defence, is armed against her?

XIV. Thus the difficulty still subsists; a difficulty of very great consequence, because on the one side it makes against the plan of a divine providence, and on the other it may contribute to invalidate what we have said in respect to the empire of virtue, and its necessary connexion with the felicity of man.

The difficulty proposed, is of great consequence.

So weighty an objection that has been started in all ages, deserves we should carefully endeavour to remove it. But the greater and more real it is, the more probably we may presume it has a proper solution. For how is it to be imagined, that the Divine Wisdom could have left such an imperfection, such an enigma in the moral order, after having regulated every thing so well in the physical world?

Let us therefore see whether some new reflections on the nature and destination of man, will not direct us to a different place from the present life, for

the solution we are here inquiring. What has been said concerning the natural consequences of virtue and vice on this earth, already shews us a demi-sanction of the laws of nature: let us try whether we cannot find an intire and proper one, whose species, degree, time, and manner, depend on the good will of the legislator, and are sufficient to make all the compensations required by strict justice, and to place in this, as in every other respect, the system of the divine laws much above those of human institution.

### C H A P. XIII.

*Proofs of the immortality of the soul. That there is a sanction, properly so called, in respect to natural law.*

State of the  
question.

I. **T**HE difficulty we have been speaking of, and which we attempt here to illustrate, supposes, as every one may see, that the human system is absolutely limited to the present life, that there is no such thing as a future state, and consequently that there is nothing to expect from the Divine Wisdom in favour of the laws of nature, beyond what is manifested in this life.

Were it possible, on the contrary, to prove that the present state of man is only the commencement of a more extensive system; and moreover, that the supreme Being has really been pleased to invest the rules of conduct prescribed to us by reason, with all the authority of laws, by strengthening them  
with

with a function properly so called; we might in fine conclude, that there is nothing wanting to complete the moral system.

II. The learned are divided in their opinions with respect to these important questions. Some there are who maintain, that reason alone affords clear and demonstrative proofs, not only of the rewards and punishments of a future life; but likewise of a state of immortality. Others on the contrary pretend, that by consulting reason alone, we meet with nothing but obscurity and uncertainty, and that so far from finding any demonstration this way, we have not even a probability of a future life.

*Division of opinions. How it is possible to know the will of God in respect to this point.*

It is carrying the thing too far, perhaps, on both sides, to reason after this manner. Since the question is concerning a point which depends intirely on the will of the Deity, the best way undoubtedly to know this will, would be an exprefs declaration on his side. But confining ourselves within the circle of natural knowledge, let us try whether independently of this first method, reason alone can afford us any sure light in relation to this subject, or furnish us with conjectures and presumptions sufficiently strong, to infer from thence with any certainty the will of God. With this view, let us investigate a little closer the nature and present state of man, let us consult the ideas which right reason gives us of the perfection of the supreme Being, and of the plan he has formed with respect to mankind; in order to know, in fine, the necessary consequences of the natural laws he has been pleased to prescribe.

III. With

Whether  
the soul is  
immortal?

III. With regard to the nature of man, we are first of all to inquire whether death be really the last term of our existence, and the dissolution of the body be necessarily followed with the annihilation of the soul; or whether the soul is immortal, that is, whether it subsists after the death of the body?

First proof.  
The nature  
of the soul  
seems in-  
tively di-  
stinct from  
that of the  
body.

Now the immortality of the soul is so far from being in itself impossible, that reason supplies us with the strongest conjectures, that this is in reality the state for which it was designed.

The observations of the ablest philosophers distinguish absolutely the soul from the body, as a being in its nature essentially different. 1. In fact, we do not find that the faculties of the mind, the understanding, the will, liberty, with all the operations they produce, have any relation to those of extension, figure and motion, which are the properties of matter. 2. The idea we have of an extended substance, as purely passive, seems to be absolutely incompatible with that proper and internal activity which distinguishes a thinking being. The body is not put into motion of itself, but the mind finds inwardly the principle of its own movements; it acts, it thinks, it wills, it moves the body; it turns its operations, as it pleases; it stops, proceeds, or returns the way it went. 3. We observe likewise, that our thinking part is a simple, single, and indivisible being; because it collects all our ideas and sensations, as it were, into one point, by understanding, feeling, and comparing them, &c. which cannot be done by a being composed of various parts.

IV. The

IV. The soul seems therefore to be of a particular nature, to have nothing in common with gross and material beings, but to be a pure spirit, that participates in some measure of the nature of the supreme Being. This has been very elegantly expressed by Cicero: *We cannot find, says he\*, on earth the least trace of the origin of the soul. For there is nothing mixt or compound in the mind; nothing that seems to proceed from the earth, water, air, or fire. These elements have nothing productive of memory, understanding, reflection; nothing that is able to recall the past, to foresee the future, and to embrace the present. We shall never find the source from whence man has derived those divine qualities, but by tracing them up to God. It follows therefore, that the soul is endowed with a singular nature, which has nothing in it common with those known and familiar elements. Hence, let the nature of a being that has sensation, understanding, will, and principle of life, be what it will, this being is surely heavenly, divine, and consequently immortal.*

Death does not therefore necessarily imply the annihilation of the soul.

