

Some Chapters touching
the Law of Nature

/fol. 41r/

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By the late Lord Cheif Justice Hale
and copied From his owne Writing
Lent to Sir Robert Southwell
by his Grand Son Mathew Hale
of Lincolns-Inn Esquire 1693



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CHAPTER 1^a

Touching the Nature of Law in Generall.

Being now about to write some what concerning the Law of Nature, it may be convenient to premise some what concerning Law in generall wherein as also in the subsequent Discourses I shall neither bind my self to the Sentiments of other Men that have written touching this Subject, nor to those forms of expressions^b that others have used, nor to their method or order of Writing. But shall follow my own thoughts and conceptions and render them under such termes and expressions as I shall think sufficient to give an Account of my thoughts, and render^c them legible and Intelligible though^d perchance not in the Phrases or the appropriate^e words of the Philosophers, School-Men Divines, or Philologers;^f And since words and Phrases are but a sort of Institutions chosen or agreed upon to signify things or Notions, I shall take the Liberty to be Master of my Words and use such as I think fitt and sufficient to be the Image of my thoughts, without being solicitous of Useing those Modes, or obliging my self to the strict Rules or artificiall^g Termes now or formerly in fashion among many Learned Men;

^aChapter 1] *em.* | Caput primum. ^bexpressions] *B1, B2* | expressions *B3* ^crender] *B1, B2* | <to> render *B3* ^dthough] *em.* | thought *B1* | thô *B2* | though *B3* ^eappropriate] *em.* | appropriate ^fPhilologers:] *B1, B3* | *Philogors: B2* ^gartificiall] *em.* | artificiall

A Law therefore I take to be a Rule of Morall /fol. 42v/ Actions given to a being endued with understanding and will; by him that hath power or authority to give the same, and to^a exact obedience thereunto, *per modum imperii* [by way of authority], commanding or forbidding such actions under some penalty express'd or implicite contain'd in such Law;¹

I have chosen this Long Discription of a^b law because it takes in most of the severall Ingredients necessary to be consider'd in the Notion of a Law.

[I. Law is a Rule]

First^c I call it a Rule; this is the generall terme, under which I describe a Law: but yet singly in it selfe it is too large and comprehensive and extends to such Rules as are not properly Laws, and therefore I have subjoin'd those restrictive differences that confine the Generallity of it, to the formall or proper Notion of a^d Law;

Almost in all kind of Naturall^e and Artificiall Actions there are certaine pre-script Rules, which are but directions to attaine certain Ends propos'd to those Actions which yet are not properly & strictly Laws; the Grammarian hath his Rules of Words, and their Composition into Sentences; the Rhetorician hath^f his Rules of Expression, perswation^g and gesture; the^h Logician hath his Rules, forⁱ Argumentation; the Physician hath his Rules for administring Physick and prescribing Diet and the Patient in order to the^j attaining of his health is under the Direction of those Rules, nay every Mechanicall /fol. 43r/ Art or Operation hath its Rules whereby the Artifice is to be effected and without the due observance

^aand to] and <to> B1 | and B2, B3 ^ba] om. B2 ^cFirst] B1, B2 | <I.> First B3 ^da] om. B3 ^eNaturall] [?][? <Naturall> ^fhath] [?][? <hath> ^gperswation] and perswasion B2 | persuasion B3 ^hthe] <the> ⁱfor] B1, B3 | of B2 ^jthe] om. B2

1. Cf. Hale's early description of law in relation to obligation:

In respect of *Obligation*; for there can be nothing imaginably Unjust, without these two considerations, *viz.*

1. A law commanding or forbidding a thing under a pain: whatsoever falls not within the command or Prohibition is permitted, and cannot be unjust.

2. A power to exact an Obedience to that Law, and to inflict the punishment that follows upon the breach of this Law. Otherwise the Law were ridiculous and vain. (*Discourse*, 22–23)

of those Rules none of these can well attaine their Ends: But yet these come not under the strict Denomination of Laws, thô in respect of their Analogy there unto they are often so call'd; The Physician prescribes a Rule of Diet to his sick Patient, and tells him that if he observe it not, his sickness will increase, and probably become Mortall; And the Patient obediently observes this^a direction, and the Opinion he hath of the skill & fidelity of his Physician, the Love and desire of health, the incommodity and painfulness of Sicknes, and the fear of Death are strong & forcible and powerfull Motives of his Observance; but all this while the prescription of the Physician is not his Law, for it is a rule indeed, but not *iuncta cum imperio* [conjoined with authority],² he will dye perchance, if he observe^b it not but^c the Physician hath no authority to exact his observance under any Penalty to be inflicted by him, or by his Authority but only to withdraw himself, and^d leave his unruey Patient to taste and undergoe the fruite^e and inconvenience of his own^f wilfullness;

And upon this account if Atheisticall Persons could as they would exterminate the great God of Heaven from having to do in this World; That which they call Reason, & the Law of Reason would be indeed a Rule but not truely & Formally a Law;³ For let us suppose any one^g Man to be of the most exquisite Reason That human Nature is /fol. 43v/ capable of, and^h hath that Reason chalked out to him the just Endⁱ and exquisite Measure and Order of all his Morall Actions in order there unto yet this Rule of Reason would not be a Law to him,^j *per modum imperii et sub ratione legis* [by way of authority and under the aspect of law]; for he could bee under no obligation to observe this Rule of Reason, but only to himself; and therefore may absolve himself by the Liberty of his will, from observing^k of that Rule and from all Obligations^l to it; As he is Lord of himselfe,^m

^athis] B1, B2 | his B3 ^bobserve] B1, B2 | observes B3 ^cbut] em. | by B1 | But B2 | but B3 ^dand] B1, B3 | or B2 ^efruite] [-?] fruite ^fown] om. B2 ^gone] om. B2 ^hand] B1, B2 | and <that he> B3 ⁱEnd] em. | Ended B1 | end B2, B3 ^jhim,] him, unless there were some Superior that gave this Rule to him B2, B3 ^kobserving] B1, B3 | the observing B2 ^lObligations] obligation B2, B3 ^mhimselfe,] em. | himsefe,

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2. Cf. Suárez, *De legibus*, 1.1.1, 1.5.24–25; John Selden, *De jure naturali & gentium, juxta disciplinam Ebraeorum, libri septem* (London: Richard Bishop, 1640), 92–93.
 3. Cf. Suárez, *De legibus*, 2.5.6–7. Contrast Grotius, *De jure belli ac pacis*, Prol. 11.

so he would be Lord of that Rule, which they call the Law of Reason, and keep it or break it at his pleasure without giving account thereof to any but himself; for thô he remain a reasonable Creature and is well acquainted with the Rule of his reason, yet he remaines still^a a free and voluntary Agent, and as to the exercise of his actions and^b is Lord still of himselfe^c and them;

And what is said of the Rule of Reason of a single Man, the same will be if that Rule of reason were as to perfect^d exercise thereof universally and equally and uniformly comunicated to all Mankind; if once we seclude^e the Supream Legislator out of the World with Epicurists and Atheists this Rule of reason will not, cannot be a Law, what is said of one Man will be said of any, of every Man he will not be under the Law of Reason, as truely a Law, because he may absolve himself^f from any Obligation to any thing whereof he is Lord.^g And tho perchance /fol. 44r/ Feare of other superinducted Lawes and Government, mutuall pactions and such like, may^h give an external and adventitious coercion to him to observe those Common Rules of Reason by which such Lawes are superinducted, and in conformity whereunto they are made; yett still the Rule of Reason simply consider'd (excluding the authority of the Supream Legislator) would stilⁱ be without the true formall Nature of a Law, because thô it were an excellent Rule, yet it would induce no Obligation upon him that hath it but he might use, or not use it^j at his pleasure, if he can but deliver himself from the Difficultys of other external supervenient Government^k Lawes or Penaltys either by Secrecy or Power.

