Of the "Naturall" Condition of Mankind, as concerning their Felicity, and Misery.†

Nature hath made men so equal, in the faculties of body, and mind; as that though there be a found one man sometimes manifestly stronger in body, or of quicker mind than another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon "claim" to himselfe any benefit, "to which another may not pretend," as well as he. For as to the strength of body, "the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe." And as to the faculties of the mind, (setting aside the arts grounded upon words,) and especially that skill of proceeding upon generall, and infallible rules, called Science; which very few have, and but in few things; as being not a native faculty, born with us; nor attained, (as Prudence,) while we look after somewhat els; I find yet a greater equality amongst men, than that of strength. For Prudence, is "but" Experience; which in equal time, equally bestowes on all men, in [61] those things they equally apply themselves unto. That which may perhaps make such equality incredible, is but a vain conceit of ones owne wisdome, which almost all men think they have in a greater degree, than the Vulgar; that is, than all men but themselves, and a few others, whom by Fame, or for concurring with themselves, they approve. For such is the nature of men, that howsoever they may acknowledge "many" others to be more "witty, or more" eloquent, or more learned; Yet they will hardly believe there be many "so wise as themselves." For they see their own wit at hand, and other mens at a distance. But "this proveth rather that men are in that point equal, than unequal. For there is not ordinarily a greater signe of the equal distribution of any thing, than that every man is contented with his share,‡

† Men by nature Equal.
‡ In the present life.
† promise for another may not hope,
§ you will rarely find a man so weak that he cannot "that is, the general rules of the sciences;
¶ from prudence, without study), entirely from "nature in " more prudent;
**** the best argument for the equality of wits is, for our present purpose.

Tum Corporis, tum Animae facultatibus adeo aequales inter se producitur Natura homines, ut quamvis aliis alius viribus aut ingenio praestant, si tamen omnia simul considerentur, differenter tanta non est, ut promittere sibi commodi quicquam possit unus, quod alius sperare aequo non potest. Quod attinet ad vim corporarem rarò inveniam hominem ita imbecillum, ut fortissimum non possit interferi, vel dolo, vel conjunctione cum aliis quisque periculum est commune. Quod autem attinet ad facultates Animi (verborum artibus, id est scientiarum Regulis generalibus exceptis, quas pauci & in rebus paucissimis possidet, ut quae nec nobiscum natae sint, nec à Prudentia sine studio acquisitae) maiorem adhuc invenio acqualitatem. Prudentia enim omnis ab Experimenti est, & omnibus aequali tempore in ipsis rebus quisque animam aequalem etiam appetit, aequaller tribuitur à Naturâ. Id verò quod aequalitatem hujusmodi dubiam videri facit, Opinio tantam est curris quorum plus justo se aestimant. Nam fere unusquisque sapientior cum se esse credit multò quam est quilibet è vulgo, id est, quàm est alius quicunque, praeter paucos quos propter famam, vel propter consensum cum ipsis solet admirari. Ea enim est natura Hominis, ut quamquam alium aliquem seipsum eloquentiorem vel eruditiorem esse conflatu, prudentiorem tamen esse quemquam, non concedet. Ingenium enim proprium à propinquo, alienum à longinquus quique spectat. Ingeniourum autem acqualitatis argumentum quantum ad praesens Institutum attinet maximum est, quod unusquisque suo contentus est.ë

7 potas] possit 70 12 sine] sunt 70

† Cf. Descartes, Discours de la méthode, I (Oeuvres, vi, pp. 1-2): "Good sense is the thing that is most equally given out in the world; for everyone thinks himself so well provided with it, that even those who are the hardest to satisfy in everything else do not generally wish for any more of it, than what they have." (Le bon sens est la chose du monde la mieux partagée: car chacun pense en core si bien pourvoir, que ceux même qui sont les plus difficiles à contenir en toute autre chose, n'ont point coutume d'en désirer plus eu taille en tail.

‡ almost all . . . have]
§ every man thinks he hath M5 22 such] it M5 23 that] om. M5
OF MAN

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From this equality of ability, ariseth equality of hope in the attaining of our Ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their End, (which is "principally" their own conservation, "and sometimes their delection only," 13) endeavour to destroy, or subdue one an other. And from hence it comes to passe, that where "an Invader" hath no more to feare, than an other mans single power; if one plant, sow, build, or possesse a 12 convenient Seat, others may "probably" be expected to come prepared with forces united, to dispossesse, and deprive him, not only of the fruit of his labour, but also of his life, or liberty. And the Invader again is in the like danger of another 13.

And from "this diffidence" 14 of one another, there is no way for any man to secure himself, "so reasonable, as" 15 Anticipation; that is, by force, or wiles, to master the persons of all men he can, so till he see no other power great enough to endanger him: And this is no more than his own conservation requireth, and is generally allowed 16. Also because there be some, that "taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires;" 17 if others, that otherwise would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their defence, to subsist. And by consequence, such "augmentation" of dominion over men, being necessary to a mans conservation, it ought to be allowed him.

Againe, 18 men have no pleasure, (but on the contrary "a great deal of" 19 griefe) in keepeing company, where there is no power able to over-awe them all. For every man looketh that his companion should value him, at the same rate he sets upon himself: And upon all signes of "contempt, or under valu"ing, naturally 20 endeavours, as far as he dares (which amongst them that have no common power 21 to keep them in quiet, 22 is far enough to make them destroy each other,) to 23 "extort a greater value from his con"tenders, by dommage; 23 and from others, by the example. 23

Cap. 13

DE HOMINE

Ab aequalitate Naturaee, oritur unicaue ea quae cupit acquiriendi spes. Quoties ergo duo idem cupiunt, quo frui ambo non possunt, alter alterius hostis sit, & ad finem sibi propositum (quaestion conservatio propria) alter alterum conatur subjurgare vel interficiere. Itaque cui animus est vicinum aggrediendi, si nihil sit, quo deterreatur praeter vim unius hominum, quoties unus alius agrum pullum commodiorem possederet, conseveret, planavit, inaeditificaverit, expectandi sunt ali viribus conjunctis parati, non modo laboris ejus omnem fructum, sed etiam vitam, vel libertatem sublaturi, idem rursus passari ipsi a se fortioribus. [64]

In tanto, & mutuo hominum metu, securitatis viam meliorem habet nemo Anticipatione; nempe ut unusquisque vi & dolo ceteros omnes tam dui subjicere sibi conetur, quam dui alios esse, a quisbus sibi cavendum esset viderit. Neque hoc majus est, quam & conservatio sua postulat, & ab omnibus conce- di solet. Quoniam enim sunt, qui animi & gloriae causae universam terrarum orbum superare vellent, nisi ali (aliquo modicis contenti finibus) potestiam suam alios invadendo augerent, sed tantummodo se & sua defendere conurant, subsistere diu non possent. Itaque Dominii acquisitio per vim unicaue, ut ad conservationem propriam necessaria, concedi debet.

Practerea, in Congressibus, ubi potestia nulla est, quae omnes coeircere possit, voluptas nulla, sed contra Molestia perfecta Naturam esse. Unusquisque enim tam in aeteris fieri vellet, quanti ipse sese aestimaret, et ad signum omne neglectios conatus quantum aucter (id est ubi nulla extat potentia communis quantum ad mutuos caedes sustiniri) ulcisci; scilicet, ut alteri ab alteri maiorum sui aestimationem a spectatibus exemplo ulterior extorquerent.

9 [psi 68-Eratet] [psi 68] 12 esset [psi 68] 70 22 conurat] conurare 70 22-[communis = sufficit] 70) communis] ... sufficit 68 24 extorquere 70

1 23 [from Equality proceeds Diffidence] [Nature alloweth (for page cut) a mans security (see page cut). There is no skill at (see page cut) to invade and subdue (see page cut) all that he think (see page cut) can hurt him added by TTP] 8 others] Other B 12-15 marg. om. MS 24 men have] there is MS 24 marg. [Men delight in hauing (see page cut) their power thought (see page cut) and hate to be vn] (see page cut) valued added by TTP] MS 29 them added MS 31 others] Other MS

1 = mistrust (OED, 'diffidence'), 1.
4 = take possession of, obtain, seize (OED, 'possess', a. 5.a; cf. the Latin, 'possederi', 'take possession of').
5 = See above, note b.
So that in the nature of man, we find three principal causes of quarrell. First, Competition; Secondly, Difference; Thirdly, Glory. [62]

The first, maketh men invade for Gain; the second, for Safety; and the third, for Reputation. The first use Violence, to make themselves Masters of other mens persons, wives, children, and cattell; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other signe of undervalue, either direct in their Persons, or by reflexion in their Kindred, their Friends, their Nation, their Profession, or their Name.

Hereby it is manifest, that during the time men live, there is a common Power to keep them all in awe, they are in that condition which is called Warre; and such a warre, as is of every man, against every man. For warre, consisteth not in Battell onely, or the act of fighting; but in a tract of time, wherein the Will to contend by Battell is sufficiently known: and therefore the notion of Time, is to be considered in the nature of Warre; as it is in the nature of Weather. For as the nature of Foul weather, lyeth not in a showre or two of rain; but in an inclination thereto of many days together. So the nature of Warre, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is peace.

Whosoever therefore is consequent to a time of Warre, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall. In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.

1 marg.: Causes of hostility added by TH.] MS
9-11 Out of ... every one. [without a civil power men are in a Condition of Warre added by TH] MS
20-21 marg. int. MS 29 fear MS

10 defence; 11 looks for dominion; the second for security; 14 for profit; the second for safety; 15 an corrective power; 17 I have called a war; 21 Time without war, however,
15 non-existent; 19 fear and perpetual

* See above, note b.
It may seem strange to some man, that has not well weighed these things, that Nature should thus dissociate, and render men apt to invade, and destroy one another: "and he may therefore, not trusting to this Inference, made from the Passions, desire perhaps to have the same confirmed by Experience. Let him therefore consider with himselfe, when taking a journey, he armes himselfe, and seeks to go well accompanied; when going to sleep, he locks his dores; when even in his house he locks his chest; and this when he knowes there bee lawes, and publike Officers, armed, to revenge all injuries shall bee done him; what opinion he has of his fellow subjects, when he rides armed; of his fellow Citizens, when he locks his dores; and of his children, and servants, when he locks his chest. Does he not there as much accuse mankind by his actions, as I do by my words? But neither of us accuse mans nature in it. The Desires, and other Passions of man, are in themselves so Sin. No more are the Actions, that proceed from those Passions, till they know a Law that forbids them: which till Lawes be made they cannot know: nor can any Law be made, till they have agreed upon the Person that shall make it. [63]

It may peradventure be thought, there was never such a time, nor condition of warre as this; and I believe it was never generally so, over all the world: but there are many places, where they live so now. For the savage people in many places of America, except the government of small Families, the concord whereof dependeth on natural lust, have no government at all; and live at this day in that brutish manner, as I said before. However, it may be perceived what manner of life there would be, where there were no common Power to fear; by the manner of life, which men that have formerly lived under a peacefull government, use to degenerate into, in a civil warre.

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Cap. 13 DE HOMINE

Ilis qui haec non pensataverunt mirum fortasse videbunt, Naturam hominum dissociavisse, et ad mutua caedem aptos producisse; et tamen hoc perspicuit illatum est ex natura Passionum, et praeterea Experimentia consciente. Cogita enim, quando iter ingredieris, cur Comites quaeres, Arma gestas; quando dormitium istis, fores claudas, Arcas obseras, idque legibus et ministeriis armatis ad omnem violentiam usquecedam paratis, qualem habeas opinionem de concivibus, de vicinis & de domesticoi. Nonne cautelae ista tua gentium humanum aeque accussas atque Ego? Neuti Naturam accusamus. Passiones hominum peccata non sunt, neque quae inde orientur actiones, quaedam, quae illas prohibeat, potestatem nullam qui factum, vidit; neque enim Lex cognoscki potest quae non sit lata; neque ferri, quaedam in legislatore consensuum non sit. Sed quid hominibus doctis conanur demonstrare id quoque Canes quidem ignorant, qui accedentibus oblatrur, interiud quidem ignotis, noctu autem omnibus.

Sed omnium in omnibus (inquiet aliquid) Bellum nunquam erat. Quod, nonne fratrem sumum Abelem invidiat interfecit Cain? tantum facinus non aurrus, si communis potestas quae vindicaret potuisse tunc extississet? Nonne hodie, multis in locis ita vivitur? Americae, excepto quod per familias parvas legibus paternis subsidii sunt, quarum familiarium concordia similitudine solae Quiplicium suscipunt, ita vivunt. Qualis etiam vita hominum esset nulli potentiae communi subditorum, ex uti composition poest, quibus Bellum est Civile.