\* *Animorum nulla in terris origo inveniri potest: nihil enim in animis mixtum atque concretum, aut quod ex terrâ natum atque fictum esse videatur: nihil ne aut humidum quidem aut stabile aut igneum. His enim in naturis nihil inest, quod vim memoriæ, mentis, cogitationis habeat; quod et præterita teneat, & futura provideat, & complecti possit præsentia: quæ sola divina sunt; nec invenietur unquam, unde ad hominem venire possint nisi a Deo. Singularis est igitur quædam natura atque vis animi, sejuncta ab his usitatîs notisque naturis. Ita quicquid est illud, quod sentit, quod sapit, quod vivit, quod viget, cœleste et divinum ob eamque rem æternum sit necesse est. Cic. Tuscul. disput. lib. 1. cap. 27.*

This

This conclusion is very just. For if the soul be essentially distinct from the body, the destruction of the one is not necessarily followed with the annihilation of the other; and thus far nothing hinders the soul from subsisting, notwithstanding the destruction of its ruinous habitation.

Objection.  
Answer.

V. Should it be said, that we are not sufficiently acquainted with the intrinsic nature of substances, to determine that God could not communicate thought to some portion of matter; I should answer, that we cannot however judge of things but according to their appearance and our ideas; otherwise, whatever is not founded on a strict demonstration, must be uncertain, and this would terminate in a kind of pyrrhonism. All that reason requires is, that we distinguish properly between what is dubious, probable, or certain; and since all we know in relation to matter, does not seem to have any affinity with the faculties of the soul; and as we even find in one and the other, qualities that seem incompatible; it is not prescribing limits to the Divine Power, but rather following the notions that reason has furnished us, to affirm it is highly probable, that the thinking part of man is essentially distinct from the body.

Confirmati-  
on of the  
preceding  
truth.  
Nothing in  
nature is  
annihilated.

VI. But let the nature of the soul be what it will, and be it even, though contrary to all appearance, supposed corporeal; still it would no ways follow, that the death of the body must necessarily bring on the annihilation of the soul. For we do not find an instance of any annihilation properly so called. The body itself,  
how

how inferior soever to the mind, is not annihilated by death. It receives, indeed, a great alteration; but its substance remains always essentially the same, and admits only a change of modification or form. Why therefore should the soul be annihilated? It will undergo, if you please, a great mutation; it will be detached from the bonds that unite it to the body, and will be incapable of operating in conjunction with it: But is this an argument that it cannot exist separately, or that it loses its essential quality, which is that of understanding? This does not at all appear; for one does not follow from the other.

Were it therefore impossible for us to determine the intrinsic nature of the soul, yet it would be carrying the thing too far, and concluding beyond what we are authorised by fact to maintain, that death is necessarily attended with a total destruction of the soul. The question is therefore reducible to this point: Is God willing to annihilate, or to preserve the soul? But if what we know in respect to the nature of the soul, does not incline us to think it is destined to perish by death; we shall see likewise, that the consideration of its excellency is a very strong presumption in favour of its immortality.

VII. And indeed it is not at all probable, that an intelligent being, capable of knowing such a multitude of truths, of making so many discoveries, of reasoning upon an infinite number of things, of discerning their proportions, fitness, and beauties; of contemplating the works of the Creator, of tracing them up to him, of observing his designs, and penetrating into their causes; of raising himself above

Second  
proof.  
The excellency of the  
soul.

bove all sensible things to the knowledge of spiritual and divine subjects; that has a power to act with liberty and discernment, and to array himself with the most beautiful virtues; it is not, I say, at all probable, that a being adorned with qualities of so excellent a nature, and so superior to those of brute animals, should have been created only for the short space of this life. These considerations made a lively impression upon the ancient philosophers. *When I consider, says Cicero\*, the surprizing activity of the mind, so great a memory of what's past, and such an insight into futurity; when I behold such a number of arts and sciences, and such a multitude of discoveries from thence arising; I believe, and am firmly persuaded, that a nature which contains so many things within itself, cannot be mortal.*

Confirmation.  
Our faculties are always susceptible of a greater degree of perfection.

VIII. Again: Such is the nature of the human mind, that it is always capable of improvement, and of perfecting its faculties. Though our knowledge is actually confined within certain limits, yet we see no bounds to that which we are capable of acquiring, to the inventions we are able to make, to the progress of our judgment, prudence, and virtue. Man is in this respect always susceptible of some new degree of perfection and maturity. Death overtakes him before he has finished, as it were, his progress, and when he was capable of proceeding a great deal farther. *How can it enter, says a celebrated English*

\* *Quid multa? Sic mihi persuasi, sic sentio, cum tanta celeritas animorum sit, tanta memoria præteritorum futurorumque prudentia, tot artes, tantæ scientiæ, tot inventa, non posse eam naturam, quæ res eas contineat, esse mortalem. Cic. de Senec. cap. 2.*

writer \*, into the thoughts of man, that the soul, which is capable of such immense perfections, and of receiving new improvements to all eternity, shall fall away into nothing almost as soon as it is created? Are such abilities made for no purpose? A brute arrives at a point of perfection that he can never pass: In a few years he has all the endowments he is capable of; and were he to live ten thousand more, would be the same thing he is at present. Were a human soul thus at a stand in her accomplishments, were her faculties to be full blown, and incapable of further enlargements, I could imagine it might fall away insensibly, and drop at once into a state of annihilation. But can we believe a thinking being, that is in a perpetual progress of improvements, and travelling on from perfection to perfection, after having just looked abroad into the works of its Creator, and made a few discoveries of his infinite goodness, wisdom, and power, must perish at her first setting out, and in the very beginning of her enquiries?