So that every Rule, nay the best of human Rules,^l the Rule of Reason it self consider'd abstractively^m from any superiour authority, is not a Law, or a Rule *iuncta cum imperio*; But of this more hereafter.

^astill] *om. B2* ^band] *om. B3* ^chimselfe] *em.* | himsefe ^dperfect] the perfect *B2, B3* ^eseclude] [~~ex~~seclude *B1* | seclude *B2* | preclude *B3* ^fhimself] *B1, B2* | himself *B3* ^gLord.] Lord[.] ^hmay] *om. B2* ⁱstil] *B1, B2* | stitt *B3* ^jit] *em.* | it is *B1* | it *B2, B3* ^kGovernment] *om. B3* ^lRules,] *em.* | Rules; ^mabstractively] *B1, B2* | abstractedly *B3*

[II. Law is a Rule of Moral Actions]

2. It is a Rule of Actions Morall, some Actions, especially of the^a human Nature are simply Naturall that have no Influx of the will; nor any spontaneity in them, but are perform'd without the immediate Concurrence of either; thus the hart beats, the Blood Circulates the Meat when once received in the stomach is Digested and distributed, These and the like Actions are not properly the Subject of this Law whereof we speak, Indeed there is something Analogicall to a Law by which these actions that are simply Naturall /fol. 44v/ are govern'd, namely the wise disposition and order that the great God of Heaven and Earth hath substituted in things and which appear's in things inanimate, as well as Animall;^b thus the Elementary Bodyes act according to the prevalence of active qualities, heavy things descend, vegetables are nourish'd grow and increase according to that preinstituted^c order^d that the Divine wisdom hath settl'd which we ordinarily call the Law of Nature,

And to this Law indeed the vital and natural actions in Man are subject but this as it is not properly a law so it is not that Law where^e we are speaking but of this more hereafter;

Again 2. There^f be some actions that are mixt partly naturall & partly voluntary, or at least spontaneous; And such are most of the spontaneous actions that are subservient to, and flow from the Animall life in Man *quô talis*^g [in such a kind] which are in a great measure common to the human and animal Nature; The condition of our animall Nature makes it natural for us to eat^h and Drink and sleep and the like because other wise our individuall Nature could not be suport'd, the Desires of Sexes are Naturall because otherwise our Species could not be preserved; It is naturall for us to preserve our selves from the injurys of the weather & to defend our selves from other Injuries but the tymeing of those Elections,ⁱ the Measure the Manner the Order the degrees of those actions, are subject to our Choice and Election; I can eat now or forbear for a while, I can eat thus much or of this kind, and forbear the rest, and so in other things; /fol. 45r/

^athe] <the> ^bAnimall;] B1, B3 | things Animall: B2 ^cpreinstituted] *em.* | prestituted B1, B2 | preinstituted B3 ^dorder] *em.* | order. ^ewhere] whereof B2, B3 ^f2. There] B1, B2 | 2. There B3 ^g*quô talis*] *quâ talis* B2, B3 ^heat] *em.* | act B1 | Eat B2 | eat B3 ⁱElections.] B1, B2 | elections <actions>, B3

Now althô these spontaneous actions belonging to the Animall life are in a great measure common to the human and brutall^a Nature, yet there is this difference universally between them, that^b thô those are in a great measure even spontaneous in the Brutes and other animals, yet they are under the Regiment only of their Phantasy^c & naturall appetite.⁴ But in Men they are in a great measure under the Regiment of a superiour faculty, namely the understanding and will, and therefore they are not only naturall and spontaneous as in Bruits, and directed to a natural end and use: But they are also voluntary & under the Regiment of that governing facultie in Man namely his will and that will, thô not commanded by his Reason yet enlighten'd^d and directed by it.

And by this Power or Facultie those spontaneous actions of the animall life which in Brutes became^e almost necessary yett in Man are in a greate Measure arbitrary or voluntary, at least as to the times seasons degrees Measure order and other Circumstances accompanying their exertions; And^f in this respect these mixt^g actions thô they come not under a Law properly so call'd in Brutes, yet in Men they are the proper subject of a true and formall Law: Sobriety, Chastity Temperance Moderation of Pasion and many more morall vertues being to be exercis'd about these^h animal actions of the human Nature because thô the actions themselves are such as belong to the Province of the animall life in him, yet the Circumstances and Modification;ⁱ /fol. 45v/ thereof are under the Regiment of the superiour facultys of the Rational Nature, namely understanding^j & will, and consequently the Subject of a Law properly so call'd; for thô the actions themselves are in their kind Naturall, yet the Modifications and Circumstances thereof render them Moral and capable to be^k under the Sanction of a Law in Man;

Again 3. There^l be some actions that are purely and simply morall, and such as can only concerne the reasonable or Intellectuall Nature, and are imediately & simply Directed to the concernes of a rationally life; such are^m those that either

^abrutall] *em.* | brutuall ^bthat] *B1, B2* | ~~that~~ *B3* ^cPhantasy] Phant<a>sy ^dinlighten'd] *B1, B2* | <is> enlight<e>ned *B3* ^ebecame] becau<s>me *B1* | became *B2* | beca<o>me *B3* ^fAnd] *B1, B2* | ~~And~~ *B3* ^gmixt] *om. B3* ^hthese] *B1, B3* | the *B2* ⁱModification;] modifications *B2, B3* ^junderstanding] *B1, B2* | <the> Understanding *B3* ^kto be] of being <to be> ^lAgain 3. There] And 3: There *B2* | Again, 3: There *B3* ^msuch are] *B1, B3* | And such *B2*

4. *OED*, s.v. *phantasy*, def. 1a: "Mental apprehension of an object of perception; the faculty by which this is performed."

are^a relative to Almighty God; as the Love fear and obedience of his Commands Sincerity Integrity and worship of Him, or such as concern directly humane Society, as Justice and Equity Charity, Friendship, Benificence, Longanimity, Veracity and the various offices of human Society, and these and^b like, are, called Actions Morall, and come under the commanding and the contrary under the prohibiting Sanction of a Law properly so^c called;

[III. Law is Given]

3. This Law is to be given by which I intend these two things. 1.^d The institution or application of the Law to the persons or things for which it is intended 2. The promulgation of that Law to the persons whom it is intended to oblige: This^e promulgation of a Law^f is not of one kind only but different in its manner.^g Thus in some Laws the promulgation thereof is by Printing or Publick inscription thereof in Tables or upon Pillars, in some by^h Proclamation /fol. 46r/ as was inⁱ others by constant and known^j Usage; And we shall find^k that among the Laws of Almighty God himself, there were^l various kinds of promulgations of his Laws, some were Delivered by an audible voice from Sinai with Thunder, some were immediately received by Moses, and by him declared to the People; And as we shall have occasion^m hereafter to instance the Natural Law whereof we Treat was secretly insinuated and ingraven in the mind and conscience, yet so that stil voice, thatⁿ silent promulgation is as real and true^o promulgation, as if it had been given by the Trumpet of Sinai, and the voice of Thunder.