16 num 68 - Errata] num 68

1 Gen. 4: 2-8.
2 as I said before apparently refers to the description of the 'brutish' life, above. Cf. Oates, De rebus gestis, p. 68, on the natives of Brazil ('they know no letters, nor have any religion, are bound by no laws, use no weights or measures, and are subject to the rule of no king'); NULLUS litteræ norum; NULLUS religionem colunt; NULLUS legibus alligantur; NULLUS possidem aut mensuram; V处aut; NULLUS regis imperio subiicuntur'; Mason's, 1724, also on the natives of Brazil ('no knowledge of trade, no science of letters, no science of numbers, not of governor or of political rule'; incoerentia, etc); Gray, Good Speed in Virginia, sigs. C.; Caxton ('in Virginia the people are savage and incredibly rude, they . . . differ very little from beasts, basing no Art, nor science, nor trade'); Caxton (they range and wander up and down the Country, without any law or government, being fed only by their own beasts and savagelife'); d'Anville, Estats de la World, p. 252. ('Among the people of the New World, the Chechimeques of New Spain, and certaine people of Brazil were most barbarous; these leading a savage and brutish life, without commanders, without laws, and without any forme of caussis, or politises').
But though there had never been any time, wherein particular men were in a condition of war one against another; yet in all times, Kings, and Persons of Sovereign authority, because of their Independency, are in continual jealousies, and in the state and posture of Gladators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns upon the Frontiers of their Kingdoms; and continual Spies upon their neighbours, which is a posture of War. But because they uphold thereby, the Industry of their Subjects; there does not follow from it, that misery, which accompanies the Liberty of particular men.

To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law; where no Law, no Injustice. Force, and Fraud, are in warre the two Cardinal virtues. Justice, and Injustice are none of the Faculties neither of the Body, nor Mind. If they were, they might be in a man that were alone in the world, as well as his Senses, and Passions. They are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, that there be no Propriety, no Dominion, no Mine and Thine distinct; but only that to every man, that he can get; and for so long, as he can keep it. And thus much for the ill condition, which man by mere Nature is actually placed in; though with a possibility to come out of it, consisting partly in the Passions, partly in his Reason.

The Passions that encline men to Peace, are Fear of Death; Desire of such things as are necessary to commodious living; and a Hope by their Industry to obtain them. And Reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement. These Articles, are they, which otherwise are called the Lawes of Nature: whereof I shall speak more particularly, in the two following Chapters.

10-13 In warre nothing just (except the enemy) not Viisuet in respect of the enemy added by TH] MS 33-4 marg om. MS

14 are enemies; for they and parrissens 16 spies concealed in their enemies' territory; 16 cannot otherwise provide for the safety 17 complete act as men, but as citizens 18 has acquired, especially fear of violent 19 certain articles of peace, which are

= suspicion, niserius (GED, 'jealousy'), 31, 51 = suitable, fiering (GED, 'convenient', 2, and n., 4)
Of the first and second NATURALL LAWES, and of CONTRACTS.

The RIGHT OF NATURE, which Writers commonly call Jus Naturale, is the liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, he shall conceive to be the aptest means thereofunto.

By liberty, is understood, according to the proper signification of the word, the absence of external Impediments; which Impediments, may oft take away part of a mans power to do what he would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate to him.

A LAW OF NATURE, (Lex Naturalis,) is a Precept, or general Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or take away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved. For though they that speak of this subject, use to confound Jus, and Lex, Right and Law; yet they ought to be distinguished; because RIGHT, consisteth in liberty to do, or to forbear; Whereas LAW, determineth, and bindeth to one of them: so that Law, and Right, differ as much, as Obligation, and Liberty; which in one and the same matter are inconsistent.

And because the condition of Man, (as hath been declared in the precedent Chapter) is a condition of Warre of every one against every one; in which case every one is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemies; It followeth, that in such a condition, every man has a Right to every thing; even to one anothers body. And therefore, as long as this Right of every man to every thing endureth, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily alloweth men to live. And consequently it

Ius Naturale est Libertas, quam habet unusquisque potentiæ sui ad Naturae sua conservationem suo arbitrio utendi, & (per consequens) illa omnia quae cō videbuntur tendere, faciendi.

Per Libertatem intelligo id quod ea vox propriè significat) externorum impedimentorum absentiam.

At Lex Naturalis Praeceptum est, sive Regula generalis Ratione excogitata, quâ unusquisque id quod ad damnum suum sibi tendere videbitur facere prohibetur. Etsi autem vocabulis Ius & Lex promiscœæ saepenimero utantur scriptores, distinguunt tamen debent. Consistit enim Jus in faciendi vel non faciendi Libertate; sed Lex ad faciendum obligat vel ad non faciendum. Iacque Ius & Lex differunt ut Libertas & Obligatio, quae circa eandem rem sunt inconsistentes.

Quoniam autem conditio hominum (ut praecedente Capite ostensum est) est conditio Belli omnium contra omnes, & propertia unusquisque sui ipsius ratione gubernatur; & quia nihil est, quod in vita contra hostem defendendâ utile ei aliquando esse non possit, sequitur in conditione hominum Naturali omnium in omnia Ius esse ipsius hominum corporibus non exceptis. Quamdiu ergo Ius illud retinebitur, nulla cuiquam, etsi fortissimis sit, securitas esse
is a precept, or general rule of Reason, That every man, ought to endeavour Peace, as far as he has hope of obtaining it: and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre. The first branch of which Rule, containeth the first, and Fundamental Law of Nature; which is, to seek Peace, and follow it. The Second, the summne of the Right of Nature; which is, By all means we can, to defend our selves.

From this Fundamental Law of Nature, "by which men are commanded to endeavour Peace," is derived this second Law: That a man be willing, when others are so too, as farre-forth, as for Peace, and [65] defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty "against other men," as he would allow other men "against himselfe." For as long as every man holdeth this Right, of doing any thing he liketh; so long are all men in the condition of Warre. But if other men will not lay down their Right, "as well as he," then there is no "Reason for" any one, to devest himselfe of his: For that were to expose himselfe to Prey, (which "no man is bound to") rather than to "dispose himselfe" to Peace. This is that Law of the Gospel; "Whosoever you require that others should do to you, that do ye to them." And that Law of all "men," Quod tibi fieri non vis, alteri ne faceris.

To lay down a mans Right to any thing, is to devest himself of the Liberty, of hindring another of the benefit of his own Right to the same. For he that renounceth, or "passeth away" his Right, giveth not to any other man a "Right which he had not before;" because there is nothing to which every man had not Right "by Nature;" but openly standeth out of his way, that he may enjoy his own original Right, without hindrance from him; not without hindrance from another. So that the effect which reddeth to one man, by another mans defect of Right, is but so much diminution of impediments to the use of his own Right originally.

Right is layd aside, either by simply Renouncing it; or by Transferring it to another. By Simply Renouncing; when he cares not to whom the benefit thereof reddeth. By Transferring; when he "intendeth the benefit thereof" to some certain person, or persons. And when a man hath in either manner abandoned, or granted away his Right; then is he said to be Obliged, or bound, not to hinder those, to whom such Right is granted, or abandoned, from the benefit of it: and that he Ought, and it is his duty, not to make voyd that voluntary act of his own: and such hindrance is INIUS.

Cap. 14
De homine

Poterit. Rationis ergo Preceptum sive Regula generalis est, Pacem quidem, dum ejus obhincendae specis est, quaerendum esse; quando autem habere non potest, auxilia undeque quaerere: & illis uti licet esse. Regulae huius pars prima [67] continet legem Naturae primam, Pacem quaere & perseque; secunda est Iuris Naturalis summa, Omnibus viis & modis seipsum defendendam lus uncuque esse.

A lege Naturae primi oritur secunda, Oportere unumque quoties Paci & defensionis propriae provisionem erit, & Iure suo in Omnia, (caeteris idem facere paratis) decedere, contentumque esse edam libertatem quam caeteris concedi vellet. Quandui enim faciendo omnia, quae vult, Ius retinet, tandem Bellum manet. Verum si caeteri lura sua in omnia depoponerent recusent, neque illae suum depopnere obligatur. Aliqui caeteris in praedam potius se exponere, quod Naturam non postulat, quam Pacem persequeretur. Atque haec Lex eadem est cum illa Evangelii, Qui quidcunque fieri velit id facite aisti, & cum illa omnium Gentium, Quod tibi fieri non vis, alteri ne faceris.

In rem aliqnam Ius suum depopit, qui libertate illa se privavit quam habet caeteros impediendi quo minus quilibet corum Iure suo utatur in re condens. Nam qui Iuri suo renuntiavit, velit Ius suum transfert, Ius novum quod per Naturam non ante habuit nemini tribuit, quia omnibus in omnium Ius erat; sed cedet eum tantum, eo fine ut Iure quod ante habuit sine impedimento a se oris liberetur frustur, a se inquam orto, non ab alio. Itaque quod alteri accedit ex Iure alieno in se translato, nihil aliud est quam sublatio impedimentorum a parte solius transferentis.

Deponitur Ius vel simplici Renunciatione, vel Translatione ad alium. Simpliciter Renuntiation, qui in medium abjicit, nemini tribuens. Transfert, qui certo aliqui concedit. Vt vrovis autem modo faciat, Ius habentem, quim re utatur, impediendi non debet; esse enim hoc suum ipsius actum irritum facere.

1-2. The Fundamental Law of Nature: "The first and added by THI" ye Fundamental Law of nature. (To seek peace added by THI. MS)
6. we can, to defend our selves can, to defend himselfe. MS
7-8. The second Law of Nature: "seeke peace del. by THI, contract and way of peace added by THI. MS"
8. to the same. om. MS
TICE, and INJURY, as being Sine Jure; the Right being before renounced, or transferred. \(\text{\textsuperscript{12}}\) So that \(\text{\textsuperscript{2}}\) Injuria, or \(\text{\textsuperscript{3}}\) Injustitia, in the controversies of the world, is somewhat like to that, which in the \(\text{\textsuperscript{4}}\) disputations of Scholers\(\text{\textsuperscript{4}}\) is called Absurdity. For as it is there called an Absurdity, to contradict what one maintained in the Beginning: so in the world, it is called Injustice, \(\text{\textsuperscript{5}}\) and Injury, voluntarily \(\text{\textsuperscript{6}}\) to undo that, which from the beginning he had voluntarily \(\text{\textsuperscript{7}}\) done. \(\text{\textsuperscript{8}}\) The way by which a man either \(\text{\textsuperscript{9}}\) simply Renounceth, or Transferreth his Right, is a Declaration, or Signification, by some voluntary and sufficient signe, or signes, that he doth so Renounce, or Transferr; or hath so Renounced, or Transferred the same, \(\text{\textsuperscript{10}}\) to him that accepteth it. \(\text{\textsuperscript{11}}\) And these Signes are either Words only, or Actions only; or \(\text{\textsuperscript{12}}\) (as it happeneth most often) both Words, and Actions. And the same are the Bonds, \(\text{\textsuperscript{13}}\) by which men are bound, and obliged: Bonds, \(\text{\textsuperscript{14}}\) that have their strength, not from their own Nature, \(\text{\textsuperscript{15}}\) (for nothing is more easily broken than a mans word,) \(\text{\textsuperscript{16}}\) but from Fear of some evil consequence upon the rupture. \(\text{\textsuperscript{17}}\)

Whenoever a man Transferrith his Right, or Renounceth it; it is \(\text{\textsuperscript{18}}\) either in consideration of some Right reciprocally transferred to \(\text{\textsuperscript{19}}\) him; or for some other good he hopeth for thereby. \(\text{\textsuperscript{20}}\) For it is a voluntary act; \(\text{\textsuperscript{21}}\) and of the voluntary acts of every man, the object is some Good to himself. And therefore there be some \(\text{\textsuperscript{22}}\) Rights, which no man can be understood by any words, or other signes, to have abandoned, or transferred. As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life; because he cannot be understood to ayme thereby, at any Good to himself. The same may be sayd of Wounds, and Chayns, and Imprisonment; both because there is no benefit consequent to such patience, \(\text{\textsuperscript{23}}\) as there is to the patience of suffering another to be wounded, or imprisoned: as also because a man cannot tell, when he seeth men proceed against him by violence, whether they intend his death or not. And lastly \(\text{\textsuperscript{24}}\) the motive, and end for which this renouncing, and transferring of Right is introduced, is nothing else but the \(\text{\textsuperscript{25}}\) security of a mans person, in his life, and in the means of so preserving life, as not to be weary of it. \(\text{\textsuperscript{26}}\) And therefore if a man by words, or other signes, seem to despoyle himselfe of the End, for which \(\text{\textsuperscript{27}}\) those signes were intended; \(\text{\textsuperscript{28}}\) he is not to be understood as if \(\text{\textsuperscript{29}}\) he meant it, or that \(\text{\textsuperscript{30}}\) it was his will; but that he was ignorant of how such words and actions were to be interpreted.