IX. True it is, that most men debase themselves in some measure to an animal life, and have very little concern about the improvement of their faculties. But if those people voluntarily degrade themselves, this ought to be no prejudice to such as chuse to support the dignity of their nature; neither does it invalidate what we have been saying in regard to the excellency of the soul. For to judge rightly of things, they ought to be considered in themselves, and in their most perfect state.

Objection.  
Answer.

\* SPECTATOR, Vol. II. N<sup>o</sup> 111.

X. It

Third proof,  
drawn from  
our natural  
dispositions  
and desires.

X. It is undoubtedly in consequence of the natural sense of the dignity of our being, and of the grandeur of the end we are designed for, that we naturally extend our views to futurity; that we concern ourselves about what is to happen after our death; that we seek to perpetuate our name and memory, and are not insensible to the judgment of posterity. These sentiments are far from being the illusion of self-love or prejudice. The desire and hope of immortality is an impression we receive from nature. And this desire is so very reasonable in itself, so useful, and so closely connected with the system of humanity, that we may at least infer from thence a very probable induction in favour of a future state. How great soever the vivacity of this desire may be in itself, still it increases in proportion as we take more care to cultivate our reason, and as we advance in the knowledge of truth and the practice of virtue. This sentiment becomes the surest principle of noble, generous, and public-spirited actions; and we may affirm, that were it not for this principle, all human views would be low, mean, and fordid.

All this seems to point out to us clearly, that by the institution of the Creator, there is a kind of natural proportion and relation between the soul and immortality. For it is not by deceit and illusion that the Supreme Wisdom conducts us to his proposed end: a principle so reasonable and necessary; a principle that cannot but be productive of good effects, that raises man above himself, and renders him not only capable of the sublimest undertakings, but superior to the most delicate temptations, and such as are most dangerous

gerous to virtue ; such a principle, I say, cannot be chimerical\*.

Thus every thing concurs to persuade us that the soul must subsist after death. The knowledge we have of the nature of the mind ; its excellence and faculties ever susceptible of a higher degree of perfection ; the disposition which prompts us to raise ourselves above the present life, and to desire immortality ; are all so many natural indications, and form the strongest presumption, that such indeed is the intention of the Creator.

XI. The clearing up of this first point is of great importance in regard to our principal question, and solves already, in part, the difficulty we are examining. For when once the soul is supposed to subsist after the dissolution of the body, nothing can hinder us from saying, that whatever is wanting in the present state to complete the sanction of natural law, will be executed hereafter, if so it be agreeable to the Divine Wisdom.

The sanction of natural laws will shew itself in a future life.

We come now from considering man on the physical side, which opens us already a passage towards

\* Cicero gives an admirable picture of the influence which the desire and hope of immortality has had in all ages, to excite men to great and noble actions. “ Nemo unquam, says he, sine magna spe immortalitatis se pro patria offerret ad mortem. Licuit esse otioso Themistocli ; licuit Epaminondæ ; licuit, ne et vetera et externa quæram, mihi : sed nescio quo modo inhæret in montibus quasi sculorum quoddam augurium futurorum ; idque in maximis ingenis altissimisque animis existit maxime, et apparet facillimè. Quocidam dempto, quis tam esset amens, qui semper in laboribus et periculis viveret ? ” Tuscul. Quæst. lib. 1. cap. 15.

finding the object of our present pursuit. Let us see now whether by viewing man on the moral side, that is, as a being capable of rule, who acts with knowledge and choice, and whether raising ourselves afterwards to God, we cannot discover new reasons and still stronger presumptions of a future life, of a state of rewards and punishments.

Here we cannot avoid repeating part of those things which have been already mentioned in this work, because we are upon the point of considering their intire result; the truth we intend here to establish being, as it were, the conclusion of the whole system. It is thus a painter, after having worked singly upon each part of his piece, thinks it necessary to retouch the whole, in order to produce what is called the *total effect and harmony*.

First proof,  
drawn from  
the nature  
of man con-  
sidered on  
the moral  
side.

XII. Man, we have seen, is a rational and free agent, who distinguishes justice and honesty, who finds within himself the principles of conscience, who is sensible of his dependance on the Creator, and born to fulfill certain duties. His greatest ornament is reason and virtue; and his chief task in life is to advance in that path, by embracing all the occasions that offer, to improve, to reflect, and to do good. The more he practises and confirms himself in such laudable occupations, the more he accomplishes the views of the Creator, and proves himself worthy of the existence he has received. He is sensible he can be reasonably called to an account for his conduct, and he approves or condemns himself according to his different manner of acting.

From

From all these circumstances it evidently appears, that man is not confined, like other animals, to a mere physical œconomy, but that he is included in a moral one, which raises him much higher, and is attended with greater consequences. For what appearance or probability is there, that a soul which advances daily in wisdom and virtue, should tend to annihilation, and that God should think proper to extinguish this light in its greatest lustre? Is it not more reasonable to think, that the good or bad use of our faculties will be attended with future consequences; that we shall be accountable to our Creator, and finally receive the just retribution we have merited? Since therefore this judgment of God does not display itself sufficiently in this world, it is natural to presume, that the plan of the Divine Wisdom, with regard to us, embraces a duration of a much greater extent.