^aeither are] are Either B2 | are either are B3 ^band] B1, B2 | and the B3 ^cproperly so] B1, B3 | so properly B2 ^d1.] B1, B3 | First B2 ^epromulgation ... This] B1, B2 | <promulgation of that law to the persons whom it is intended to oblige. This> B3 ^fa Law] the Law B2 | a law <which> B3 ^gmanner.] manner[.] ^hby] <by> ⁱwas in] was by B2 | <it> was in B3 ^jknown] em. | know B1 | knowne B2 | known B3 ^kfind] B1, B2 | <find,> B3 ^lwere] B1, B2 | are B3 ^moccasion] em. | accasion ⁿstil voice, that] B1, B2 | <this> still voice, that <this> B3 ^otrue] true a B2, B3

[IV. Law is Given to Rational Nature]

4. The Person^a for whom it is institut'd are Natures indued with understanding and will; And these Natures are for ought we know only the Angelicall and human Nature;

The understanding^b faculty is requisite, because without it the Law^c cannot be knowne as a^d Law, and the will, and consequently the intrinsick Liberty thereof is required, because other wise it cannot^e be obeyed as a Law, neither can the obedience or disobedience thereof reasonably be attended with their reward, or punishment^f properly so called, For if we shall suppose the Subject to whom such Law is given to be already necessarily^g determined, (I^h say necessarily) to observe the tenor of what is commanded as a Law the Law is needless, ifⁱ he be necessarily determin'd /fol. 46v/ to the contrary, the Law would be unreasonable because impossible to be observed, and it were unreasonable to exact a punishment by the Sanction of a Law from one that were under an invincible intrinsick necessity to disobey it, or not to obey it; It is requisite therefore that the *subjectum cui* [subject to whom], the person or being to whom a Law properly and formally so called is given should have a liberty *ad oppositum*^j [to the opposite] at least intrinsick and connaturall to him which is that we call will;⁵

It is true, that the true stating of the libertie of the will what it is wherein it consist whither^k it be determined intrinsically by the Judgment or Decision of the understanding what kind of Liberty of will the glorious Angels^l or Glorified Soules have or shall have who are yet capable of a Law are enquiry's that at this time are not pertinent to my purpose, That which I designe, is, the disquisition touching Laws as they relate to those Natures, with which we are acquainted;

^aPerson] persons B2, B3 ^bunderstanding] *em.* | understanding, ^cwithout it the Law] B1, B3 | the Law without it B2 ^da] <a> ^ecannot] *em.* | cannot ^freward, or punishment] B1, B3 | Rewards or punishments B2 ^gnecessarily] *em.* | necessary B1 | necessarily B2, B3 ^h(I] *em.* | [(I] ⁱif] B1, B2 | <&> if B3 ^j*ad oppositum*] and *oppositum* B2 | and <option> *oppositum* B3 ^kconsist whither] consist w<h>ither B1 | consists: whither B2 | consists, whether B3 ^lAngels] *em.* | Angles

5. The faculties of understanding and will are treated at greater length in *Discourse*, 45–60; and *Primitive*, 54–64. See also *Pleas*, 1:14–15; and *Works*, 1:385.

And althô possibly it may be true, that in the true method and actings of the reasonable Soul, and in its proper and orderly Motion the will being a reasonable faculty, should follow the decision of the understanding, and possibly the understanding and will are not so much two distinct facultys, but rather the will, is the last Act of the Soul in things practicall, and as it were the Consummation of the Act of the practical understanding yet it is certain we find in our selves a power to suspend the /fol. 47r/ decision of the understanding &^a some times we act contrary to it, *video Meliora deteriora sequor* [I see the better, I follow the worse].⁶ Soe that there is some kind of^b regent power in the human Nature, that is free *opposita*^c [to opposites], which we call the will and the Liberty and Dominion thereof, where in^d the Soul exerciseth, whereby a Man hath within himself a Dominion over what he doth, thô it be *regnum sub graviore regno* [a dominion under a greater dominion], namely the Determining and Commanding Power of God;

And upon this account it is, that the Brutal or bare Animal Nature, is not a proper Subject of a^e Law properly so called, for thô the Animal Nature hath in its Constitution a kind of inferiour Shadow or Analogy to the rational Nature (his Phantasy carries something [analogical to intellect and his Appetite something] analogical to will and his Spontaneity something analogical to Liberty)^f yet certain it is that he hath not the very facultys or prerogative of intellection, will or Liberty; But is more rigorously determin'd in and to the Actions of an Animal life which seem to have som spontaneity then the human Nature, is even in relation to Actions of the same kind.

^a&] [?] & ^bof] B1, B2 | <of> B3 ^c*opposita*] and *opposita* B2 | *ad opposita* B3 ^dwhere in] B1, B2 | <which> wherein B3 ^ea] *om.* B2 ^f(his ... Liberty)] (his phantasy carries something analogicall to intellect, and his Apetite something analogicall to Will and his spontaneity some thing analogicall to Liberty) B2 |, his phantasy carries<ying> something analogical to intellect, and his appetite something analogical to will, and his spontaneity something analogical to liberty; B3. Ed. note: text from B2 and B3 supplied in brackets.

6. Ovid, *Metamorphoses*, 7.20: “video meliora proboque, deteriora sequor.” This saying was associated with Romans 7:14–28 and cited by seventeenth-century moral philosophers. See Norman S. Fiering, “Will and Intellect in the New England Mind,” *William and Mary Quarterly* 29, no. 4 (1972): 515–58, at 527–29.

[V. The Lawgiver]

5. I mention the Author of a Law: and under this part of the Description above given of a Law, there are these things implied or expressed.

1. That for the Constitution of a Law^a truly & properly so called, there^b must be an Author thereof, as a legislator.^c

2. That the person that is the Law-giver^d *Nomothetes*⁷ must be distinct from the Person, to whom it is given, or that is to be obliged by it;

And the reason is plaine because there doth & must /fol. 47v/ necessarily by every Law truly and formerly^e so called, arise an Obligation from the Party to whom the Law is given unto the Party by whom it is given to observe and perform it otherwise it is but a nominal Law and not a real or true Law: And in all obligacions,^f because it is a terme of Relation, there must be *correlata*^g [correlates]: No Man can oblige himself simply to him self for he cannot from^h himself exact an obedience to himself; But is absolved at his owne Pleasure;

It is true, in the Case of human Laws and Constitutions a Legislator may be constituted by the Persons, who are to be afterwardsⁱ obliged by that authority that he himself either wholly, or at least as one of^j Community transfers to that Person, as these^k Persons to whom this Nomothetical Power is thus Transacted;^l And therefore if we should suppose the new erection either of a^m Kingly or Aristocratical or Democratical Government, by the pactionⁿ or stipulation of any Society or Community of Men; by this paction if I am one of that Community I do together with the rest transfer to this Government a Power to oblige me by the Laws which such^o Governors shall make.

^athere are these ... Law] *B1, B2* | <there are these things implied or expressed. 1. That for the constitution of a law> *BR3* ^bthere] *B1, B2* | <(1.)> ¶<T>here *B3* ^clegislator.] legislator[.] ^dLaw-giver] Law giver or *B2* | lawgiver or *B3* ^eformerly] *B1, B2* | properly *B3* ^fobligacions,] obligation *B2, B3* ^g*correlata*] *em.* | *corrolata B1, B2* | *correlata B3* ^hfrom] *em.* | form *B1* | from *B2, B3* ⁱto be afterwards] *B1, B3* | afterwards to be *B2* ^jof] of the *B2, B3* ^kas these] *B1, B2* | as these <or those> *B3* ^lTransacted;] *B1, B2* | transacted <entrusted>. *B3* ^ma] *om. B3* ⁿpaction] *B1, B2* | partition <paction> *B3* ^owhich such] *B1, B3* | which *B2*

7. *OED*, s.v. *nomothetes*: “In ancient Greece: a lawgiver; a legislator (now hist.)” From νομος (law) and τιθέναι (to put, place).