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\(\text{\textsuperscript{12}}\) schools \(\text{\textsuperscript{13}}\) undertaken to do. \(\text{\textsuperscript{14}}\) of the promise. \(\text{\textsuperscript{15}}\) understood to be. \(\text{\textsuperscript{16}}\) of the person who transferred first. \(\text{\textsuperscript{17}}\) will. \\
\(\text{\textsuperscript{18}}\) things which cannot be transferred or abandoned by words or other signes, because it is impossible to understand what benefit would result. \(\text{\textsuperscript{19}}\) First, concerning a situation where death is threatened... \(\text{\textsuperscript{20}}\) The same should be said about wounds and imprisonment. Secondly, the right to defend himself against force is retained; for he who defends himself does not know how far the use of force will go. Thirdly, preservation of life, and of the means to life. \(\text{\textsuperscript{21}}\) he is understood to have used them. \\
\(\text{\textsuperscript{22}}\) without right. \\
\(\text{\textsuperscript{23}}\) endurance, forbearance (OED, 'patience', a.m. (and ult.), 1.a–b).
The mutual transferring of Right, is that which men call CONTRACT.
There is difference, between transferring of Right "to the Thing," and
transferring, or tradition, that is, delivery of the Thing itself. For the Thing
may be delivered together with the Translation of the Right; as in buying and
selling; or with ready mony; or exchange of goods, or lands: and it may be de-

livered some time after. 11
Again, one of the Contractors, may deliver the Thing contracted for on
his part, and leave the other to perform his part at some determinate time
after, and in the mean time be trusted; and then the Contract on his part, is
called PACT, or COVENANT: Or both parts may contract now, to performe
hereafter: in which cases, he that is to performe in time to come, being trusted,
his performance is called Keeping of Promise, or Faith; and the failing of
performance (if it be voluntary) 14 Violation of Faith.
When the transferring of Right, is not mutuall; but one of the parties
transferrith, 15 in hope to gain thereby friendship, or service from another,
or from his friends; or in hope to gain the reputation of Charity, or Magna-
nimity; or to deliver his mind from the pain of compassion; or in hope of re-
ward in heaven; This is not Contract, but GIFT, FREE-GIFT, GRACE: which
words signify one and the same thing. 16

Signes of Contract, are either Express, or by Inference. Expresses, are
words spoken with understanding of what they signify: And such words are
either of the time Present, or Past; as, I Give, I Grant, I have Given, I have
Granted, I will that this be yours: Or of the future; as, I will Give, I will Grant:
which words of the future, are called PROMISE. 17

Signes by Inference, are sometimes the consequence of Words; 18 some-
times the consequence of Silence; sometimes the consequence of Ac-

tions; sometimes the consequence of Forbearing an Action: and generally a
signe by Inference, of any Contract, is whatsoever sufficiently argues the will
of the Contractor.
Words alone, if they be of the time to come, "and contain a bare promise," are an insufficient sign of a Free-gift "and therefore not obligatory." For if they be of the time to Come, as, To morrow I will Give, they are a signe I have not given yet, and consequently that my right is not transferred, but remaineth "till I transferrre it by some other Act." But if the words be of the time Present, or Past, as, I have given, or do give to be delivered to morrow, then is my to morrows Right given away "to day," and that by the vertue of the words, though there were no other argument of my will. And there is a great difference in the signification of these words, Volo hoc tuam esse cras, and Cras dabo; that is, between I will that this be done to morrow, and, I will give it thee to morrow: For the word I will, in the former manner of speech, signifies an act of the will Present; but in the latter, it signifies a promise of an act of the will to Come; and therefore the former words, being of the present, transferrre a future right; the latter, that be of the Future, transferrre nothing. But if there be other signs of the Will to transferrre a Right, besides Words; then, though the gift be Free, yet may the Right be understood to passe by words of the future: as if a man propound a Prize to him that comes first to the end of a race. The gift is Free; and though the words be of the Future, yet the Right passeth: for if he would not have his words so be understood, he should not have let them runne.

In Contracts, the right passeth, not only where the words are of the time Present, or Past; but also where they are of the Future: because all Contract is mutuell translation, or change of Right, and therefore he that promiseth only, because he hath already received the benefit for which he promiseth, is to be understood as if he intended the Right should passe: for unless he had been content to have his words so understood, the other would not have performed his part first. And for that cause, in buying, and selling, and other acts of Contract, a Promise is equivalent to a Covenant; and therefore obligatory.


Athlotheta in certamine Cursus pervenienti ad metam prima, praemium promittit Verbis de Futuro; debitum tamen illi praemium est, quamquam gratis datum, quia nisi id voluisset Athlotheta, illis ad certamen non invitasset.

In Contractibus etiam Ius transit per Verba de Futuro, nempe ubi Translatio Iuris mutua est. Nam qui promisit, ideo Transfert Ius suum velle intelligitur, quia Bonum propter quod promisit jam acceperit. Alioqui est qui promisit praestiturus non esset. In Empitione ergo & Venditione, aliisque Contractibus, Promissio tantum valet, quantum Pactum.

16 cui ut vide-] qui 66, 70

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206 OF MAN Ch. 14

Cap. 14 DE homine


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He that performeth first in the case of a Contract, 46 is said to merit that which he is to receive by the performance of the other; and he hath it as Due. Also, when a Prize is propounded to many, which is to be given to him only that winneth; or mony is thrown amongst many, to be enjoyed by them that catch it; though this be a Free gift; yet so to Win, or so to Catch, is to merita 5 and to have it as Due. 46 For the Right is transferred in the Propounding of the Prize, 4 and in throwing down the mony; though it be not determined to whom, but by the Event of the contention. But there is between these two sorts of Merit, this difference, that in Contract, I Merit by vertue of my own power, and the Contractors need; but in this case of Free gift, I am enabled to Merit only by the benignity of the Giver: In Contract, I merit at the Contractors hand that hee [68] should depart with his right; in this case of Gift, I Merit not that the giver should part with his right; but that when he has parted with it, it should be mine, rather than anothers. And this I think to be the meaning of that distinction of the Schooles, between Meritum congrui, 13 and Meritum condigni. 4 For God Almighty, having promised Paradise to those men (hoodwinkt with carnall desires,) that can walk through this world according to the Precepts, and Limits prescribed by him; they say, he that shall so walk, shall Merit Paradise Ex congruo. But because no man can demand a right to it, by his own Righteousnesse, or any other power in himselfe, but by the Free Grace of God only; they say, no man can Merit Paradise ex condigno. This I say, I think is the meaning of that distinction, but because Disputers do not agree upon the signification of their own terms of Art, longer than it serves their turn; I will not affirm any thing of their meaning: onely this I say; when a gift is given indefinitely, as a prize to be contended for, he that winneth Meriteth, and may claim the Prize as Due. 6

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46 makes the other's performance of it due. So in a race, or when coins are thrown down to be kept by whoever first takes them, that prize belongs to the winner, or first taker.

4 = outcome (OED, 'event', n. 3 a)

5 = part with, surrender (OED, 'depart', o. 12 b), citing an example from 1642: 'Shee hath departed with her right by the fooffmam'!

6 = (literally) 'the merit of him who is suitable' and 'the merit of him who is utterly deserving.' See Aquinas, Summa Theologica, Question 14, Article 6, Response; Bonaventura, Commentary in quatuor libros sententiarum, 1, Dist. XI, Art. 1, Qu. 1, Resp. in his Opera omnia, i, p. 729.
If a Covenant be made, wherein either of the parties 47 performe presently, but 48 trust one another; in the condition of mere Nature, (which is a condition of Warre of every man against every man,) upon any reasonable suspicion, it is Voyd: But if there be a common Power set over them both, with right and force sufficient to compel performance; it is not Voyd. For he that performeth first, has no assurance the other will performe after; because the bonds of words are too weak to bridle mens ambition, avarice, anger, and other Passions, without the fear of some coercive Power; which in the condition of mere Nature, where all men are equal, and judges of the justness of their own fears, cannot possibly be supposed. 49 And therefore 50 he which performeth first, does but betray himselfe to his enemy; contrary to the 51 Right (he can never abandon) of defending his life, and means of living. 52

But in a civil estate, where there is a Power set up to constrain those that would otherwise violate their faith, that fear is no more reasonable; and for that cause, he which the Covenant is to perform first, is obliged so to do. 53

The cause of 54 fear, which maketh 55 such a Covenant invalid, must be 56 always 57 something arising after the Covenant made; 58 as some new fact, or other 59 signe of the Will not to performe: else it cannot make the Covenant voyd. For that which could not hinder a man from promising, ought not to be 60 admitted as a hindrance of performing.

He that performeth any Right, performeth 61 the Means of enjoying it, 62 as farre as lyeth in his power. As he seleth Land, 63 is understood to transferre 64 the Herbage, 65 and whatsoever grows 66 upon it; Nor can he that sells a Mill turn away the Stream that drives it. And they that give to a man the Right of government in Soveraignty, are understood to give him the right of levyng mony to maintain Souldiers; and of appointing Magistrates 67 for the administration of Justice. 68

To make Covenants with brutu Beasts, is impossible; because 69 not understanding our speech, they understand not, nor accept of any 68 translation of Right; nor can translate any Right to another; and without mutuell acception, there is no Covenant. 69

To make Covenant with God, is impossible, but by Mediation of such as God speaketh to, 70 either by Revelation supernaturall, or by his Lieutenants that govern under him, and in his Name: 71 For otherwise we know not whether 72 our Covenants be accepted, 73 or not. And therefore they that Vow 74 any thing contrary to any law of Nature, Vow in vain; as being a thing unjust to pay such Vow. 75 And if it be a thing commanded by the Law of Nature, 76 it is not the Vow, but the Law that binds them.

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Verum, si Contractus fiat, quo neuter Contrahentium statim praestare obligatur, sed ad diem certum Futurum, Pactum illud in meru conditio Natura, id est in Bello, si quacunque interveniat suspicio de praestando, invalidum est. In Civitate non item. Nam qui prior praestat, in casu priore incertus est, an praestiturus sit alter; in Civitate certus est, quia est qui cogat. Itaque nisi Potentia communis aliqua sit coeivis, quia prior praestat se ipsum hosti proficet, praecipit Ius Naturale se & sua subjendis.

Suspicionis autem, quae Pactum invalidum reddere possit causa debet esse aliquid quod Pactum sequitur, signumque sit Voluntatis non praestandi, aliqui Pactum iritum facere non potest. Quod enim impedire non potuit quin promiseris, impedire non debet quin promissum praestes.

Qui Ius aliquod transfert, etiam sumum rei, quantum in se est, una transfert. Ut qui agrum vendit, herbam & quodunque agro inacquirit vel inadjectur simul vendit: Et qui Molendinum vendit, aquam, quia agetur, avertit non debet. Et quod Regendi summam Potestatem aliqui transferunt, intelliguntur idem Ius dedisse exiendi Pecuniis ad Militis alendos, & creandi Magistratus & Ministros publicos.

Pacisci cum Bruti, quia Sermonem carent, quod Voluntates significare possunt, impossibile est.

Pacisci cum Deo, nisi mediante aliquo, quem Deus alloquitur, vel qui locum Dei teneat, impossibile est; aliiter enim, an Dei etiam pactus sit, nec-ne ignoramus. Itaque qui vover Deo aliud, quod contra Legem Naturalem sit, frustra vover, quia illicitum est; Sin Lege Naturali mandatum sit frustra est, quia Vovens, non Voto suo, sed Naturae Lege obligatur.

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1 = immediately (OED, 'presently, as'; 2 = a.
2 = 'Herbage' was a legal term for the pasture of a piece of land, conceived as a species of property distinct from the land itself (OED, 'herbage', 3).
3 = idem ("those same people") makes sense here, but the English suggests that this may be an error for "idem" ("the same").
The matter, or subject of a Covenant, is always something that falleth under deliberation; (For to Covenant, is an act of the Will; that is to say an act, and the last act, of deliberation;) and it is therefore always understood to be something to come; and which is judged Possible for him that Covenanteth, to perform.

And therefore, to promise that which is known to be Impossible, is no Covenant. But if that prove impossible afterwards, which before was thought possible, the Covenant is valid, and bindeth, (though not to the thing it self,) yet to the value; or, if that also be impossible, to the unfeigned endeavour of performing as much as is possible: for to more no man can be obliged.

Men are freed of their Covenants two ways, by Performing; or by being Forgiven. For Performance, is the natural end of obligation; and Forgiveness, the restitution of liberty; as being a retransferring of that Right, in which the obligation consisted.