XIII. Let us ascend from man to God, and we shall be still further convinced, that such, in reality, is the plan he formed.

Second proof, drawn from the perfections of God.

If God is willing (a point we have already proved) that man should observe the rules of right reason, in proportion to his faculties and the circumstances he is under; this must be a serious and positive will. It is the will of the Creator, of the Governor of the world, of the sovereign Lord of all things. It is therefore a real command, which lays us under an obligation of obeying. It is moreover the will of a Being supremely powerful, wise and good, who proposing always, both with respect to himself and to his creatures, the most excellent ends, cannot fail to estab-

blish the means, which in the order of reason, and pursuant to the nature and state of things, are necessary for the execution of his design. No one can reasonably contest these principles; but let us see what consequences may be drawn from thence.

1. If it actually became the Divine Wisdom to give laws to man, this same wisdom requires these laws should be accompanied with necessary motives to determine rational and free agents to conform thereto in all cases. Otherwise we should be obliged to say, either that God does not really and seriously desire the observance of the laws he has enacted, or that he wants power or wisdom to procure it.

2. If through an effect of his goodness, he has not thought proper to let men live at random, or to abandon them to the capriciousness of their passions; if he has given them a light to direct them; this same goodness must, undoubtedly, induce him to annex a perfect and durable happiness to the good use that every man makes of this light.

3. Reason informs us afterwards, that an all-powerful, all-wise, and all-bountiful Being is infinitely fond of order; that these same perfections make him desire that this order should reign among his intelligent and free creatures, and that it was for this very reason he subjected them to laws. The same reasons that induced him to establish a moral order, engage him likewise to procure their observance. It must be therefore his satisfaction and glory, to render all men sensible of the difference he makes between those who disturb, and those who conform to order. He cannot be indifferent in this respect: on the contrary, he is determined, by the love he  
has

has for himself and his perfections, to invest his commands with all the efficacy necessary to render his authority respected: This imports an establishment of future rewards and punishments; either to keep man within rule, as much as possible, in the present state, by the potent motives of hope and fear; or to give afterwards an execution worthy of his justice and wisdom to his plan, by reducing every thing to the primitive order he has established.

4. The same principle carries us yet further. For if God be infinitely fond of the order he has established in the moral world, he cannot but approve of those, who with a sincere and constant attachment to this order, endeavour to please him by concurring to the accomplishment of his views; and he cannot but disapprove of such as observe an opposite conduct\*: for the former are, as it were, his friends, and the latter declare themselves his enemies. But the approbation of the Deity imports his protection, benevolence, and love; whereas his disapprobation cannot but be attended with quite contrary effects. If so, how can any one imagine, that God's friends and enemies will be confounded, and no difference made between them? Is it not much more consonant to reason to think, that the Divine Justice will manifest at length, some way or other, the extreme difference he places between virtue and vice, by rendering finally and perfectly happy those, who by a submission to his will are become the objects of his benevolence; and, on the contrary, by making the wicked feel his just severity and resentment?

\* See part ii. chap. x. § 7.

XIV. This is what our clearest notions of the perfections of the supreme Being induce us to judge concerning his views, and the plan he has formed. Were not virtue to meet surely and inevitably with a final recompence, and vice with a final punishment, and this in a general and complete manner, exactly proportioned to the degree of merit or demerit of each person; the plan of natural laws would never answer our expectation from a supreme Legislator, whose prescience, wisdom, power, and goodness, are without bounds. This would be leaving the laws divested of their principal force, and reducing them to the quality of simple counsels; it would be subverting, in fine, the fundamental part of the system of intelligent creatures, namely, that of being induced to make a reasonable use of their faculties, with a view and expectation of happiness. In short, the moral system would fall into a state of imperfection, which could be reconciled neither with the nature of man, nor with the state of society, nor with the moral perfections of the Deity. It is otherwise, when we acknowledge a future life. The moral system is thereby supported, connected, and finished, so as to leave nothing wanting to render it complete: It is then a plan really worthy of God, and useful to man. The supreme Being does all he ought to do with free and rational creatures, to induce them to behave as they should; the laws of nature are thus established on the most solid foundations; and nothing is wanting to bind men by such motives as are properest to make an impression.

Hence if this plan be without comparison the most beautiful and the best; if it be likewise the  
 most

most worthy of God, and the most connected with what we know of the nature, wants, and state of man; how can any one doubt of its being that which the Divine Wisdom has actually chosen?

XV. I acknowledge, indeed, that could we find in the present life a sufficient sanction of the laws of nature, in the measure and plenitude above mentioned, we should have no right to press this argument; for nothing could oblige us to search into futurity for an intire unravelling of the divine plan. But we have seen in the preceding chapter, that though by the nature of things, and even by the various establishments of man, virtue has already its reward, and vice its punishment; yet this excellent and just order is accomplished only in part, and that we find a great number of exceptions to this rule in history, and the experience of human life. Hence arises a very puzzling objection against the authority of natural laws. But as soon as mention is made of another life, the difficulty disappears; every thing is cleared up and set to right; the system appears connected, finished, and supported; the Divine Wisdom is justified: we find all the necessary supplements and compensations to redress the present irregularities; virtue acquires a firm and unshaken prop, by furnishing the virtuous man with a motive capable to support him in the most dangerous difficulties, and to render him triumphant over the most delicate temptations.