And *per circuitum* [by circumlocution] it^a may be said, I oblige my self by my owne Laws, that is by such Laws which my Governour hath made by a Power derived from my self at least as one of the Community;

But there are in this two things to be observed /fol. 48r/ which salve the difficulty, for 1. Tho the Legislator may in some cases have an authority in their first Constitution partly derived from me, yet here are distinction of Persons the legislator is one and I that am obliged am another Person and between us there may arise an Obligation. But 2. this is not all he that rests here, rests before he comes at his Journys End.^b By the pact^c and stipulation that is made whereby the Government is transfered to another person, or Company of Men I have given my faith to that Person or Society that I will obey them and their Laws; And this faith I am bound to keep, not only by an Obligation between me and the Party, to whom it is given, for then if I could avoid his coercion, I may loosen my self again.^d But I am obliged hereunto by a more souveraigne and uncontroleable Law, the Law of Almighty God who hath given this Law, to, me and to all mankind^e that *fides est servanda* [faith must be kept], and till God himself shall cancell that Obligacion which I owe thereby to Almighty God, I cannot deliver my self from the Obligation that I have given by my faith to my Governors;⁸ And this is the great foundation of the Obligacion of all civil contracts made between Man and Man and the root of all Civil Government *fides est servanda* which is the uncontroleable Law of the Souveraigne Lord of Heaven and Earth.^f

And this Consideration salves that common mistake, that some Casuists have taken up⁹ even upon this very Consideration, /fol. 48v/ who because a Man cannot oblige him self to himself, have thought that no legislator is bound by his own Laws; and this is true in two Cases. 1. When the Laws in themselves, and in their matter concern not the Legislator, but the Community or some of them. 2. When the absolute power of making Laws^h is solely and simply in that

^ait] *em.* | in *B1* | it *B2, B3* ^bEnd.] End[.] ^cpact] *em.* | part *B1, B2* | pact *B3* ^dagain.] again[.] ^emankind] *em.* | mahkind ^fand Earth.] *em.* | and Eearth. *B1* | and Earth. *B2* | *om. B3* ⁹up] <up> *B1* | up *B2, B3* ^hLaws] *B1, B3* | of Lawes *B2*

8. Cf. Selden, *De jure naturali*, 46, 93–94, 107; Grotius, *De jure belli ac pacis*, Prol. 15.

Legislator, for then he may retract his Law when & how he please, and so may set himself lose even from those Laws that otherwise might for the matter have concerned himself;

But in other Cases of human Law's and human legislators according to the various Constitutions^a of Government and the various pacts and contracts, that either at first or in Proces of time intervned between the Governors and Governed, it may fall out that the Governor^b not only civilly, but by the Law of God himself may be bound by his own Law's because the Governors in such cases are bound under that sovereign Law of *fides servanda* as well as the Govern'd, if such pactions can sufficiently appear either by the pacts themselves or by long usage interpretatively evidencing them.^c They are under the directive Obligation of their own Laws and sometimes under the protectors and rulers thereof thò according to the Constitution of such Government they may not be under any externall coercion to inforce their observance of them but this is not the present business.^d

And now if any shall object that in Commonwealths /fol. 49r/ purely Popular, and where the Nomotheticall power is lodged in the whole Community there the same Persons^e oblige themselves by their own Laws, I say 1.^f That the Community consider'd as a Community is a distinct thing from the particular Persons that are the integrals of that Community and so the Law-giver is not the same with the Persons obliged to the Law, but there may be a separate Obligation from every particular Person of that Community to the aggregate Body of the Community; as any, yea every free-man of London personally and individually consider'd may be bound in a bond to the Mayor & Comonalty. 2.^g Still there is this^h Further to be remember'd that every particular Person of the Commonalty having bound themselves by the faith, or paction to obey the Laws of that Commonalty there lyes a higher and another Obligation upon the perticular Persons to observe their faith namely the Sovereign Law of God that saith *fides est servanda* so long as the Commonalty continues, and the matter of that stipulation is not alter'd.ⁱ And so as^j there is a distance^k of Persons civilly consider'd between the Commonalty

^a Constitutions] Constitution B2 | constitution B3 ^bGovernor] B1, B2 | governors B3
^cthem.] in them. B1 | them. B2 | them, B3 ^dbusiness.] business[.] ^ePersons] Person<s>
 B1 | persons B2, B3 ^f1.] First B2 | <1.> first B3 ^gComonalty. 2.] Commonalty, or bound
 by the Lawes of the Mayor and Commonalty 2^{ly} B2 | commonalty or bound by the lawes
 of the mayor and commonalty. 2. B3 ^hthis] om. B3 ⁱalter'd.] alter'd[.] ^jas] B1, B2 |
 <thus,> as B3 ^kdistance] B1, B2 | distance <difference> B3

and every particular Person there^a naturally consider'd which may sustain the relation of an Obligation so there is a Third Person, (with humility be it spoken) the Glorious God of Heaven, whose Law requires the observance of the faith as well of the Community, as of every particular Person; /fol. 49v/

And as^b this is so in Matters relating to Lawes and Government, so there is the very same Obligation of Contracts between Man and Man.

Titius promiseth Gaius a Sum of Money for his goods if Titius were bound to himself only by his promise, he were loose if he please, if he were only bound to Gaius, if Gaius had^c no power to exact the performance of his Obligation, it were fruitless and nothing;^d But here lyes the strength^e of the Obligation by the Divine Law of Almighty God, that saith *fides est servanda*. Titius is bound to the Sovereigne Power of Almighty God: And all thô a kind of intervenient right of propriety happens between Titius and Gaius by this promise; And therefore Gaius may change the matter of it by releasing that Obligation, yet so long as that Obligation continues not so releas'd the Contract, stands under the Signature and Law of Almighty God, who in the voice of Nature hath proclaimed this Law^f to be observed by all Men, *fides est servanda*; And under^g the Obligation of that Law, Titius demands as long as the matter of^h his promise stands unalter'd by the consent of Gaius.

3. The third thing observable in this particular of the Author is the necessary qualification of the author of Law; namely authority to give, and power to exact obedience to such Law.

For the former of these namely Nomothetical Authority isⁱ of two kinds, Natural or Civil, The Naturall Authority, Nomotheticall is again of two kinds /fol. 50r/ either absolute or limited.