Covenants entered into by fear, in the condition of meer Nature, are obligatory. For example, if I Covenant to pay a ransome, or service for my life, to an enemy; I am bound by it. For it is a Contract, wherein one receiveth the benefit of life; the other is to receive mony, or service for it; and consequently, where no other Law (as in the condition, of meer Nature) forbideth the performance, the Covenant is valid. Therefore Prisoners of warre, if trusted with the payment of their Ransom, are obliged to pay it: And if a weaker Prince, make a disadvantageous peace with a stronger, for fear; he is bound to keep it; unless (as hath been said before) there ariseth some new, and just cause of fear, to renew the war. And even in Common-wealths, if I be forced to redeem my selfe from a Theeafe by promising him mony, I am bound to pay it, till the Civill Law discharge me. For whatsoever I may lawfully do without Obligation, the same I may lawfully Covenant to do through fear: and what I lawfully Covenant, I cannot lawfully break.

A former Covenant, makes void a later. For a man that hath passed away his Right to one man to day, hath it not to passe to morrow to another: and therefore the later promise passeth no Right, but is null.

5 materia, sive objectum Pactorum semper aliquid est, de quo delibera-
6 ri potest, propertea quod Deliberatio, quae est actus Voluntatis, intelligitur semper de futuro, & de eo, quod à Paciscente fieri possit possibilis existimat.

5 Itaque Promittere ea, quae Impossibilita esse scientibus, Pacisci non est. At
6 si contingat, post Impossibile esse, quod credebat Possibile, Pactum validi-
7 tum est, obligatque ad praestandum (non rem Promissam) sed tantundem; sin
8 hoc quoque sit Impossibile; ad conatum praestrandi quantum potest.

5 Pactis liberamur duobus modis, si praestiterimus, vel si condonatum sit.
6 Est enim Praestatio omnis Pacti terminus naturalis; Condonatio autem est
7 Libertatis restitutio, sive remissio Iuris obligationem constituentis.

5 Pactum etiamsi Metu extortum sit, in conditione tamen hominum natura-
6 li validum est; ut si paciscar cum hoste, servandae vitae causa, pecuniam dare,
7 praestare teneor. Contractus enim est, in quo alter Ius in Vitam, alter in Pe-
8 cuniam transfert. Itaque ubi nulla Lex alia sit (ut in conditione naturali) quae
9 Praestationem prohibeat, Pactum validum est. Sic bello captus, si libertatem
e condione acceperit, ut pretium redemptionis post solvat, solvere obligat-
10 ur. Etiam Principus cum Principi fortiori, si Pacem incommunicam Metu
cecerit, observare debet, nisi (ut supradictum est) causa aliqua nova & justa
11 oriatur, quae excusat. Item in Civitate, si a Latrone vitam redimere promis-
12 sse pecuniar coactus fuerit, praestanda pecunia est, nisi Lex Civiliis prohibet.

Quicquid enim facere licetum est non obligato, idem licite pacisci possit pro-
13 posterius invalidum reddat. Iure enim quod quis transtulit hodie, cras carebit.
A Covenant not to defend my selfe from force, by force, is always voyed. For (as I have shewed before) no man can 'transfere, or 'lay down his Right to save himselfe from Death, Wounds, and Imprisonment, (the avoiding whereof is the only End of laying down any Right;) and therefore the promise of not resisting force, in no Covenant transfereth any right; nor is obliging. For though a man may Covenant thus, Unless I do so, or so, kill me; he cannot Covenant thus, Unless I do so, or so, I will not resist you, when you come to kill me. For man by nature chooseth the lesser evil, which is danger of death in resisting; rather than the greater, which is certain present death in not resisting. And this is granted to be true by all men, in that they lead Criminals to Execution, and Prison, with armed men, "notwithstanding that such Criminals have consented to the Law, by which they are condemned."

A Covenant to accuse ones selfe, without assurance of pardon, is likewise invalid. For in the condition of Nature, where every man is Judge, there is no place for Accusation: and in the Civill State, the Accusation is followed with Punishment; which being Force, a man is not obliged not to resist. The same is also true, of the Accusation of those, by whose Condemnation a man falls into misery; as of a Father, Wife, or Benefactor. For the Testimony of such an Accuser, if it be not willingly given, is presumed to be corrupted by Nature; and therefore not to be received: and where a mans Testimony is not to be credited, he is not bound to give it. Also Accusations upon Torture, are not to be reputed as Testimonies. For Torture is to be used but as means of conjecture, and light, in the further examination, and search of truth: and what is in that case confessed, tendeth to the case of him that is Tortured; not to the informing of the Torturers: and therefore ought not to have the credit of a sufficient Testimony: for whether he deliver himselfe by true, or false Accusation, he does it by the Right of preserving his own life.

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"is defend himself against a threat of death, or was the reason why the natural right to all things was laid down.

"rightly death.

there are no laws, and kin. "should be confession, he does it by right - the right, I say.

Si quis se seipsam non defensurum esse contra vim pacificatur, Pactum invalidum est. Nam (ut ante ostensum est) Ius se defendendi contra Mortem intenentam, vulnera, incarcerationem (quorum fugiendorum causâ Ius in omnìa naturale depositum est) deponere nemo potest. Nam etsi aliquis recte pacisci possit sic, Nisi hoc vel illud fecero occide, pacisci tamen non possit sic, Nisi hoc vel illud fecero, occasis non resistam. Eligit enim homo naturaliter minus malum, id est periculum à resistentiâ, potius quàm malum majus, nempe Mortem certam. Atque haec norunt omnes qui condemnatos sive ad carcerem, sive ad Mortem armati ducunt.

10 Si quis pacificatur seipsam accusare, nisi certus veniae fiat, Pactum invalidum est. Nam in conditione Naturae ubi non sunt Judicia, nullus est accusationibus locus. In statu autem Civili, accusationem sequitur supplicium; cui, cum sit vis, nemo obligatur non resistere. Idem verum est de accusatione eorum quorum condemnatione consiciatur in Miseriam, quales sunt Pater, Vxor, alique Necessarii; testimonium enim eorum, utpote invité dictum à Naturâ ipsâ corrupi præsumendum est, neque ergo recipiendum. Neque accusationes expressae per tormenta pro testimonii habenda sunt: Tormenta enim explorationi tantum inserviunt, & quicquid tortus confitetur, ad relaxationem cruciatus spectat, non ad tormentium instructionem.

20 Sive enim verâ sive falsâ confessione se expediât, Iure id facit, Iure inquam vitam propriam conservandi.

11 12 om. 70 4 naturale 65-Errata[naturali 68 15 invité 70] invitéus 68
The force of Words, being (as I have formerly noted) too weak to hold men to the performance of their Covenants; there are *in mens nature,* but two "imaginable" helps to strengthen it. And those are either a Fear of the consequence of breaking their word; or *a Glory, or Pride in appearing not to need to break it.* This later is a Generosity too rarely found to be presumed on, especially in the pursuers of Wealth, Command, or sensual Pleasure; which are the greatest part of Mankind. The Passion to be reckoned upon, is Fear; whereas there are two very general Objects: one, *The Power of Spirits* Invisible; the other, *The Power of* all those men they shall therein Offend. Of these two, though the former be the greater Power, yet the fear of the latter is commonly the greater Fear. The Fear of the former is *in every man, his own Religion*; which hath place in the nature of man before Civil Society. The later *hath not so; at least not place enough,* to keep men to their promises; because in the condition of mere Nature, the inequality of Power is not discerned, but by the event of Battell. So that before the time of Civil Society, or in the interruption thereof by Warre, there is nothing can strengthen *a Covenant of Peace agreed on,* against the temptations of Avarice, Ambition, Lust, or other strong desire, but the fear of that Invisible Power, which they every one Worship as God; and Fear as a Revenger of their perfidy. All therefore that can be done [71] between two men not subject to Civil Power, is to put one another to swear by the God he feareth. *Which Swearing, or Oath, is a Forme of Speech, added to a Promise; by which he that promiseth, signifies, that unless he performe, he renounceth the mercy of his God, or calleth to him for vengeance on himselfe.* Such was the Heathen Forme, *Let Jupiter kill me else, as I kill this Beast.* So is our Forme, *I shall do thus, and thus, so help me God.* And this, with the Rites and Ceremonies, which every one useth in his own Religion, that the fear of breaking faith might be the greater.

1-2 The End of an Oath. (The use of Oathes added by TH) MS
8-4 one, the other; 1...2. MS

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Cap. 14


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n = nobility of conduct (GED, 'generosity'), 2.
See above, note g; Lev. 18:3; 12. n
Of Man

By this it appears, that an Oath taken according to any other Forme, or Rite, then his, that sweareth, is in vain; and no Oath: And that there is no Swearing by any thing which the Swearer thinks not God. For though men have sometimes used to swear by their Kings, for feare, or flattery; yet they would have it thereby understood, they attributed to them Divine honour. And that Swearing unnecessarily by God, is but profanation of his name; and Swearing by other things, as men do in common discourse, is not Swearing, but an impious Custome, gotten by too much vehemence of talking.

It appears also, that the Oath addes nothing to the Obligation. For a Covenant, if lawful, binds in the sight of God, without the Oath, as much as with it; if unlawful, bindeth not at all; though it be confirmed with an Oath.

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De homine

Constat hinc, Iuramentum alià formà juratum, quàm quae est secundum Religionem Iurantis, infirmum esse. Constat item Iuramentum non esse, nisi per Deum Iurantis. Quamquam enim Ethniorum aliqui per Reges suos Iurare soli sunt, simul tamen intelligi Divinum illis honorum à se tribui voluerint. Iuramenta autem illa non requisita, sed voluntaria, frequenter jurata, Iuramenta propriè dicta non sunt, sed Nominis Divini abusio, nata ex pravá consuetudine omnia nimium vehementer asserentium.

Constat denique, quòd Obligationi, à Iuramento nihil additur. Pactum enim, si licitum sit, obligat per vim Legis Naturalis sine Iurejurando; sin illicitum sit, ne addito quidem Iurejurando obligare potest.

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51 some of the heathen
52, but voluntarily, and frequently, is not swearing properly so called, but an abuse of God's name, arising from the vicious custom of those who always assert things with too much vehemence.
53 by the force of natural law, without the swearing of an oath.
Of other Lawes of Nature.

From that law of Nature, by which we are obliged to 'transferre to another,' such Rights, as 'being retained,' hinder the peace of Mankind, there followed a Third, which is this, That men performe their Covenants made: without which, 'Covenants are in vaine, and but Empty words; and the Right of all men to all things remaining, wee are still in the condition of Warre.'

And in this law of Nature, consisteth the 'Fountain and Originall' of Justice. For where no Covenant hath preceded, there hath no Right been transferred, and every man has right to every thing; and consequently, 'no action can be Unjust.' But when a Covenant is made, then to break it is Unjust:' And the definition of INJUSTICE, is 'no other than the not Performance of Covenant.' And whatsoever is not Unjust, is Just.

But because Covenants of mutuall trust, where there is a feare of not performance on either part, (as hath been said in the former Chapter,) are invalid; though the Original of Justice be the making of Covenants; yet INJUSTICE actually there can be none; till the cause of such feare be taken away; which while 'men are in the naturall condition of Warre, cannot be done.' Therefore before the names of Just, and Unjust can have place, there must be some coercive Power, to compel men equally to the performance of their Covenants, by the terror of some punishment; greater than the benefit they expect [22] by the breach of their Covenant; and to make good that Propriety, which by mutual Contract men acquire, in recompence of the universal Right they abandon: and such power there is none before the erection of a Common-wealth. And this is also to be gathered out of the ordinary definition of Justice in the Schooles: For they say, that 'Justice is the constant Will of giving to every man his own.' And therefore where there is no Own, that is, no Propriety, there is no Injustice; and where there is no coercive Power erected, that is, where there is no Common-wealth, there is no Propriety; 'all men having Right to all things. Therefore where there is no Common-wealth, there nothing is Unjust.' So that the 'nature' of Justice, consisteth in keeping of 'valid' Covenants: but the Validity of Covenants begins not but with the Constitution of a 'Civil Power, sufficient to compel men to keep them. And then it is also that Propriety begins. 11

1  relinquish the right to all things is given up in vain, and the war of all against all persenius
2  nature nothing is evidently, therefore
3  'nothing is Unjust.'
4  'what is the same, the violation of faith.'
5  'in not performing a covenant,'
6  the right of all men to all things remains, is not taken away.
7  'coercive' 'commonwealth; thus the commonwealth, property in goods, and justice are born at the same time.
Justice is not Contrary to Reason.