The objection drawn from the present state of things serves to prove the sentiment it opposes.

Were this only a simple conjecture, it might be considered rather as a convenient than solid supposition. But we have seen that it is founded also

on the nature and excellence of the soul; on the instinct that inclines us to raise ourselves above the present life; and on the nature of man considered on the moral side, as a creature accountable for his actions, and obliged to conform to a certain rule. When besides all this we behold that the same opinion serves to support, and perfectly crowns the whole system of natural law, it must be allowed to be no less probable than it is beautiful and engaging.

The belief of a future state has been received by all nations.

XVI. Hence this same opinion has been received more or less at all times, and by all nations, according as reason has been more or less cultivated, or as people have inquired closer into the origin of things. It would be an easy matter to alledge divers historical proofs, and to produce also several beautiful passages from the ancient philosophers, in order to shew that the reasons which strike us, made the like impressions on the wisest of the Pagans. But we shall be satisfied with observing, that these testimonies, which have been collected by other writers, are not indifferent on this subject; because this shews, either the vestiges of a primitive tradition, or the voice of reason and nature, or both; which adds a considerable weight to our argument.

## C H A P. XIV.

*That the proofs we have alledged have such a probability and fitness, as renders them sufficient to fix our belief, and to determine our conduct.*

I. **W**E have seen how far our reason is capable of conducting us with regard to the important question of the immortality of the soul, and a future state of rewards and punishments. Each of the proofs we have alledged, has without doubt its particular force; but joining to the assistance of one another, and acquiring a greater strength by their union, they are certainly capable of making an impression on every attentive and unprejudiced mind, and ought to appear sufficient to establish the authority and sanction of natural law in as full an extent as we desire.

II. If any one should say, that all our reasonings on this subject are only probability and conjecture, and properly reducible to a plausible reason or fitness, which leaves the thing still at a great distance from demonstration; I shall agree, if he pleases, that we have not here a complete evidence; yet the probability, methinks, is so very strong, and the fitness so great and so well established, that this is sufficient to make it prevail over the contrary opinion, and consequently to determine us.

The proofs we have given of the sanction of natural laws are sufficient.

Objection. These proofs contain no more than a fit or suitable reason. General answer.

For

For we should be strangely embarrassed, if in every question that arises, we should refuse to be determined by any thing but a demonstrative argument. Most commonly we are obliged to be satisfied with an assemblage of probabilities, which, in a conjunct consideration, very seldom deceive us, and ought to supply the place of evidence in subjects unsusceptible of demonstration. It is thus that in natural philosophy, in physic, criticism, history, politics, commerce, and generally in all the affairs of life, a prudent man is determined by a concurrence of reasons, which, every thing considered, he judges superior to the opposite arguments.

What is meant by a suitable reason.

III. In order to render the force of this kind of proof more obvious, it will not be amiss to explain here at first what we mean by a *plausible reason* or *fitness*; to inquire afterwards into the general principle on which this sort of reasoning is founded; and to see in particular what constitutes its force when applied to the law of nature. This will be the right way to know the just value of our arguments, and what weight they ought to have in our determinations.

*A plausible reason or fitness* is that which is drawn from the necessity of admitting a point as certain, for the perfection of a system in other respects solid, useful, and well connected, but which would be defective without this point; when there is no reason to suppose that it has any essential defect\*. For example: upon beholding a great and magnificent palace, we remark an admirable symmetry and propor-

\* See chap. viii. § 7

tion;

tion; where all the rules of art, which form the solidity, convenience, and beauty of a building, are strictly observed. In short, all that we see of the building denotes an able architect. May it not therefore be reasonably supposed, that the foundation which we do not see is equally solid and proportioned to the great mass it bears? Can it be imagined that the architect's ability and knowledge should have forsaken him in so important a point? In order to form such a supposition, we should have certain proofs of this deficiency, or have seen that in fact the foundation is imperfect; otherwise we could not presume so improbable a thing. Who is it, that on a mere metaphysical possibility of the architect's having neglected to lay the foundation, would venture to wager that the thing is really so?

IV. Such is the nature of fitness. The general foundation of this manner of reasoning is, that we must not consider only what is possible, but what is probable; and that a truth of itself very little known, acquires a probability by its natural connexion with other truths more obvious. Thus natural philosophers do not question but they have discovered the truth, when an hypothesis happily explains all the phenomena; and an event very little known in history, appears no longer doubtful, when we see it serves for a key and basis to many other indubitable events. It is on this principle in great measure that moral certainty is founded\*, which is so much used

General  
foundation  
of this man-  
ner of rea-  
soning.

\* See M. Boullier's philosophical essay on the souls of brutes, &c. second edition; to which has been joined a treatise of the true principles that serve as a foundation to moral certainty. Amst. 1737.

in most sciences, as well as in the conduct of life, and in things of the greatest importance to individuals, families, and to the whole society.