That Nomothetical^j Authority that is absolute, ariseth from the absolute dependance of one thing upon another, both as to^k Being and to preservation or

^a Person there] person thereof B2 | thereof B3 ^bas] B1, B2 | <as> B3 ^chad] B1, B2 | have B3 ^dnothing;] [?] <nothing>; B1 | nothing: B2 | nothing. B3 ^estrength] em. | strength ^fLaw] <Law> ^gunder] B1, B2 | [?]der <under> B3 ^hthat Law ... of] <that Law, Titius demands as long as the matter of> B1 | that Law Titius remains so long as the matter of B2 | that law Titius remains so long as the matter of B3 ⁱis] B1, B2 | <it is B3 ^jThat Nomothetical] em. | That Nomothetical B1 | That Nomothetical B2 | 1. That nomothetical B3 ^kto] <to>

support in such a case, the^a being upon which any thing hath such an absolute dependance, must needs have naturally a plenitude and absoluteness of power of imposing, a Law upon such dependent being because he is absolute Lord thereof; And upon this account the Great God of heaven and earth, & only he, hath naturally the sovereign and absolute Authority of giving a Law to any created Being for all things have their original Being and their preservation [from Him, and their dependance upon Him; And therefore he is most Absolute Lord Governor and proprietor of all things,]^b and consequently hath most naturally a just Authority independant upon any one Creature, to give that a Law to which he not^c only gave, but continues a Being.^d

If it were possible to conceive, that any thing had a Being from Almighty God, but having once obtain'd it could preserve it self in that being by its own power it might abate somewhat of the plenitude of the naturall Nomotheticall Authority of Almighty God: But all things are essentially depending upon him, both for their origination and preservation: And he is therefore the most absolute Lord and Proprietor and Governor of all things in Heaven and Earth, Angels^e and Men, and not only their Lord and Creator but also their bountifull Benefactor and filleth every thing according to their severall Capacitys with goodness so that upon all accounts by the greatest justice and reason Imaginable and by the very nature of things he hath the most absolute Nomotheticall^f Authority to give Law to his Creatures of all kinds, and they do /fol. 50v/ most naturally owe an universal^g Obedience to him;

^athe] That *B2* | that *B3* ^bhave their original ... things,] *em.* | <have their original Being and their preservation [*MS. trimmed*] > *B1* | have their original Being and their preservation from Him, and their dependance upon Him; / And therefore he is most Absolute Lord Governor and proprietor of all things, *B2* | have their original being and their preservation from him and their dependance upon him; and therefore he is most absolute Lord governor and proprietor of all things, *B3*. Ed. note: the insertion in *B1* was written perpendicularly in the margin at the edge of the page, which was subsequently trimmed, resulting in partial loss of text. The missing text, which is now unverifiable from *B1*, but presumably available to the copyist of *B2*, has been supplied from *B2* in the bracketed portion. ^cto which he not] to which he <not> *B1* | to which he hath not *B2* | which he not *B3* ^dBeing.] *B*[?]g Being. ^eAngels] Ange<e>ls ^fNomotheticall] *em.* | Nemotheticall ^gdo most ... an universal] *B1, B3* | most naturally owe an *B2*

And as his^a Authority to give Law's to his Creature^b is most Just and Naturall and Universall so his power to exact obedience to those Law's is plenary and sufficient it being infinite and boundless;

1.^c That other Natural authority which I call limited is the Parental power which Certainly till the necessity of Civill Authority was superinduced upon it, was very large yet limited, not only by Civil Constitution, and Government superinduced, but even in its owne Nature;

This Parental Nomotheticall Authority is therefore natural, first^d because the Child subordinately unto the Divine causality^e and influence, had his being from his Parents, especially the Father, or at least the chief active Instrument under God of his generation 2. Because during Minority the Child hath a great dependance upon the care and provision of the Parent.

But yet it is a limited authority, 1. By Nature,^f because the Child owes more of his being and Preservation to Almighty God, then he can possible owe^g to his Parents, and therefore the Parental^h Nomothetical Authority is naturally subordinate to the Nomotheticall authority of Almighty God, and controllable by it. 2. because after a competent Age, the Child hath a less dependance upon his Parent, then in his infancyⁱ for suport and^j Gradually the Parentall /fol. 51r/ Authority Nomotheticall doth decline, and by emancipation after a compleat Age, seems to decay;

Again it is limited Civily by superinduced Civill Government which in all ages and places hath much abridged^k that parentall authority which naturally he had before instituted civil Government. And according to degrees of parentall Nomothetical authority such are the Degrees of the parental Executive Power limited and restrain'd upon the same account that the nomotheticall parental Power is limited or abridged.^l And thus far concerning the Natural authority Nomotheticall and the Executive Power in order thereunto;

^aas his] *B1, B2* | as to his *B3* ^bCreature] *B1, B2* | creatures *B3* ^c1.] 1st. *B2* | 2. *B3* ^dfirst] *B1, B2* | <1.> first; *B3* ^ecausality] causal<i>ity *B1* | Causality *B2* | casualty <causality> *B3* ^f1. By Nature,] first by nature *B2* | [[?]] By <by> nature: <1.> *B3* ^gowe] owne ^hParental] *B1, B3* | paternal *B2* ⁱinfancy] <in>fancy ^jand] And so *B2* | and so *B3* ^kabridged] a[?] ged <abridged> ^labridged.] abridged[.]

As touching the Civil authority nomothetical and the Executive power in order thereunto, I need not say much, it is the subject of infinite Political Discourses,⁹

Only thus much the means of acquisition of the legislative authority^a are various, sometimes it is acquir'd by descent, sometimes by Investitive Ordination from another that hath it,^b some times by victory or conquest some times by Pact and Convension between the Governors^c & Govern'd and that either in the first institution of that Government or by succeeding Conventions or Concessions or Capitulation^d between the Governors and Governed;

It is hard to find any Conquest so absolute but as to the Modification of the Legislative authority there is something of convention or agreement which directs or qualifies that authority either by pactions interveneing between the Conquer'd and Conquerors, or upon dedition¹⁰ or subsequent Capitulations or even among the victors themselves where /fol. 51v/ the very Army or Officers modell or moderate or order their futur Government^e by pactions among themselves;

And upon this Account it comes to pass that the Nomotheticall Authority is variously modified in several States and Kingdomes and in the same States or Kingdomes variously in severall seasons in some Kingdomes it seems to be more absolutely settled in the Prince alone, in some it is placed in the Prince with the Assent of the Nobility, or optimates, in some there is also necessary the^g Assent of the People, or their Delegates; in some the Legislative Authority is lodged in one Society, as in Rome, in the Senate and the Executive power in others as in the Consuls, in som both the Legislative Authority and the Executive Power is^h lodg'd in the same Person;

And thus among Men the Legislative Authority is variously modelledⁱ according to various Customes pactions and Concessions and Capitulations.

^a authority] *om.* B2 ^b sometimes ... hath it,] <sometimes by Investitive Ordination from another that hath it, > B1 | Sometimes by investiture Ordination from another that hath it: B2 | sometimes by investiture <or> ordination from another that hath it: B3 ^c Governors] B1, B2 | governor B3 ^d Capitulation] Capitulations B2 | capitulations B3 ^e future Government] *em.* | futer Government B1 | future Governments B2 | future governments B3 ^f or] B1, B2 | and B3 ^g the] *om.* B3 ^h is] B1, B2 | is <are> B3 ⁱ modelled] B1, B3 | modified B2

9. For Hale's views on sovereignty, see *Dialogue*, 506–13; and Cromartie, *Hale*, 42–57, 102–3.

10. *OED*, s.v. *dedition*: “Giving up, yielding, surrender.”

And thus far touching that which I call Authority Nomotheticall which is nothing else but a Just Right of making Laws to oblige others whether^a that right be acquired *iure naturae* [by right of nature], or *Iure civili* [by civil right], or^b *Iure belli* [by right of war] which is partly a civil right introduced upon necessity to avoid worse inconveniences: This is that which the Greeks call ἐξουσία^c or authority,¹¹ *Ius ferendi leges* [the right of legislating] which is essentially necessary to the due Constitution of a^d Law.