The Fool hath said in his heart, there is no such thing as Justice; and sometimes also with his tongue; seriously alleging, that every man's conservation, and contentment, being committed to his own care, there could be no reason, why every man might not do what he thought convenient thereunto: and therefore also to make, or not make; keep, or not keep Covenants, was not against Reason, when it conducted to ones benefit. He does not therein deny, that there be Covenants; and that they are sometimes broken, sometimes kept; and that such breach of them may be called Injustice, and the observance of them Justice: he but questioneth, whether Injustice, taking away the fear of God, (for the same Fool hath said in his heart there is no God,) may not sometimes stand with that Reason, which dictateth to every man his own good; and particularly then, when it conduces to such a benefit, as shall put a man in a condition, to neglect not one by the dislike, and revilings, but also the power of other men. The Kingdom of God is gotten by violence: but what if it could be gotten by unjust violence? Were it against Reason so to get it, when it is impossible to receive hurt by it; and if it be not against Reason, it is not against Justice; or else Justice is not to be approved for good. From such reasoning as this, Successfull wickednesse hath obtained the name of Vertue: and some that in all other things have disallowed the violation of Faith; yet have allowed it, when it is for the getting of a Kingdom. And the Heathen that believed, that Saturn was deposed by his son Jupiter, believed nevertheless the same Jupiter to be the avenger of Injustice. Somewhat like to a piece of Law in Cokes Commentaries on Littleton: where he saith, If the right Heire of the Crown be attainted of Treason; yet the Crown shall descend to him, and in case instant the Atteynde be void: From which instances a man will be very prone to inferre; that when the Heire apparent of a Kingdome, shall kill him that is in possession, though his father; you may call it Injustice, or by what other name you will; yet it can never be against Reason, seeing all the voluntary actions of men tend to the benefit of themselves; and those actions are most Reasonable, that conduceth most to their ends. This specious reasoning is nevertheless false.

DE HOMINE

Cap. 15

Dixit Insipiens, Non est Iustitia. Conservationis suae singuli et soli curam gerunt. Rationis ergo est, ut singuli, quicquid eis conducere sibimet ipsum videbitur, id est, Pacta facere vel non facere, custodire vel non custodire arbitrio su. Pacta facere licitum esse non negat, nec observationem eorum Iustitiam vocari, Violationem Injustitiam. Sed Injustitiam (sublatu timore Dei) consistere aliquando posse dicit cum recta Ratione. Regnum (inquit) Dei acquiritur Violentia: quid si ab homine acquiri possit per Violentiam iustum, an contra rectum Rationem esset, cum impossibile esset, ut inde illum sibi malum, sed summum bonum sequeretur? Si contra Rationem non esset, quomodo contra Iustitiam est? At hujusmodi ratiocinatione oritur est, ut ab aliquibus Sceleris prospera Virtutes existimatae sint; utque Fides, regnandi saltem causae violanda esset. Crediderunt Etruscus, Saturnum coelo expulsum a love esse, qui iuvem tamen Injustitiae utorem existimaverunt. Etiam, furiaphrastum nostrorum aliqui haeredem Regni, etiam Proditori sit, statim a mortuis est, in Regnum succedere debere. Hujusmodi facinora quocumque nomine appellata contra Rationem (inquit) non sunt, quia omnnes omnium Actiones voluntariae tendunt naturaliter ad bonum sibimet ipsius, et maxime rationales sunt, quae e maxime tendunt. Verumtamen ratiocinatio haec, utcumque speciosa, falsa est.

8 esset, non acquirere per violentiam seque 70 10 Atl. Ab 70

13 put (see corr. to set by TH) MS
For the question is not of promises mutual, where there is no security of performance on either side; as when there is no Civil Power erected over the parties promising; for such promises are no Covenants. But either where one of the parties has performed already; or where there is a Power to make him perform; there is the question whether it be against reason, that is, against the benefit of the other to perform, or not. And I say it is not against reason. For the manifestation whereof, we are to consider: First, that when a man doth a thing, which notwithstanding any thing can be foreseen, and reckoned on, tendeth to his own destruction, howsoever some accident which he could not expect, arriving, may turn it to his benefit; yet such events do not make it reasonably or wisely done. Secondly, that in a condition of War, wherein every man to every man, for want of a common Power to keep them all in awe, is an Enemy, there is no man can hope by his own strength, or wit, to defend himself from destruction, without the help of Confederates, where every one expects the same defence by the Confederation, that any one else does: and therefore he which declares he thinks it reason to deceive those that help him, can in reason expect no other means of safety, than what can be had from his own single Power. He therefore that breaketh his Covenant, and consequently declareth that he thinks he may with reason do so, cannot be received into any Society, that unite themselves for Peace and Defence, but by the error of them that receive him; nor when he is received, be retain’d in it, without seeing the danger of their error; which errors a man cannot reasonably reckon upon as the means of his security: and therefore if he be left, or cast out of Society, he perisheth; and if he live in Society, it is by the errors of other men, which he could not foresee, nor reckon upon; and consequently against the reason of his preservation; and so, as all men that contribute not to his destruction, forbear him only out of ignorance of what is good for themselves.

As for the Instance of gaining the secure and perpetual felicity of Heaven, by any way, it is frivolous: there being but one way imaginable: and that is not breaking, but keeping of Covenant.

And for the other Instance of attaining Sovereignty by Rebellion; it is manifest, that though the event follow, yet because it cannot reasonably be expected, but rather the contrary; and because by gaining it so, others are taught to gain the same in like manner, the attempt thereof is against reason. Justice therefore, that is to say, Keeping of Covenant, is a Rule of Reason, by which we are forbidden to do any thing destructive to our life; and consequently a Law of Nature.

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7 In the natural condition of man, where there is no power that compels;
8 where there is a power that compels, and one party has fulfilled his promise, there the question is whether the party who fails to perform does so with reason and in accordance with his own good. And I say he acts against reason, and imprudently. For, first of all, in a commonwealth, if someone does something which, so far as
9 it was done imprudently, because the result was not foreseen. However, in the natural condition,
10 live securely
11 But who (except someone acting from ignorance) will receive into society (which is founded on mutual covenants for the defence of each person) someone who thinks it reasonable to fail to perform covenants— or retain him, if he has been received? Therefore either he will perish, having been cast out; or, if he is not cast out, that fact will be due to the ignorance of others, which is against right reason.
12 kingdom of Heaven by injustice; which is by justice.
13 even if it is so attained, it will have been attained against right reason, both because the success of such enterprises is uncertain from the beginning, and because those who act in this way teach others, by their own example, to dare as much against them. Therefore
14 outcomes (OED, 'event', s., 3 d).
15 See above, note 1.
There be some that "proceed further; and" will not have the Law of Nature, to be those Rules which conducte to the preservation of man's life on earth; but to the attaining of an eternal felicity after death; to which they think the breach of Covenant may conduct; and consequently be just "and reasonable," (such are they that think it a work of merit to kill, or destroy, or rebel against, the Sovereign Power constituted over them by their own consent). But because there is no "natural" knowledge of man's estate after death; much lesse of the reward that is then to be given to breach of Faith; but only a belief grounded upon other mens sayings, that they know it supernaturally, or that they know those, that knew them, that knew others, that knew it supernaturally; Breach of Faith cannot be called a Precept of Reason, or Nature. Others, "that allow for a Law of Nature, the keeping of Faith, do nevertheless make exception of certain persons; as Heretiques; and such as use not to performe their Covenant to others: And this also is against reason. For if any fault of a man, be sufficient to discharge our Covenant made; the same ought in reason to have been sufficient to have hindered the making of it. The names of Just and Injust, when they are attributed to Men, signify one thing; and when they are attributed to Actions, another. When they are attributed to Men, they signify Conformity, or Inconformity of Manners, to Reason. But when they are attributed to Actions, they signify the Conformity, or Inconformity to Reason, not of Manners, or manner of life, but of particular Actions. A Just man therefore, is he that taketh all the care he can, that his Actions may be all Just: and an Unjust man, is he that neglecteth it. And such men are more often in our Language stiled by the names of Righteous, and Unrighteous; then Just, and Unjust; though the meaning be the same. Therefore a Righteous man, does not lose that Title, by one, or a few unjust Actions, that proceed from sudden Passion, or mistake of Things, or Persons: nor does an Unrighteous man, lose his character, for such Actions, as he does, or forbeares to do, for feares, because his Will is not framed by the Justice, but by the apparent benefit of what he is to do. That which gives to humane Actions the relish of Justice, is a certain Noblenesse or Gallant,

8 them to be given to be given then MS 22 23 MS 22 of 3 not of his MS 23 particular Actions

8 [the felicity of an eternal life, to which they say the breach of covenant may sometimes
23 say it is a work of piety
23 make war against their own kings, under the pretense of religion]
34 covenants, according to their opinion, is a breach not of natural, but of supernatural, law. But we have no supernatural law other than Holy Scripture; and it frequently prescribes obedience to kings, and the keeping of covenants.

Sunt alii, qui Praecepta, quae ad conservandum vitam prae sentem con-
ducunt, Leges Naturae esse negant, sed illa quae ducant ad felicitatem Vi-
tae aeternae; et quam conducere aliquando dicunt Pactorum violations,
quae violatio proprie justa est. Atque hi sunt, qui Pietatis opus esse dicunt,
5 Reges suos praetextu Religionis Bello persistere, deponere & interficere. Sed
quoniam statutis humani post mortem Scientia nulla est, sed tantummodo
Fides, hominibus certis habita, dicentibus se id Scire supernaturaliter, vel
accepisse ab aliis supernaturaliter scientium, & sic ali ab aliis ascensendo,
Violatio Pactorum justa illorum sententiam non Legis Naturalis, sed super-
naturalis violatio est. Legem autem supernaturalem habemus nullam praeter
Scripturam Sacram. Ea autem Obedientiam Regibus praestare, & Pacta
observare passim praecipit.

Alii rursus, Pacta observanda esse concedunt, praeterquam cum Haereti-
cis. Sed hoc quoque iniquum est. Nam si vitium Personae satis causae sit
Pacti violandi, satis etiam causae debeat esse non Pacisendi.

Iustum & Injustum vocabula, aliud Hominibus, aliud Actionibus attribui-
ta significant. Hominibus attributa Morem vel Habitudinem significat, ut Vir-
tutem aut Virtutem. Sic Homo cui constantes est voluntas Ius suum unicaque
tribuendi, etsi Actiones ejus aliquando Injustae fuerint, ipsis tamen Iustus est,
20 modo Iustitiam anet, vel quod Injustae fecerat, etiamis clam sit, ipsae damnat,
factum nollet, damnatum, si quod factum sit, resarcirequant potest. Injustus
contra est, qui Iustitiam negligit, etsi Meus, vel aliæ caussi sinistræ nemini
unquam Injuriam fecisset; Id quod Iustitiam veram & facere, & condire solet,

23 fecisset, fecisset 23 solut, 23 solut, & 238

7 again, allow that covenants should be kept, except with heretics. But this also is injurious
8 their behaviour or disposition, insofar as it is a virtue or a vice. Thus a person who has a constant will of giving to every man his own, even if his actions may sometimes have been unjust, is nevertheless himself just, provided that he loves justice, condemns what he has done unjustly (even though the action is unknown to others), wishes he had not done it, and repairs any harm that came of it, so far as he can. An unjust person, on the other hand, is someone who cares nothing for justice, even if - out of fear, or for some other low reason - he has never done an injury to anyone. That which usually makes true justice, and gives it its relish,

1 Hobbes may have had in mind the notorious defence by the Spanish Jesuit Juan de Marmido of the assassination of tyrants: De regis et reges institutione, pp. 51-63.
2 The view that promises and treaties were not to be kept with heretics was attributed to Protestant controversy in general and Jesuits in particular (see, for example, Anton Apianus... of the Jesuits, p. 8: 'that there cannot be any commerce or peace with heretics, and therefore that faith given unto them, though it be confirmed by an oath, is not to be kept at any hand'). This was not, however, the view of leading Jesuits such as Martinus Bezaeus (see his Debiased de fulle harrenis servranda).
Of Man

Cap. 15

DE HOMINE

est Animi generositas quacum quasi quam fraudi & perfidia deberi desiderantis. Iustitiae autem Actiones denomi nent hominem (non Iustum sed) Insanum; ut contra Iustitiae Actiones, id est Iuriae, non Iustum, sed Saneum.

5 Praeterea, Iustitia Hominis est Animi ad Iuriam faciendum Habitum. Iurium faciens etiam ante quos facta sit Iuria propter voluntatem faciendi. Sed Iustitiae Actionis Personam aliquam affectum [75] Iuriae supponit, nempe illum, quicum pactum est. Itaque contingit aliquando Iuriam ultum, Damnatum quod ab Iuriae est, altus facit, ut quando Dominus debitam aliuc solvere pecuniarum servum jussisset, si Servus non fecerit, Iuriae quae Creditor fit a Domino est, quae Domino fit, a Servo est; non enim Servum, sed Dominus cum Creditore pactus est. Similiter, in statu Civili, debita sibi remittere homines privati possunt; sed Licencia non item, quia sunt quasi debita publica, ita ut Iuriae factae sint Civitati.

15 Quod Volenti fit, Iuriae non est. Nam nisi Pactum sit, ut non faceret, Iuriae esse non potest; si Pactum sit, tollitur Obligatio per Voluntatem Obligantis, id est, ejus quicum pactum est.