This kind of fitness is very strong in respect to natural law.

V. But if this manner of judging and reasoning takes place so frequently in human affairs, and is in general founded on so solid a principle; it is still much surer when we are to reason on the works of God, to discover his plan, and to judge of his views and designs. For the whole universe, with the several systems that compose it, and particularly the system of man and society, are the work of a supreme understanding. Nothing has been done by chance; nothing depends on a blind, capricious, or impotent cause; every thing has been calculated and measured with a profound wisdom. Here therefore, more than any where else, we have a right to judge, that so powerful and so wise an author, has omitted nothing necessary for the perfection of his plan; and that consistent with himself he has fitted it with all the essential parts, for the design he proposed. If we ought to presume reasonably such a care in an able architect, who is nothing more than a man subject to error; how much more ought we to presume it in a being of infinite wisdom?

This fitness has different degrees. Principles to judge of it.

VI. What we have been now saying, shews that this fitness is not always of the same weight, but may be more or less strong, in proportion to the greater or lesser necessity on which it is established. And to lay down rules on this subject, we may say in general, 1. That the more we know the views and design of the author; 2. The more we  
are

are assured of his wisdom and power; 3. The more this power and wisdom are perfect; 4. The more considerable are the inconveniences that result from the opposite system; the more they border upon the absurd; and the more pressing we find the consequences drawn from this sort of considerations. For then we have nothing to set in opposition to them by way of counterbalance; and consequently it is on that side we are determined by right reason.

VII. These principles are of themselves applicable to our subject, and this in so just and complete a manner, that the reason drawn from probability or fitness cannot be carried any farther. After what has been said in the preceding chapters, it would be entering into useless repetitions, to attempt to prove here all the particulars: the thing sufficiently proves itself. Let us be satisfied with observing, that the fitness in favour of the sanction of natural laws, is so much the stronger and more pressing, as the contrary opinion throws into the system of humanity an obscurity and confusion, which borders very much upon the absurd, if it does not come quite up to it. The plan of the Divine Wisdom becomes in respect to us an insoluble engima; we are no longer able to account for any thing; and we cannot tell why so necessary a thing should be wanting in a plan so beautiful in other respects, so useful, and so perfectly connected.

VIII. Let us draw a comparison between the two systems, to see which is most conformable to order, most suitable to the nature and state of man, and, in short, most reasonable and worthy of God.

Suppose,

Application  
of these  
principles to  
our subject.

Comparison  
of the two  
opposite sy-  
stems.

Suppose, on one side, that the Creator proposed the perfection and felicity of his creatures, and in particular the good of man and society. That for this purpose, having invested man with understanding and liberty, and rendered him capable of knowing his end, of discovering and following the road that can alone conduct him to it, he lays him under a strict obligation of walking constantly in this road, and of ever following the light of reason, which ought always to direct his steps. That in order to guide him the better, he has given him all the principles necessary to serve him as a rule. That this direction, and these principles, coming from a powerful, wise, and good superior, have all the characteristics of a real law. That this law carries already along with it, even in this life, its reward and punishment; but that this first sanction being insufficient, God, in order to give to a plan so worthy of his wisdom and goodness, its full perfection, and to furnish mankind in all possible cases with necessary motives and helps, has moreover established a proper sanction in respect to natural law, which will be manifested in a future life: and that attentive to the conduct of man, he proposes to make him give an account of his actions, to recompence virtue, and to punish vice, by a retribution exactly proportioned to the merit or demerit of each person.

Let us set now in opposition to this first system the other, which supposes that every thing is limited, in respect to man, to the present life, and that he has nothing to hope or fear beyond this term: that God after having created man and instituted society, concerns himself no more about them: that

after giving us a power of discerning good and evil by the help of reason, he takes no manner of notice of the use we make thereof, but leaves us in such a manner to ourselves, that we are absolutely at liberty to do as we please: that we shall have no account to give to our Creator, and that notwithstanding the unequal and irregular distribution of the goods and evils of this life, notwithstanding the disorders caused by the malice or injustice of mankind, we have no redress or compensation ever to expect from God.

IX. Can any one say that this last system is comparable to the first? Does it set the divine perfections in so great a light? Is it so worthy of the divine wisdom, bounty, and justice? Is it so proper to stem the torrent of vice and to support virtue, in delicate and dangerous conjunctures? Does it render the structure of society as solid, and invest the laws of nature with such an authority as the glory of the supreme Legislator and the good of humanity requires? Were we to chuse between two societies, one of which admitted the former system, while the other acknowledge only the latter, is there a prudent man but would highly prefer to live in the first of those societies?

The system of the sanction of natural laws is far preferable to the opposite system.

There is, certainly, no comparison between those two systems, in respect to beauty and fitness: the first is a work of the most perfect reason; the second is defective, and provides no manner of remedy against a great many disorders. Now even this alone points out sufficiently on which side the truth lies; because the business is to judge and reason of the designs and works of the Deity, who does every thing with infinite wisdom.

X. Let

Objection.  
Answer.