Customary Law's introduced by long usage do obtain the force of Law's thô their original or first perfection from the legislative authority be not extant upon two /fol. 52r/ accounts^e both consonant to what is deliver'd. 1. Because by long usage they carry a presumption of their origination and profectio^f ¹² at first from the Just legislative authority of him or them that at first had it. 2. Because the long Usage carries with it not only the Consent of the Community that is bound by it but also of the legislative authority that tacitely consents to it, and so thô it hath not the formality of other instituted Laws, yet in^g it hath the Substance and Equivalence of an institution by the Legislative Authority, I mean in relation^h to Civill Laws;¹³

But besides this ἐξουσίαⁱ or *authoritas*^j *Nomothetica* [legislative authority] which is essentiall to the due Constitution of a Law, so to the due Execution of a Law there is required Power that which the Greeks call δύναμις.¹⁴

^a whether] w(h)ether ^b or] <or> B1 | or B2, B3 ^c ἐξουσία] *em.* | ἐχουσία B1 | *Eξousia* B2 | ΕΞΟΥΣΙΑ B3 ^d a] B1, B2 | the B3 ^e accounts] *Ed. note: the catchword on fol. 51v has 'accounts' but fol. 52r has 'account'.* ^f profectio] perfection B2 | protection <promanation> B3 ^g in] B1, B3 | *om.* B2 ^h relation] *em.* | realiation ⁱ ἐξουσία] *em.* | *Exousia* B1, B2 | ΕΞΟΥΣΙΑ B3 ^j *authoritas*] B1, B2 | *authoritas* B3

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11. *DLGT*, s.v. *exousia* (ἐξουσία): “the freedom or right to act, choose, or decide; thus, ability, authority, or power.”
 12. *OED*, s.v. *profection*, def. 1: “The setting forward or promotion of a person or thing; furtherance, advancement. *Obs.*”
 13. Cf. *History*, 16–17.
 14. *DLGT*, s.v. *dynamis* (δύναμις): “power; in philosophy, the power to accomplish change, i.e., potency.”

This alone is not^a sufficient without the former, for the Constitution of a Law for there may be a Power over a Man inforcing him to do a thing which nevertheless doth not truly obtain the right of a Law, as when a Man falls into the hands of a Company of Robbers or riotous Persons that are too strong for him.

Neither doth the absence of this power or force alway's invalidate the Efficacy of a Law, for a Prince or State having a lawfull authority may make a Law that is obliging to his Subjects, when yett by reason of some Emergency as of a sudden commotion^b or rebellion or tumult, the Executive Power of that prince or state is suspended.

But this δυνάμις power to execute the Laws when made is necessary to be some where as to the^c End & Efficacy of a Law which without it will be dead and ineffectuall^d to the end^e of its institution; /fol. 52v/

And thus far concerning the Qualification of the Law giver.

[VI. The Empire of Law]

6. I have in the Discription of a Law said, that it is not simply a Rule, but *regula Juncta cum imperio* [a rule conjoined with authority] where by it is distinguish'd^f from a bare^g Rule of direction and from a bare counsel or advice, But of this enough before; And this Empire of a Law consist^h commonly in these two branches of commands & prohibitions according to the various Objects of either for as to that of permission or *Lex permissiva*ⁱ [permissive law], it is nothing else but an omission of any thing out of a law at least as to some Circumstances of Person time or place which leaves the thing indifferent or free to be don or omitted, till that indifferency be determin'd by some human Law;

^anot] <not> ^bcommotion] *em.* | Commotion ^cas to the] *B1, B2* | as to <to the> *B3*
^dineffectuall] *em.* | in Effectuall ^eend] Ends *B2* | ends *B3* ^fdistinguish'd] distinguish'd
^gbare] *em.* | bear ^hconsist] consists *B2, B3* ⁱpermissiva] *em.* | *promissiva B1, B2* | *permissiva B3*

[VII. The Sanction of Law]

7. We have this^a Description the Sanction or *sepimentum legis* [the fence of the law]: Namely the penalty or pain of the violation^b of it which is punishment either expressed or determined as in some Law's or left undetermin'd to the *arbitrium^c iudicis* [judgment of the judge] to inflict prudentially under various degrees proportionable to the Circumstances of the Offence or contempt as is^d in other Laws;

Punishments or penaltys either expressly or implicitly annexed to Law's, have three special ends or uses.

First, to be a Satisfaction or Compensation of that debt which is contracted by the violation of the Law: For as we have before shewne, and shall more fully shew in the next Chapter; there is an Obligation in case of every Law truly so caused to the obedience of it, and by the Act of Disobedience there grows a kind of forfeiture to the Governor from the Govern'd, which because what is done by such violation cannot be *infectum* [undone]: thence there^e ariseth a just Exaction of a penalty or Mulet¹⁵ upon the /fol. 53r/ Offender as the compensation or retribution thereof in point of Justice but this I take to be the less principall reason, or end of the penalty^f a broken Law;

Secondly^g the principall end of the Sanction annex'd to a Law is not so much that the penalty may be inflicted as that the Law may be observed and the Penalty avoided. The exacting of the penalty is the thing least intended by every good and wise Legislator.^h But the principal End is thereby to secure the Law from violation by the feare of the Penalty annex'd to it so that the penalty annex'd to the Law is as I before said the Security and *sepimentum Legis*ⁱ [the fence of the law] the Meanes, to keep the Subject in obedience to it and not so much or at least not primarily intended to be the Satisfaction for the disobedience of it;

^athis] in this B2, B3 ^bpenalty ... violation] B1, B3 | pain or violation B2 ^carbitrium] em. | arbitrium B1 | Arbitrium B2 | arbitrium B3 ^dis] om. B2, B3 ^ethere] om. B3 ^fpenalty] B1, B2 | penalty of B3 ^gSecondly] em. | Secoundly ^hLegislator.] Legislator[.] B1 | Legislator: B2 | legislature. B3 ⁱsepimentum Legis] B1, B3 | sepimented Legis, B2

15. OED, s.v. *mulct*, def. 1: "A fine imposed for an offence."

Thirdly, and as thus the Sanction of the Law is principally intended to contain Subjects in their duty, soe the punishment when inflicted is neither purely nor principally for the retribution or satisfaction of the Offence by the party offending but to be exemplary and medicinal to others; And therefore the wise Lawgiver in his injunction of penaltys doth so frequently repeat this Clause, *that all Israel may hear and fear; and do no more so wickedly* [Deut. 13:11].

It is true that these two Ends of punishment doe not answer altogether the institutions^a of everlasting punishment by the great God of Heaven upon the contemptuous^b violators of his Law, as shall in their due time be shewn.

But this everlasting punishment is inflicted upon other accounts 1. As to a Just retribution of the contempt of the Divine Justice and Goodness in respect whereof Almighty God as^c Just Judge, and *per modum vindictae*^d [by way of vengeance] inflicts that /fol. 53v/ everlasting *poena*^e *sensûs* [punishment of the senses] as an instituted^f punishment of their Contempt and willfull rebellion. 2. As a kind of necessary Consequence or Naturall Effect of that ataxy^g and disorder occasioned by it, parting from that^h Station which God Almighty hath ordain'd for the human Nature whereby it comes to pass that by a kind of naturall Consequence they may suffer the *poena*ⁱ *damni* [punishment of the damned], and at least some measure of the *poena*^j *sensûs*, that the damned must suffer;¹⁶

As the^k sickness or feaver^l or Palsy of^m an intemperate Manⁿ is not only the just punishment, but the naturall consequence of that intemperance the Poverty of a sloathfull negligent or profuse Man, is as well the effect as the punishment^o