Iustitia Actionum dividitur a Scriptoribus in Commutativam & Distributivam; quorum priorum dicunt in proportione Arithmeticæ, posteriorem in Geometricæ consistère; ita ut Commutativum in rerum commutandarum Aequitatem quoad pretium Distributivam in Beneficiorurn aequitatem merentiem eavim Distributione consistère dicant; quasi plures vendere quim eminus Iustus esset. Pretium omnium rerum Contrahentium appetiti aestimatur, pretiumque Iustum est in quod ambo Empor & Venditor con-

8 quicen[tus] qui cues 68, 70 8-9 Iuriam alius Iuriae alius 70 id est, ejus [this edn.] id ejus 68, 70. 17 id est, ejus [this edn.]

6 but, del. MS 8 Iustitia [this edn.], Iustitia MS] Justice E, Justice B 9 Iustitia [this edn.]

Nothing done in a man, by his own consent can be Injury.

Justice Commutative, and Distributive: and the former they say consisteth in proportion Arithmetical; the latter in proportion Geometricall. Commutative therefore, they place in the equality of value of the things contract for, and Distributive, in the distribution of equal benefit, to men of equal merit. As if it were Injustice to sell dearer than we buy; or to give more to a man than he merits. The value of all things contract for, is measured by the Appetite of the Contractors: and therefore the just value, is that which they be content to give.

But, del. MS 6, signified H, Erasmi signed H, 23 to a man, by his own 10 man, by his added by TH] own MS

# anything 10 actions of justice
# on the other hand actions of injustice, that is, injuries, denominate men not \'enim\', but
# a man, 15 even before an injury is done, because of the will to do it.
# done 20 is done by
# that is owed to someone; if the servant does not do so, the injury to the creditor is
done by the master, while the injury to the master is done by the servant; for it was not the servant
# the civil state,
# because they are, as it were, public debts, so that they are injuries done to
# if there is no covenant not to do it, there can be no injury, if there is a covenant, the obligation is removed by the will of the obliger, that is, that person with whom the covenant was made.
# to be exchanged; 30 on which both the buyer and the seller agree.

1 The Latin here adopts the legal maxim 'volenti non fit injuria' (Iuriae is not done to the willing).

This had become a Common law maxim (see, e.g., Plowden, Commentaries, p. 504, reporting a case of 18 and 19 Elizabeth); it derived from the canon law tradition (see William of Drobildena, Summa aurea, p. 175) and, ultimately, from Digest, 47.10.1.5.

2 Aristotle, Nicomachean Ethics, V.3-4 (1173a20-1173b32).
And Merit (besides which is by Covenant, where its the performance on one part, merite the performance of the other part, and falls under Justice Commutativa, not Distributive,) is not due by Justice; but is rewarded of Grace only. And therefore this distinction, in the sense wherein it useth to be expounded, is not right. To speak properly, Commutative Justice, is the Justice of a Contractor; that is, a Performance of Covenant, in Buying, and Selling; Hiring, and Letting to Hire; Lending, and Borrowing; Exchanging, Bartering, and other acts of Contract.

And Distributive Justice, the Justice of an Arbitrator, that is to say, the act of defining what is Just. Wherein, (being trusted by them that make him Arbitrator,) if he performe his Trust, he is said to distribute to every man his own; and this is indeed Just Distribution, and may be called (though improperly) Distributive Justice; but more properly Equity; which also is a Law of Nature, as shall be shewn in due place.

As Justice dependeth on Antecedent Covenant; so doth Gratitude depend on Antecedent Grace; that is to say, Antecedent Free-gift: and is the fourth Law of Nature; which may be conceived in this Forme, That a man which receiveth Benefit from another of mer Grace, Endeavour that he which giveth it, have no reasonable cause to repent him of his good will. For no man giveth, but with intention of Good to himself; because Gift is Voluntary; and of all Voluntary Acts, the Object is to every man his own Good; of which it men see they shall be frustrated, there will be no beginning of benevolence, or trust; nor consequently of mutual help; nor of reconciliation of one man to another; and therefore they are to remain still in the condition of War; which is contrary to the first and Fundamental Law of Nature, which commendeth men to Seek Peace. The breach of this Law, is called Ingratitude; and hath the same relation to Grace, that Injustice hath to Obligation by Covenant.

4–5 in the sense ... expounded] in such sense as it useth to be expounded in MS
15 fourth] (third cor. to fourth by TH) MS [Note: all subsequent numberings in the marginal notes of this chapter are similarly corrected, and will not be separately noted.]
17 fourth] (third cor. to fourth by TH) MS [Note: all subsequent numberings in the text of this chapter are similarly corrected, and will not be separately noted.]
23 nor of] (of cor. to or by TH) MS

48 it can be said that 50 right.
54 who (because he is trusted), if he performs his trust, distributes to each party what is that party's own; and this is nothing other than equity 57 benefit. 59 between enemies.

1 See below, pp. 235–7.
A fifth Law of Nature, is compleasance; that is to say, That every man strive to accommodate himself to the rest. For the understanding whereof; we may consider, that there is in mens aptness to Society, a diversity of Nature, rising from their diversity of Affections; not unlike to that we see in stones brought together for building of an Aedifice. For as that stone which by the asperity, and irregularity of Figure, takes more room from others, than it selfe fills; and for the hardnesse, cannot be easily made plain, and thereby hindereth the building, is by the builders cast away as unprofitable, and troublesome; so also, a man that by asperity of Nature, will strive to retain those things which to himselfe are superfluous, and to others necessary; and for the stubbornness of his Passions, cannot be corrected, is to be left, or cast out of Society, as combersome thereunto. For seeing every man, not only by Right, but also by necessity of Nature, is supposed to endeavour all he can, to obtain that which is necessary for his conservation. He that shall oppose himselfe against it, for things superfluous, is guilty of the warre that thereupon is to follow; and therefore doth that, which is contrary to the Law of Nature, which commandeth to seek Peace. The observers of this Law, may be called sociable, (the Latines call them Commodi;) The contrary, Stubborn, Insoiable, Froward, Intractable. A sixth Law of Nature, is this, That upon caution of the Future time, a man ought to pardon the offences past of them that repenting, desire it. For Pardon, is nothing but granting of Peace; which though granted to them that persevere in their hostility, be not Peace, but Pardons, yet granted to them that give caution of the Future time, is signe of an averseion to Peace; and therefore contrary to the Law of Nature. A seventh is, That in Revenge, (that is retribution of Evil for Evil,) we look not at the greatness of the evil past, but the greatness of the good to follow. Whereby we are forbidden to inflict punishment with any other designe, than for correction of the offender, or direction of others. For this Law is consequent to the next before it, that commandeth Pardon, upon security of the Future time. Besides, Revenge without respect to the Example, and profit to come, is a triumph, or glorying in the hurt of another, tending to no end; (for the End is always somewhat to Come;) and glorying to no end, is vain-glory, and contrary to reason; and to hurt without reason, tendeth to the introduction of Warre; which is against the Law of Nature; and is commonly stiled by the name of Crueltie.

Lex Naturae quinta est, ut \textit{Vinusquisque se commodum caeteris praeceter.} [76] Quod ut intelligatur, considerandum est, esse in hominum ad Societatem a\textit{p}titutatem Ingeniorum diversitatem, a diversitate Passionum ornam, non dis\textit{sim}ilium ejus, quam videmus in congregis ad Domum aedificandam lapidibus. Sic enim Lapis, qui propter asperitatem \textit{et} figuras irregularitatem plus loci proximis adimit qu\textit{\`e} ipsum impet, neque propter duriem complanari potest, ab aedificantibus ut inutilis \textit{et} molestus abjiciatur. Ita etiam homo, qui propter asperitatem Ingenii de rebus conteddit, sibi quidem Superfluis, vicino autern necessariis, nec (propter Affectuum contumaciam) corrigi potest, \textit{et} Societate ceciendus est. Cum enim unusquisque, Naturae non modii Leges, sed etiam necessitate, Conservationem propriam, \textit{et} qua ad eam necessaria sunt conari intelligitur, is qui ob Superfluum repugnat, Belli sequaturus reus est, facitque contra Legem Naturae primam.

Lex Naturae sexta est, \textit{Vitisquisque accepta temporis futuri Cautione, praeteritas Injuriae poenitentibus \textit{et} poenitentibus condonat.} Nam condonare aliqui Injuriarum, nihil aliud est, quam Pacem poenitentibus Pacem concessa; Quae tamen perseverantibus in Inimicitia, non est Pax, sed Metus. Poenitentibus autem non concessa, signum est Animis \textit{et} Pace alieni, \textit{et} proinde contra Legem Naturae.

Septima est, \textit{In Vitiisuis non respiendiam esse ad magnumdem Mali praecrepidam, sed ad magnumdem Beni nascitur.} Legem hanc est poenam aliquo consilio ingilgere, quam ut qui peccavit emendaretur, vel montum qui vitent urceatur. Sequitur enim Lex haec ex praecedente, quod, quando cautum est de futuro, praeteritum veniam dare jubet. Vicipici enim, nisi ad futurum Bonum dirigatur, \textit{et\textasteriskquotesym} et id est, de Malo alieno vanus \textit{et} inutilis triumphus; \textit{et} proinde contra Rationem, \textit{et} Legem Naturae, quae de Vanis \textit{et} Superfluis contendere prohibet. Violat Legis hujus Cruelitatem appellatur.

2 A fifth Law of Nature, is compleasance; that is to say, That every man strive to accommodate himselfe to the rest. For the understanding whereof; we may consider, that there is in mens aptness to Society, a diversity of Nature, rising from their diversity of Affections; not unlike to that we see in stones brought together for building of an Aedifice. For as that stone which by the asperity, and irregularity of Figure, takes more room from others, than it selfe fills; and for the hardnesse, cannot be easily made plain, and thereby hindereth the building, is by the builders cast away as unprofitable, and troublesome; so also, a man that by asperity of Nature, will strive to retain those things which to himselfe are superfluous, and to others necessary; and for the stubbornness of his Passions, cannot be corrected, is to be left, or cast out of Society, as combersome thereunto. For seeing every man, not only by Right, but also by necessity of Nature, is supposed to endeavour all he can, to obtain that which is necessary for his conservation; He that shall oppose himselfe against it, for things superfluous, is guilty of the warre that thereupon is to follow; and therefore doth that, which is contrary to the Law of Nature, which commandeth to seek Peace. The observers of this Law, may be called sociable, (the Latines call them Commodo;) The contrary, Stubborn, Insoiable, Froward, Intractable.

3 A sixth Law of Nature, is this, That upon caution of the Future time, a man ought to pardon the offences past of them that repenting, desire it. For Pardon, is nothing but granting of Peace; which though granted to them that persevere in their hostility, be not Peace, but Pardons, yet granted to them that give caution of the Future time, is signe of an averseion to Peace; and therefore contrary to the Law of Nature. A seventh is, That in Revenge, (that is retribution of Evil for Evil,) we look not at the greatness of the evil past, but the greatness of the good to follow. Whereby we are forbidden to inflict punishment with any other designe, than for correction of the offender, or direction of others. For this Law is consequent to the next before it, that commandeth Pardon, upon security of the Future time. Besides, Revenge without respect to the Example, and profit to come, is a triumph, or glorying in the hurt of another, tending to no end; (for the End is always somewhat to Come;) and glorying to no end, is vain-glory, and contrary to reason; and to hurt without reason, tendeth to the introduction of Warre; which is against the Law of Nature; and is commonly stiled by the name of Crueltie.

7 molecaus 68-Erste] molecaus 58 8-9 vicino 68-Errata] vicina 68
And because all signs of hatred, or contempt, provoke to fight; "insomuch as most men choose rather to hazard their life, than not to be revenged;" we may in the eighth place, for a Law of Nature, set down this Precept, That no man by deed, word, countenance, or gesture, declare Hatred, or Contempt of another. The breach of which Law, is commonly called Contumely.

The question 66 who is the better man, 67 has no place in the condition of Nature; 68 where, (as has been shewn before,) all men are equall. 77 The inequality that now is, 4 has bin introduced by the laws civill. I know that Aristote 1 in the first booke of his Politiques, for a foundation of his doctrine, maketh men by Nature, some 79 more worthy to Command, meaning the wiser sort (such as he thought himselfe to be for his Philosophy;) 80 others to Serve, (meaning those that had 7 strong bodies, but were not Philosophers as he;) 79 as if Master and Servant were not introduced by consent of men, but by difference of Wit: which is not only against reason; but also against experience. For 79 there are very few 77 so foolish, that had not rather governe themselves, than be governed by others: Nor when 79 the wise in their own conceit, 79 contend by force, with 79 them who distrust their owne wisdome, do they alwaies, or 4 often, or almost at any time, get the victory. If Nature therefore have made men equall, that equallitie is to be acknowledged: or if Nature have made men unequall; yet because men 79 that think themselves equall, will not enter into conditions of Peace, but upon Equall terms, such equallitie must be admitted. And therefore for the ninth law of Nature, I put this, That every man acknowledge other for his Equall by Nature. 79 The breach of this Precept is Pride.