X. Let no one say, that limited as we are, it is temerity to decide after this manner; and that we have too imperfect ideas of the divine nature and perfections, to be able to judge of his plan and designs with any certainty. This reflection, which is in some measure true, and in some cases just, proves too much, if applied to our subject, and consequently has no weight. Let us but reflect a little, and we shall find that this thought leads us insensibly to a kind of pyrrhonism, which would be the subversion of all order and social œconomy. For in fine there is no medium; we must chuse one of the two systems above explained. To reject the first, is admitting the second with all its inconveniences. This remark is of some importance, and alone is almost sufficient to shew us the force of fitness in this case; because not to acknowledge the solidity of this reason, is to lay one's self under a necessity of receiving a defective system; a system loaded with inconveniences, and whose consequences are very far from being reasonable.

Of the influence which those proofs ought to have over our conduct. We should act in this world on the foundation of the belief of a future state.

XI. Such are the nature and force of the fitness, on which the proofs of the sanction of natural laws are established. All that remains now, is to see what impresson these proofs united, ought to make on our minds, and what influence they should have over our conduct. This is the capital point in which the whole ought to terminate.

1. In the first place I observe, that though all that can be said in favour of the sanction of natural laws, were still to leave the question undecided; yet it would

would be reasonable even in this very uncertainty to act, as if it had been determined in the affirmative. For it is evidently the safest side, namely, that in which there is less at all events to lose, and more to gain. Let us state the thing as dubious. If there be a future state, it is not only an error not to believe it, but likewise a dangerous irregularity to act as if there were no such thing: an error of this kind is attended with pernicious consequences; whereas if there is no such thing, the mistake in believing it, produces in general none but good effects; it is not subject to any inconveniences hereafter, nor does it, generally speaking, expose us to any great difficulties for the time present. Be it therefore as it may, and let the case be ever so unfavourable to natural laws, a prudent man will never hesitate which side he is to embrace, whether the observance, or the violation of those laws: virtue will certainly have the preference of vice.

2. But if this side of the question is the most prudent and eligible, even under a supposition of doubt and uncertainty, how much more will it be so, if we acknowledge, as we cannot avoid, that this opinion is at least more probable than the other? A first degree of verisimilitude, or a simple though slight probability, becomes a reasonable motive of determination, in respect to every man that calculates and reflects. And if it be prudent to conduct ourselves by this principle in the ordinary affairs of life, does prudence permit us to deviate from this very road in the most important affairs, such as essentially interest our felicity?

3. But, in fine, if proceeding still further, and reducing the thing to its true point, it is agreed that we have actually, if not a strict demonstration of a future life, at least a probability founded on many reasonable presumptions, and so great a fitness as borders very near upon certainty; it is still more evident, that in the present state of things, we ought to act on this footing, and are not reasonably allowed to form any other rule of conduct\*.

It is a necessary consequence of our nature and state.

XII. Nothing, indeed, is more worthy of a rational being, than to seek for evidence on every subject, and to be determined only by clear and certain principles. But since all subjects are not susceptible thereof, and yet we are obliged to determine; what would become of us, if we were always to wait for a perfect demonstration? In failure of the highest degree of certainty, we must take up with the next to it; and a great probability becomes a sufficient reason of acting, when there is none of equal weight to oppose it. If this side of the question be not in itself evidently certain, it is at least an evident and certain rule, that in the present state of things, it ought to have the preference.

This is a necessary consequence of our nature and condition. As we have only a limited knowledge, and yet are under a necessity of determining and acting; were it requisite for this purpose to have a perfect certainty, and were we to refuse to accept of probability as a principle of determi-

\* See part i. chap. vi. § 6.

nation; we should be either obliged to determine in favour of the least probable side, and contrary to verisimilitude (which no body, methinks, will attempt to maintain) or we should be forced to spend our days in dubiousness and uncertainty, to fluctuate continually in a state of irresolution, and to remain ever in suspence, without acting, without resolving upon any thing, or without having any fixt rule of conduct; which would be a total subversion of the system of humanity.

XIII. But if it be reasonable in general to admit of fitness and probability as the rule of conduct, for want of evidence; this rule becomes still more necessary and just, in particular cases, in which, as hath been already observed, a person runs no risk in following it. When there is nothing to lose, if we are mistaken; and a great deal to win, if we are not; what can we desire more for a rational motive of acting? Especially when the opposite side exposes us to very great danger, in case of error; and affords us no manner of advantage, supposing we are in the right. Under such circumstances there is no room for hesitating; reason obliges us to embrace the safest side; and this obligation is so much the stronger, as it arises from a concurrence of motives of the greatest weight and solidity.

In short, if it be reasonable to embrace this side, even in case of an intire uncertainty, it is still more so when there is some probability in its favour; it becomes necessary if these probabilities are co-

Reason lays  
us under an  
obligation  
of so doing.

gent and numerous; and, in fine, the necessity still increases, if, at all events, this is the safest and most advantageous party. What can any one desire more, in order to produce a real obligation\*, according to the principles we have established in regard to the internal obligation imposed by reason.

t is a duty  
hat God  
himself im-  
poses on us.