^ainstitutions] institution B2, B3 ^bcontemptuous] *em.* | comte<u>ptuous ^cas] as a B2 | is a B3 ^dvindictae] *em.* | vindicte B1, B2 | vindictae B3 ^epoena] B1, B2 | penae B3 ^fas an instituted] of an instituted B2 | as an inflicted B3 ^gataxy] *em.* | at. axy ^hthat] B1, B2 | the B3 ⁱpoena] *em.* | pena B1, B2 | poena B3 ^jpoena] *em.* | pena B1, B2 | poena B3 ^kAs the] B1, B2 | <as> /As to the B3 ^lfeaver] *em.* | favor | Feaver B2 | feaver B3 ^mof] B1, B2 | of <to> B3 ⁿMan] *em.* | Man ^opunishment] pu<nish>[?]ment

16. DLGT, s.v. *poena*: “[Protestant scholastics] distinguish eternal punishment into *poena damni*, the punishment of the damned, which is the pain of eternal separation from God, and *poena sensus*, the punishment of the senses, which is the actual torment in body and soul suffered by those who are denied the fellowship of God in eternity.”

of his fault;^a And Death the naturall consequence as well as the punishment of him, that Destroyes himself or rejects the necessary meanes of preserveing life; but of this hereafter;¹⁷

As touching the other incentive of obedience, namely rewards of obedience, thô the bounty and goodness of^b God hath for the most part annext to his Laws as well Rewards of obedience or^c punishments of disobedience as appears both in the Mosaical^d and Evangelical Laws, yet it is not always necessary that express Rewards be annexed to Laws partly because obedience is the duty of every Subject to a just Law, and therefore not^e necessary to be purchased by the annexation of rewards, and partly because every just and wise Law carryes with it self and in it self^f a benefit to those that obey it, or at least to the Community whereof they are members;

And thus much touching the formal nature of Laws and the necessary incidents to their Constitution; I shall /fol. 54r/ subjoin a few words touching^g the Effects of Laws which shall be the Subject of the next Chapter;

^a fault;] fã<u>lt; ^b of] <of> ^c or] B1, B2 | or <as> B3 ^d Mosaical] *em.* | Mosiacle ^e not] <not> ^f with it self and in it self] B1, B3 | in it selfe and with it selfe B2 ^g touching] *em.* | touch B1 | touching B2, B3

17. On ataxy and punishment, see also *Discourse*, 52–53, 83.



CHAPTER 2^a

Touching the Effect of Laws in generall;

The Effects^b of Law's are^c considerable under the two terms of the relation of Law's, namely of^d the part of the Governors; And on the part of the Governed or Subjects;

First on the part of the Governors the Effect of Laws, is, that the Governors do governe their Subjects according to such just Laws as are duely made, so long as they stand in their due force. And yet this doth not exclude the Governor from a prudent relaxation of Penaltys by pardoning Offenders, or mitigating penalties, where the conveniences^e of Government may require or permit it, especially in case of the submission^f and reformation of the Offender;

Secondly, on the part of the Subject, the Effects of Law's^g is, that which we call Obligation: And this is of two kinds 1. An antecedent Obligation; whereby the Subject is bound to obey such Law's as are Justly made. 2. An Obligation secondary or subsequent, whereby the Subject in case of disobedience is obliged to the penalty or sanction of the Law.

As to the former of these, the Antecedent Obligation is that whereby the Subject is intrinsically bound actively to obey what the Law requires him to do, and to forbear to do what the Law Forbids.

^aChapter 2] *em.* | Caput 2^{dum}. ^bEffects] effect *B2, B3* ^care] *B1, B2* | are <is> *B3* ^dof] *B1, B2* | of <on> *B3* ^econveniences] *B1, B3* | convenience *B2* ^fsubmission] *em.* | submission ^gEffects of Law's] *B1, B2* | effect of law *B3*

Now in relation to the Laws of Almighty God, we are /fol. 54v/ to consider two^a things: 1. The formal reason of that Obligation. 2. The reference of this Obligation in the ratiocination of the Creature; the Sence of that Obligation is the Reason of the former of these, namely the intrinsick or formal reason of this Obligation of Obedience to the Laws of Almighty God consist^b in that Naturall and Originall Subjection of the Creature to the will of God, and that essentiall dependance of the Creature upon him both for his being and for his preservation where by he is sovereign & absolute Lord of his Creature by all the right and Justice imaginable.^c

Secondly,^d the nature or reason of the impression of the Sence of this Obligation upon the Creature which seems to be of that^e kind: 1. A connaturall inbred impression upon the human Nature of that dependance it hath upon Almighty God antecedently to any distinct ratiocination or Experimentall Observation,^f not altogether unlike that instinct in the Young Birds or other animalls which together with their^g very Being receive an impression of their dependance upon the Old ones before they have any Experimental Observation of the usefulness of such dependance. 2. An acquired sence of that dependance either by ratiocination^h or by experience where by the Soul is more distinctly inform'd of its owne dependance upon God, of his power, goodness and beneficence,¹ and hereupon

^atwo] [?] two ^bconsist] *em.* consist . *BL1* | consist *B2* | consists *B3* ^cimaginable.] imaginable[.] ^dSecondly,] *em.* | Secounly, ^ethat] *B1, B2* | that <this> *B3* ^fExperimentall Observation,] E<x>perimentall Obsevation, ^gtheir] *B1, B2* | their own *B3* ^hratiocination] ratiocif[?ot]nation

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1. Protestant theologians commonly identified two kinds of knowledge of God—implanted and acquired—with Rom. 1:19–20. See, e.g., Andrew Willet, *Hexapla: that is, A Six-fold Commentarie upon the most Divine Epistle of the Holy Apostle S. Paul to the Romanes* (Cambridge: Cantrell Legge, 1611), 59–60; and Francis Turretin, *Institutes of Elenctic Theology*, 3 vols. (Phillipsburg, NJ: P&R Publishing, 1992–97), 1.3.6. Cf. *DLGT*, s.v. *cognitio*: “Neither the Reformers nor the Protestant scholastics argue the existence of innate ideas in the Platonic sense; instead, they argue the presence in the mind of certain ideas that arise out of the initial encounter of mind and sense with externals. *Cognitio Dei insita*, implanted knowledge of God, and sometimes even the term *cognitio Dei innata*, innate or inborn knowledge of God, indicate neither an unmediated act of God by which knowledge is implanted nor an inward illumination, but rather that fundamental sense of the divine mediated by the created order and known by the mind’s apprehension of externals, rather than by the process of logical deduction.”

all the passions of the mind come in and elevate and improve the Sense of its Obligation to the will of God; fear comes in and gives a Sense of its Obligation in relation to the Divine Justice and Power;^a hope and Love & gratitude /fol. 55r/ come in and Give a^b farther and nobler Sense of its Obligation to obey Almighty God as the greatest Benefactor^c of Mankind;

And all or some of these make up that which we call Obligation in Conscience, as that internall primitive Sense of that Obligation; which the Creature owes to the Law of her Maker.

But in case of human Laws, this Obligation of an active obedience in the Subject to the Laws of his Sovereign is under this limitation so far as the same is not^d repugnant to the Law of God: For it is an Eternall Truth in the contradiction of human Laws to the Law of God, it^e is better to obey God than Man [Acts 5:29] thô the decision of such a contradiction requires great Judgment and integrity in the Subject, for if he err in his Judgment his disobedience is at his peril.

And upon the same reason it is, that even in human Law's made by a subordinate Legislator, whose Laws are subject to controle, or invalidation by a contrary Law of a Supream;^f The active obedience to such subordinate Law, is a^g subordinate as the Law its self. And therefore in the contradiction of the Particular Lawes of a Citty to the Laws of that Kingdome whereof it is a Citty, the active obedience^h of the Law's of the Citty is suspended or discharged by The Contradictory Law of the Kingdome, because as before is said, where the Law is subordinate, the active obedience is and must be with the same subordination.ⁱ /fol. 55v/

But where the human Laws^j is duely made and not contrary or contradictory to a more Sovereign^k Law the Obligation of Obedience by the Subject thereunto is necessary because the Subject either expressly or tacitely hath given his faith so to do, to the observance whereof the Divine Law obligeth.