On this law, dependeth another, 67 That at the entrance into conditions of Peace, no man require to reserve to himselfe any Right, which he is not content should be reserved to every one of the rest. As it is necessary 77 for all men that seek peace, 32 to lay downe certaine Rights of Nature; "that is to say, not to have libertie to do all they list: so is it necessarie "for mans life," to retaine some; as right to governe their owne bodies; enjoy aire, water, 32 motion, waies to go from place to place; 32 and all things else, without which a man cannot live, or not live well. 82 If in this case, "at the making of Peace," men require for themselves, 79 that which they would not have 79 to be granted to others, they do contrary to the precedent law, "that commandeth the acknowledgment of

Quoniam autem Odii & Contemptus signa omnin ad Pugnam accidunt, octavo loco pro Lege Naturali ponimus, Ne quis aliquam Pacta, Verba, Vultus et Gestas Odisse vel Despicere se significet. Lege hac prohibetur Contumeliao.

Quasio de Ordine inter homines in Condizione Naturali nulla est. Disincto illa introducta est ad Lege Civili. Scio Aristotelem lib. 1. Politicorum quasi Principio uti, Esse alios a Naturae factos ad Imperium, nimirum, Sapientes (id est, ut innuere voluit Philosophos, quales ipsa crat) alios ad Serviendum (nempe homines corporibus et ingenio dutis) quasi Dominium & Servitus usque ad consensum hominum, sed ad differentiam Ingeniorum originem habuerint; id 77 quod non modo contra Rationem, sed etiam contra Experientiam est. Quis enim ita statutus est, ut sibi ab aliis imiperari mallet, quam se ipse? Etiam, quando vi contenditur inter illos qui habentur Sapientes, & illas qui sunt Robusti, priores illi, rarò aut nuncquam victoria potuitur. Si ergo homines Natura aequales fecit, agnoscentur est aequalitas. Sed si inaequales fecit, quia tamen unusquisque unicumque aequaliter se esse putat, Pax nisi aequalibus conditionibus non habebitur. Admittenda ergo est Aequalitas, & Lex Natura non est Homines omnes inter se Naturae aequales esse. Hujus Legis violatio Superbia est.

Ex hac Lege sequitur decima, ut in Pace inmundi nemo resercari sibi poscat 76 Ius aliquod, quod cuquam caeterorum reservatum nolit. Cum enim vitae conservandae causas, sicut deponi Iura quaedam Naturali, ita retinere quaedam necessarium esset, necpe Ius proprii corporis curandi, Ignem, Aquam, Aere fruendi, caeterisque sine quibus Homo vivere non potest; si jam plus retinere Iuris postulat, aliquis, quam alius liberius concessum vellet, facit eille contra
naturally equalitie, and therefore also against the law of Nature. The observers of this law, are those we call Modest, and the breakers Arrogant men. The Greeks call the violation of this law πλεόνεξία, 86 that is, a desire of more than their share. 86

Also if a man be trusted to judge between man and man, it is a precept of the Law of Nature, that he deal Equally between them. For without that, the Controversies of men cannot be determined but by Warre. He therefore that is partial in judgment, doth what in him lies, to deterre men from the use of Judges, and Arbitrators; and consequently, (against the fundamental Law of Nature) is the cause of Warre. 54

"The observance of this law, from the equal distribution to each man, of that which in reason belongeth to him, is called equity, and (as I have said before) distributive Justice: the violation, Acceptation of persons, προσωποληψia. 93"

And from this followed another law, 87 That such things as cannot be divided, be enjoyed in Common, if it can be, and if the quantity of the thing permit, without stint; otherwise Proportionally to the number of them that have Right. 95 For otherwise the distribution is Unequal, and contrary to Equity. 80 [78]

But some things there be, that can neither be divided, nor enjoyed in common. Then, The Law of Nature, which prescribeth Equity, requireth, That the Entire Right; or else, (making the use alternate,) the First Possession, be determined by Lot. 15 For equall distribution, is of the Law of Nature; and other means of equall distribution cannot be imagined. 49

Of Lots there be two sorts, Arbitrary, and Natural. Arbitrary, is that which is agreed on by the Competitors: Natural, is either Primogeniture, 85 (which the Greeks call Κατατάξεια, which signifies, Given by Lot;) 92 or First Seisin.

And therefore those things which cannot be enjoyed in common, nor divided, ought to be adjudged to the First Possessor; and in some cases to the First-Borne, as acquired by Lot. 75

It is also a Law of Nature, That all men that mediate Peace, be allowed safe Conduct. For the Law that commandeth Peace, as the End, commandeth Intercession, as the Means; and to Intercessio the Means is the safe Conduct. 30

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26 Greeks call ΜΣ] Greek calls II, B
And because, "though men be never so willing to observe these Laws, there may nevertheless arise questions concerning a mans action;" First, whether it were done, "or not done;" Secondly (if done) whether against the Law, or not against the Law; the former whereof, is called a question Of Fact; the latter a question Of Right; therefore unless the parties to the question, Covenant mutually to stand to the sentence of another, "they are as farre from Peace as ever." This other, "to whose Sentence they submit," is called an Arbitrator. And therefore it is of the Law of Nature, That they that are at controversy, submit their Right to the judgement of an Arbitrator.

And seeing every man is presumed to do all things in order to his own benefit, no man is a fit Arbitrator in his own cause: "and if he were never so fit; yet Equity allowing to each party equal benefit, if one be admitted to be Judge, the other is to be admitted also; & so the controversy, that is, the cause of War, remains, against the Law of Nature.

For the same reason no man in any Cause ought to be received for Arbitrator, to whom "greater" profit, or honour, or pleasure apparently ariseth out of the victory of one party; than of the other: for he hath taken (though an unavoidable bribe, yet) a bribe; and no man can be obliged to trust him. And thus also the controversy, and the condition of War remaineth, contrary to the Law of Nature.

And in a controversy of Fact, the Judge being to give no more credit to one, than to the other, (if there be no other Arguments) must give credit to a third; or to a third and fourth; or more: For else the question is undecided, and left to force, contrary to the Law of Nature.

These are the Laws of Nature, dictating Peace, for a means of the conservation of men in multitudes; and which only concern the doctrine of Civill Society: There be other things tending to the destruction of particular men; as Drunkenness, and all other parts of Intemperance; which may therefore also be reckoned amongst those things which the Law of Nature hath forbidden; but are not necessary to be mentioned, nor are pertinent enough to this place.

Quoniam autem inter eos qui Leges Naturales observant, quaestiones nasci possunt, primo, an factum sit; secundo (si factum est) utrum Iure in Iurio; quarum prima dicitur controversia Facti, secunda controversia Iuris; nisi Litigantes in sententia alicujus tertii acquiescere mutuo pacisantur, Bellum manet. Tertius autem Arbitri dicitur. Itaque Lex Naturae decima septima est in Sententia Arbitri acquiescere.

Quoniam autem Vnuquisque in omni Actione suâ respicere solet ad Bonum sibi, Arbitri idoneus in causâ propria nemo est. Quae est Lex Naturae decima septima.

Propter eandem causam, pro Arbitro recipiendus nemo est in controversiâ quaestionis, cui Lucrum, Digestus vel Voluptas à Victoriâ partis alterius manifesto ostenditur est. Corruptur enim talis Arbitrâ à Naturâ humâna. Quae est Lex Naturae decima octava.

Decimana Lex Naturae est, in quaestionibus Facti judicandum esse secundum Testes. Litigantium enim uni credere potius, quum alteri contra Aequitatem est, nempe Legem Naturae undecima.

Atque haec Naturae Leges sunt, quae conducunt ad multitudinem hominum in Pace conservandam. Aliae autem res sunt, quae ad singulorum destructionem tendunt, ut omne genus Intemperantiae. Sed quia Naturam individuam spectant, nec ad institutam doctrinam pertinent, omituntur.

\( ^{11} \) alterius] alterius 70
And though this may seem too subtile a deduction of the Lawes of Nature, to be taken notice of by all men; whereas the most part are too busie in getting food, and the rest too negligent to understand; yet to leave all the men unexercisable, they have been contracted into one ease, simple, intelligible, even to the meanest capacity; and that is, Do not that to another, which thou wouldst not have done to thy selfe; which shewed him, that he has no more to do in learning the Lawes of Nature, but when weighing the actions of other men with his own, they seem too heavy; to put them into the other party of the balance, and his own into their place, that his own passions, and self-love, may add nothing to the weight; and then there is none of these Lawes of Nature that will not appear unto him very reasonable.

The Lawes of Nature oblige in foro interno, that is to say, they bind to a desire that should take place: but in foro externo, that is, to the putting them in act, not always. For he that should be modest, and tractable, and performe all he promises, in such time, and place, where no man else should do so, should but make himselfe a prey to others, and procure his own certain ruin, contrary to the ground of all Lawes of Nature, which tend to Nature preservation. And again, that he having sufficient Security, that others shall observe the same Lawes towards him, observes them not himselfe, seeketh not Peace, but War; & consequently the destruction of his Nature by Violence.

And whatsoever Lawes bind in foro interno, may be broken, not onely by a fact contrary to the Law, but also by a fact according to it, in case a man think it contrary. For though his Action in this case, be according to the Law; yet his Purpose was against the Law, which where the Obligation is in foro interno, is a breach.

"The Lawes of Nature are Immutable and Eternall: For Injustice, Ingratitude, Arrogance, Pride, Iniquity, Acceptation of persons, and the rest, can never be made lawfull. For it can never be that Warre shall preserve life, and Peace destroy it."

The same Lawes, because they oblige onely to a desire, and endeavour, I mean an uneignfed and constant endeavour, are ease to be observed. For in that they require nothing but endeavour; he that endeavoureth their performance, fulfilleth them; and he that fulfilleth the Law, is Just.
And the Science of them, is the true and only Moral Philosophy. For Morall Philosophy is nothing else but the Science of what is Good, and Evil, in the conversation, & Society of man-kind. ""Good, and Evil, are names that signify our Appetites, and Aversions; which in different tempers, customs, and doctrines of men, are different: And divers men, differ not only in their judgment on the senses, of what is pleasant, and unpleasant to the taste, smell, hearing, touch, and sight; but also of what is conformable, or disagreeable to Reason, in the actions of common life. Nay, the same man, in divers times, differs from himself; and one time praisheth, that is, calleth Good, what another time he dispraieth, and calleth Evil: [80] From whence arise Disputes, Controversies, and at last War. And therefore so long a man is in the condition of meer Nature, (which is a condition of War,) as private Appetite is the measure of Good, and Evil: And consequently all men agree on this, that Peace is Good, and therefore also the way, or means of Peace, which (as I have shewed before) are Justice, Gratitude, Modesty, Equity, Mercy, & the rest of the Laws of Nature; are good; that is to say, Morall Virtues; and their contrarie Vices, Evil. Now the science of Virtue and Vice, is Morall Philosophy; and therefore the true Doctrine of the Laws of Nature, is the true Morall Philosophy. But the Writers of Morall Philosphie, though they acknowledge the same Virtues and Vices; Yet not seeing wherein consisted their Goodness; nor that they come to be praised, as the meanes of peaceable, sociable, and comfortable living; place them in a mediocrity of passions, as if not the Cause, but the Degree of daring, made Fortitude; or not the Cause, but the Quantity of a gift, made Liberality.

These dictates of Reason, men use to call by the name of Laws; but improperly: for they are but Conclusions, or Theoremes concerning what conduceth to the conservation and defence of themselves; whereas Law properly is the word of him, that by right hath command over others. But yet if we consider the same Theoremes, as delivered in the word of God, that by right commandeth all things; then are they properly called Lawes, as

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6 judgment on the sense, MS; judgement on the sense, H, B
25 Liberality, MS; liberality, and the like MS
30 properly called Lawes, MS; lawes properly so called, MS

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Legum Naturalium Scientia, vera & sola Ethica est. Ethica autem alia non est, praeter Scientiam carum rerum quaer eadem res in Congressibus & Societate hominum, bona vel male sunt. Bona autem & Male dicuntur eaem res ad diversae hominibus, propter hominum Appetitus, Aveereiones, Consuetudines & Doctrinas diversae diversas; & quandoque ab eodem homine, propter mutationem Voluntatis eadem res modò bona modò mala appellatur.


Dictamina haec Rationis nomen quidem obtinuere Legum; sed impri- 
priam dictarium. Sunt enim de iis rebus quaer ad Conservationem hominum conductum tantum Theoremata. Lex autem propriè dicta, est Vex Imperan-
tis, vel prolata, vel scripta, ita ut omnes qui obedire tenentur, sciunt vocem ejus esse.