XIV. Again. This internal and primitive obligation is confirmed by the Divine Will itself, and consequently rendered as strong as possible. In fact, this manner of judging and acting being, as we have seen, the result of our constitution, such as the Creator has formed it; this alone is a certain proof, that it is the will of God we should be directed by those principles, and consider it as a point of duty. For whatever, as we have already observed †, is inherent in the nature of man, whatever is a consequence of his original constitution and state, acquaints us clearly and distinctly with the will of the Creator, with the use he expects we should make of our faculties, and the obligations to which he has thought proper to subject us. This is a point that merits great attention. For if we may affirm, without fear of mistake, that the Deity is actually willing that man should conduct himself in this life on the foundation of the belief of a future state, and as having every thing to hope or to fear on his side, according as he has acted justly or unjustly; does there not arise from thence a more than probable proof of the reality of this state, and

\* See part i. chap. vi. § 9, and 13.

† See part ii. chap. iv. § 5.

of the certainty of rewards and punishments? Otherwise we should be obliged to say, that God himself deceives us, because this error was necessary for the execution of his designs, as a principle essential to the plan he has formed in respect to humanity. But to speak after this manner of the most perfect Being, of a Being, whose power, wisdom, and goodness, are infinite, would be using a language equally absurd and indecent. For this very reason, that as the abovementioned article of belief is necessary to mankind, and enters into the views of the Creator, it cannot be false. Whatever the Deity sets before us as a duty, or as a reasonable principle of conduct, must be certainly true.

XV. Thus every thing concurs to establish the authority of natural laws. Conclusion. 1. The approbation they receive from reason. 2. The express command of God. 3. The real advantages which their observance procures us in this world; and, in fine, the great hopes and just fears we ought to have in respect to futurity, according as we have observed or despised those laws. Thus it is that God binds us to the practice of virtue by such strong and so numerous connexions, that every man who consults and listens to reason, finds himself under an indispensable obligation of rendering them the unvariable rule of his conduct.

XVI. Some perhaps will object, that we have been too diffusive in respect to the sanction of natural laws. True it is, that most of those who have written concerning the law of nature, are more That which is already probable by reason only, is set in full evidence by revelation. concise

cise on this article, and Puffendorf himself does not say much about it\*. This author, without absolutely excluding the consideration of a future life from this science, seems nevertheless to confine the law of nature within the bounds of the present life, as tending only to render us sociable †. And yet he acknowledges that man is naturally desirous of immortality, and that this has induced heathens to believe the soul immortal; that this belief is likewise authorized by an ancient tradition concerning the Goddess of revenge; to which he adds, that in fact it is very probable God will punish the violation of the laws of nature; but that there is still a great obscurity in this respect, and nothing but revelation can put the thing out of doubt ‡.

But were it even true, that reason affords us nothing but probabilities in regard to this question, yet we must not exclude from the law of nature all considerations of a future state; especially if these probabilities are so very great, as to border upon certainty. The above article enters necessarily into

\* The reader may see in a small treatise, intitled, *Judgment of an anonymous*, &c. and inserted in the 5th edition of *the Duties of man and a citizen*, the remarks that Mr. Leibnitz, author of that treatise, makes against Puffendorf upon this score. Barbeyrac, who has joined his own remarks to Mr. Leibnitz's work justifies Puffendorf pretty well. And yet an attentive observer will find there is still something wanting to the entire justification of this author's system.

† See Puffendorf's preface on the Duties of man and a citizen, § 6, 7.

‡ See the Law of nature and nations, book ii. chap. iii. § 21.

the system of this science, and forms a part thereof so much the more essential, that were it not for this, the authority of natural law would be weakened, as we have already demonstrated; and it would be difficult (to say nothing more) to establish on any solid grounds several important duties, which oblige us to sacrifice our greatest advantages to the good of society, or to the support of equity and justice. Necessary therefore it was, to examine with some care, how far our natural light may lead us in respect to this question, and to shew the force of the proofs that our reason affords us, and the influence those proofs ought to have over our conduct.

True it is, as we have already observed, that the best way to know the will of God in this respect, would be an express declaration on his part. But if reasoning, as mere philosophers, we have not been able to make use of so decisive a proof, nothing can hinder us, as christian philosophers, to avail ourselves of the advantage we have from revelation, in order to strengthen our conjectures. Nothing, indeed, can be a better argument that we have reasoned and conjectured right, than the positive declaration of the Deity on this important point. For since it appears in fact that God is willing to recompense virtue, and to punish vice in another life, it is no longer possible to doubt of what we have advanced, namely, that this is extremely conformable to his wisdom, goodness, and justice. The proofs we have drawn from the nature of man, from God's designs in his favour, from the wisdom and equity with which he governs the world, and from the present state of things, are not a work of the imagination,

tion, or an illusion of self-love; no, they are reflections dictated by right reason: and when revelation comes up to their assistance, it sets then in full evidence what already had been rendered probable by the sole light of nature.

But the reflection we have here made, regards not only the sanction of natural laws, it may be equally extended to the other parts of this work. It is to us a great pleasure to see that the principles we have laid down, are exactly those that the christian religion adopts for its basis, and on which the whole structure of religion and morality is raised. If on one side this remark serves to confirm us in these principles, by assuring us that we have hit upon the true system of nature; on the other, it ought to dispose us to have an infinite esteem for a revelation which perfectly confirms the law of nature, and converts moral philosophy into a religious and popular doctrine; a doctrine founded on facts, and in which the authority and promises of the Deity manifestly intervene in the fittest manner to make an impression upon man. This happy agreement between natural and revealed light, is equally honourable to both.

*F I N I S.*

*read this in May 1855.*





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