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1 Scientia, vera & sola, S. 68, 76
25 athes reu. S. 68, 70
26 consistit; consistat 70
16; sed] esse 70

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8 = social behaviour (GED, 'conversation', 1-2, 4, 6).
9 = intermediate state (GED, 'mediocrity', s., 1, b).
10 Hobbes prejudicially summarises Aristotle, Nicomachean Ethics, II.6-7 (1106b33-1107b21).
Of Persons, Authors, and Things Personated.

A PERSON, is he, "whose words or actions are considered, either as his own, or as representing the words or actions of an other man, or of any other thing to whom they are attributed, whether truly or by Fiction." When they are considered as his owne, then is he called a NATURALL Person; And when they are considered as representing the words and actions of an other, then is he a FEIGNED or ARTIFICIAL Person.

The Word Person, ancient.

"The Word Person is Latin: indeed whereas the Greeks have προσωπον, which signifies the Face, as Persona in latine signifies the disguise, or outward appearance of a man, counterfeited on the Stage; and sometimes more particularly that part of it, which disguiseth the face, as a Mask or Visard: And from the Stage, hath been translated to any Representor of speech and action, as well in Tribunals, as Theaters. So that a Person, is the same that an Actor is, both on the Stage and in common Conversation; and to Personate, is to Act, or Represent himself, or an other; and he that acteth another, is said to bear his Person, or act in his name; in which sense Cicero useth it where he saith, 'Unus sustineo tres Personas; Mei, Adversarii, & Judicis, I bear three Persons; my own, my Adversaries, and the Judges;' and is called [81] in diverse occasions, diversely; as a Representor, or Representative, a Lieutenant, a Vicar, an Attorney, a Deputy, a Proceedings, or an Actor, and the like.

Of Person Artificial, some have their words and actions Owned by those whom they represent. And then the Person is the Actor; and he that owneth his words and actions, is the Author: In which case, he may act under the Authority of him that owns his Peace, and in latine Dominus, 'in Greeke κύρος;' speaking of Actions, is called Author. And as the Right of possession, is called Dominion; so the Right of doing any Action, is called Authority. So that by Authority, is alwayes understood a Right to do any act: and done by Authority, done by Commission, or Licence from him whose right it is.


Verba & Facta Repraesentantium, ab eis quos Repraesentant aliquando pro suis agnoscentur; tunc autem Repraesentans Actor, Repraesentatus Author dicitur, ut cujus authoritye Actor agit. Qui autem in quaestione de Bonis & Possessionibus, Dominus; in quaestione de Verbis & Actionibus, Author appellatur. Et ut Ius habendi, Dominium, ita Ius agendi, Authoritas dicitur.

and author, who does things in his own or another's name.
1 The Greeks call a person προσωπον, which means the natural face of a man. But 'person' is very frequently applied by the Latins to an artificial face, which is also called a mask, as used by actors in theaters. From the theater it has been transferred (but without the mask) to the law-courts; so that 'person,' both in the theater and in the court, means the same as 'actor,' and a man is said to bear or carry the person of someone, when he acts a part—even without a mask—in anyone's presence.
2 The Greeks call a person προσωπον, which means the natural face of a man. But 'person' is very frequently applied by the Latins to an artificial face, which is also called a mask, as used by actors in theaters. From the theater it has been transferred (but without the mask) to the law-courts; so that 'person,' both in the theater and in the court, means the same as 'actor,' and a man is said to bear or carry the person of someone, when he acts a part—even without a mask—in anyone's presence.
3 [he] a man MS; 7 they are (in MS) added by THI MS [Greek] Greco MS
4 Stage, at [MS] [age added by THI MS] [Abson] Author, Action, Authority, MS
5 marg. om. MS [moved to pencill mark] 27 called Author, called (in MS) added by THI MS
6 Authority, Authority (and sometimes warrant added by THI MS)
From hence it followeth, that when the Actor maketh a Covenant by Authority, he bindeth thereby the Author, no lesse than if he had made it himself; and no lesse subiecteth him to all the consequences of the same. And therefore all that hath been said formerly, (Chap. 14. 15) of the nature of Covenants between man and man in their natural capacity, is true also when they are made by their Actors, Representers, or Procurators, that have authority from them, so far forth as is in their Commission, but no farther.

And therefore he that maketh a Covenant with the Actor, or Representor, not knowing the Authority he hath, doth it at his own peril. For no man is obliged by a Covenant, whereof he is not Author; nor consequently by a Covenant made against, or beside the Authority he gave.

When the Actor doth any thing against the Law of Nature by command of the Author, if he be obliged by former Covenant to obey him, not he, but the Author breaketh the Law of Nature: for though the Action be against the Law of Nature; yet it is not his: but contrariwise, to refuse to do it, is against the Law of Nature, that forbiddeth breach of Covenant.

And he that maketh a Covenant with the Author, by mediation of the Actor, not knowing what Authority he hath, but only takes his word; in case such Authority be not manifest unto him, upon demand, is no longer obliged: For the Covenant made with the Author, is not valid, without his Counter-assurance. But if he that so Covenanteth, knew before hand he was to expect no other assurance, than the Actors word; then is the Covenant valid, because the Actor in this case maketh himself the Author. And therefore, as when the Authority is evident, the Covenant obligeth the Author, not the Actor; so when the Authority is feigned, it obligeth the Actor alone; there being no Author but himself.

There are few things, that are incapable of being represented by Fiction. Inanimate things, as a Church, an Hospital, a Bridge, may be personated by a Rector, Master, or Overseer. But things Inanimate, cannot be Authors, nor therefore give Authority to their Actors: Yet the Actors may have Authority to procure their maintenance, [82] given them by those that are Owners, or Governours of those things. And therefore, such things cannot be Personated, before there be some state of Civill Government. 
Likewise Children, "Fooles, and Mad-men that have no use of Reason, may be Personated by Guardians, or Curators; but can be no Authors (during that time) of any action done by them, longer then (when they shall recover the use of Reason) they shall judge the same reasonable. Yet during the Folly, he that hath right of governing them, may give Authority to the Guardian. But this again has no place but in a State Civill, because before such estate, there is no Dominion of Persons. An Idol, or meer Figment of the brain, may be Personated, as were the Gods of the Heathen; which by such Officers as the State appointed, were Personated, and held Possessions, and other Goods, and Rights, which men from time to time dedicated, and consecrate unto them. But Idols cannot be Authors: for an Idol is nothing. The Authority proceeded from the State: and therefore before introduction of Civill Government, the Gods of the Heathen could not be Personated.

The true God may be Personated. As he was; first, by Moses; who governed the Israelites, (that were not his, but Gods people,) not in his own name, with Hoc dicit Moses; but in Gods Name, with Hoc dicit Dominus. Secondly, by the Son of man, his own Son, our Blessed Saviour Jesus Christ, that came to reduce the Jewes, and induce all Nations into the Kingdome of his Father; not as of himselfe, but as sent from his Father. And thirdly, by the Holy Ghost, or Comforter, speaking, and working in the Apostles: which Holy Ghost, was a Comforter that came not of himselfe; but was sent, and proceeded from them both.

A Multitude of men, are made One Person, when they are by one man, or one Person, Represented; so that it be done with the consent of every one of that Multitude in particular. For it is the Unity of the Representers, not the Unity of the Represented, that maketh the Person One. And it is the Representers that bear the Person, and not one Person. And Unity, cannot otherwise be understood in Multitude.

23 both] both [in the day of Penticost added by TH] MS

4 = guardians (OED. 'curator', 1) 5 Cor & 4
6 Exod. 32: 29: 'hac dicatt Dominam' (Vulgi: 'Thys word the Lord').
9 = lead back, bring back (OED, 'reduce', s.v. 2)
16 Hobbes cites (with one significant change: 'hath sanctified' for 'sanctified') the Catechism from the service of Confirmation in the 1559 Book of Common Prayer; his Latin version is his own translation of the English, not the Latin version published in 1560.
12 Cf. John 14: 26: 'But the Comforter, which is the Holy Ghost, whom the Father will send in my name.' ; in Hobbes affirms here (though perhaps a more limited sense of 'proceeded') the doctrine of the Western Churches on the dual procession of the Holy Spirit from both the Father and the Son.
And because the Multitude naturally is not One, but Many; they cannot be understood for one; but many Authors, of every thing their Representative saith, or doth in their name, Every man giving their common Representative, Authority from himselfe in particular; and owning all the actions the Representers doth, in case they give him Authority without stint: Otherwise, when they limit him in what, and how farre he shall represent them, none of them owneth more, than they gave him commission to Act.

And if the Representative consist of many men, the voice of the greater number, must be considered as the voice of them all. For if the lesser number pronounce (for example) in the Affirmative, and the greater in the Negative, 'there will be Negatives more than [82] enough to destroy the Affirmatives; and thereby the excess of Negatives, standing uncontradicted, are the only voice the Representative hath.

And a Representative of even number, especially when the number is not great, whereby the contradictory voices are oftentimes equal, is therefore oftentimes mute, and incapable of Action. Yet in some cases contradictory voices equal in number, may determine a question; as in condemning, or absolving, equality of votes, even in that they condemn not, do absolve; but not on the contrary condemn, in that they absolve not. For when a Cause is heard; not to condemn, is to absolve; but on the contrary, to say that not absolving, is condemning, is not true. The like it is in a deliberation of executing presently, or deferring till another time: For when the voices are equal, the not decreeing Execution, is a decree of Dilation.

Or if the number be odd, as three, or more, (men, or assemblies;) whereof every one has by a Negative Voice, authority to take away the effect of all the Affirmative Voices of the rest, This number is no Representative; because by the diversity of Opinions, and Interests of men, it becomes oftentimes, and in cases of the greatest consequence, a mute Person, and unapt, as for many things else, so for the government of a Multitude, especially in time of Warre.

Quoniam autem Multitudo Naturaliter non Unum aliqulod, sed Multi sunt; non Unus, sed Multi, nempe Singuli, Authores sunt eorum quae dicit vel facit Actor, qui est Persona ipsos Representans. Unusquisque enim eorum communi Actori suo Authoritatem tribuit suam. Sin Authoritas finita sit quae tribuitur, Author quisque est illarum solummodo Actionum quae in Mandatis continentur.

Si Actor, seu Persona non sit Unus homo, sed Caetes hominem, tunc Vox parthis Majoris accipienda est pro Voce Personae. Nam si Pars Minor prorsus (exempli causâ) Affirmativa, Majoris Negativa, Voces Negativae abundantes, ut quibus non contradicetur, Personae, id est, Omnium Vox est; Nam aliqui (contra Naturam) Persona Mutat esset.

Si Persona Representans ex pluribus constet numero paribus, praesertim parvo, continget saepemenque (Negationibus & Affirmationibus) Personam fieri Mutam & proinde inutilem, & Agendi incapacem. Potest tamen fieri ut Voces contradictoriae, cademque aequales numero, quaestionem determinent; ut [83] in Accusationibus, eo ipso Reum absolvunt quod condemnare eum propter voces aequales non possunt; at contra non absolvere, non est condemnare. Idem continget liberandiibus utrum aliqua statim faciendum sit, an in aliud tempus deferendum. Eo enim quod praesentem executionem non decernunt, decernunt dilationem.

Porro, si numerus impar sit, ut tres, vel plures; siquidem vox unitis tolleret voces reliquorum contradictorias, numerus ille Persona non esset, propter diversitatem opinionum & appetitus in rebus multis & maximi momenti. Muta enim esset & ad Agendum inepta.
Of Authors there be two sorts. The first simply so called; which I have before defined to be him, that oweneth the Action of another simply. The second is he, that oweneth an Action, or Covenant of another conditionally; that is to say, he undertaketh to do it, if the other doth it not, at, or before a certain time. And these Authors conditionall, are generally called suretyes, in Latine Fidejussores, and Sponsores; and particularly for Debt, Praedes; and for Appearance before a Judge, or Magistrate, Vades. 

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Authorum duo sunt genera. Sunt enim alii simpliciter Authorum; de quibus modo dictum est. Alii conditionali sunt tarnen; ut qui Pactum praestare in se recipit, si is qui Pactum est, ante constitutum diem non praestiterit. Atque hi, quamquam Fidei habentae Authorum sunt, alii tamen nominibus pro variis Actionum generibus vocantur, ut Fidejussores, Sponsores, Praedes, Vades.

Cap. 16 DE HOMINE

Hobbes's use of these Roman Law terms is correct; all referred to people who stood bail or surety for others. The 'sponsore' was a surety restricted to Roman citizens and to stipulations; the 'fidejusso' was a surety open to everyone and used in the widest sense; 'praedes' and 'vades' stood bail for the appearance of a party in court, while the term 'praedes' was also used for sureties in state contracts.