The consequence whereof is, that althô the immediate Obligation ariseth by the express or tacite paction or stipulation of the Subject, yet that being once supposed, the Supream Law giver of Heaven & Earth hath set his faith^l to it by that Law of his, *fides est servanda*,

^aPower;] Power[;] ^ba] <a> ^cBenefactor] em. | Benefactor ^dnot] om. B2 ^eit] B1, B2 | that it B3 ^fSupream;] B1, B2 | supream <one> B3 ^ga] as B2, B3 ^hobedience] em. | bedience ⁱsubordination.] subordination[.] ^jLaws] Law B2 | law B3 ^kSovereign] em. | Severaign ^lfaith] fiat B2, B3

And therefore as the Ancients have said, that the supream or uppermost Linck of the Chain of Naturall Causes is fasten'd to the Chaire of God so in the Last Contracts between the Governours and Govern'd and between Man and Man, thô the termes of the^a Stipulation be^b such as by Nature are equal, yet the uppermost Linck of that Stipulation is fasten'd to the Throne of the Glorious God; and therefore the violation of that Contract is not only a violation of the Law of Man but of the Law of God himself who hath set his Signature to it^c and requires performance of it,

And hence it is that as^d a Man is bound in conscience to the Law of God in his promises and contracts between Man and Man, so he is bound in conscience to the same Law of God to observe the Laws of his Governours^e that are possibly^f and not contradictory or contrary /fol. 56r/ to the law of God, And this is the true foundation and establishment of all Justice communicative^g and distributive^h of all Government of allⁱ Laws; And they that go about to remove God, or his Providence or his Sovereign Law, even that of nature out of the World, do in a moment dissolve the foundations of all human Government and human Societys and all Justice between Man and Man all which stand bottomed only upon the Sovereign Authority and Law of Almighty God: And without this great Substratum Men of power or bouldness, or subtilty would with as much facility break the Bonds of Government, as Sampson broke his^j withs² or the New Cords with which he was bound [Judg. 16:7].

2. The subsequent Obligation, is, that which is after an Offence committed or supposed against a Law duely made which is an obligation to punishment or a passive subjection to the Sanction of the Law, that is oftentimes called guilt *reatus* or obligation to punishment;

And this guilt or obligation to punishment with respect to the violation of Gods Law is called guilt of Conscience because the Devine Law is that which only either mediately or immediately lays hold upon the Conscience as I shall have occasion at large to declare when I come to the particular discussion of the part of the Divine Law which is called the Law of Nature;

^athe] *om.* B2 ^bbe] B1, B2 | be <between> B3 ^cit] B1, B2 | it B3 ^das] B1, B2 | <as> B3
^eGovernors] Governour B2 | governor B3 ^fpossibly] possible B2, B3 ^gcommunicative] communicat[?]<ive> B1 | communicative B2 | commut[?]<ative> B3 ^hdistributive] B1, B2 | distributive B3 ⁱall] *om.* B3 ^jhis] B1, B2 | the B3

2. *OED*, s.v. *withe*, def. 1a: "A band, tie, or shackle..."

CHAPTER 3^a

Touching the several kinds of Law's.

Laws are distributed, in Relation to the immediate, Author of them into Divine Laws or the Lawes of /fol. 56v/ Almighty God and human Laws, or Law's^b of Men, touching the latter, it is not my purpose to discourse at this time,

Touching the Law's of God or Divine Law's, either they are positive Laws given by the express command of Almighty God to intellectuall Creatures whether Angels or Men or Naturall Laws.

The positive Law's of God are distinguishable in relation to the matter or subject of them, viz. they are such as either command or prohibite somethings that antecedently to such Law had no intrinsick good or evill in them, but stood indifferent to be done or not, and this is properly the Subject of a Divine positive Law: for God Almighty being the Supream Lawgiver and Governor of all things may by a positive Law determine the indifferency of things in their Nature indifferent and by vertue of such command or prohibition they cease to be indifferent^c as they were before, and the reasonable Nature is most Justly obliged to obey such positive institution, and of this kind seems to be the Command or Law given, to the first Man touching the Eating^d of the tree of knowledg of good and evill, As also many of the Levitical and ritual and Judiciall Law's given to the Jews in the

^aChapter 3] *em.* | Caput 3^{um}. ^bLaw's] *B1, B3* | the Lawes *B2* ^cindifferent] <in>different
^dEating] ~~not~~ Eating *B1* | not eating *B2, B3*

Mosaicall dispensation;¹ and perchance the Sacramentall Institutions of Baptism & the Eucharist under the Gospell, which thô they were design'd to a great moral good, yett simply considered in themselves their institution seems to be positive;

Again some times the positive Law of God hath for its Object or matter some-things that are either commanded or prohibited by an antecedent Naturall right by the /fol. 57r/ intrinsick good or evill of such things. Thus Almighty God did as it were re-enact by^a a positive Law the Naturall Law contained in the Decalogue; And this positive Law of God hath in respect of the Naturall Law thus given these Effects, First it is a more explicite publication of that Naturall Law which obliged before; Secondly it superadds a further Obligation to those to whom such Law is soe given, and consequently inhanceth^b the crime and guilt of their disobedience because in such case disobedience is as it were *crimen duplicatum* [a double crime] being committed against^c a double Obligation, namely that of the Divine Law of Nature, and that of positive Law^d of God superadded thereunto, & this was the Case of the Jewes to whom the Natural Law contained in the two Tables, was,^e as it were positively re-enacted by that new promulgation thereof upon Mount Sinai;²

But the Consideration of the positive Law of God is not my business at this time, and therefore I shall say no more concerning it. The Divine naturall Law or the Law commonly call'd the Law of nature,^f hath a Double acceptation.

First, more large and comprehensive as it imports that Order of the Universe, or of the severall parts thereof, instituted by Almighty God, and his most wise powerfull^g and soveraigne will, whereby the Works of Nature are directed, ordered and governed to their severall Ends regularly and with great Constancy and Uniformity suitable to their kinds and Natures; /fol. 57v/

^are-enact by] re-enact[?] <by> ^binhanceth] *em.* | inhaunceth ^cagainst] [?]t <against>
^dLaw] Law Law ^ewas,] *B1, B3* | were *B2* ^fnature,] *M[?]* <nature>, ^gpowerfull]
power full

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1. Cf. *Discourse*, 156–57, 441–42.
 2. Cf. *Discourse*, 436–40.

And thus the orderly motion of the Celestial Bodys, their Influences and Causalities^a the Mutual Contemperation and actions of the Elementary Bodys and their qualities the Method of Naturall generations in things animate & inanimate the qualities and instincts and operations of vegetables and Animalls and the whole Order Chain and Consecution^b of Naturall Causes and Effects, all these came^c under that Rule and Law which is comprehensively called the Law of Nature which^d is nothing else but that most admirable order & method which [the Divine Will hath with admirable]^e wisdom instituted and with admirable power preserv'd and maintain'd the^f Universe, and the severall parts thereof, as I have else where at large declared;³

Secondly, but^g the more limited and proper Law of Nature is that which Almighty God hath given unto settled and fixed in the Natures of intellecte^hd Creatures wether Angelsⁱ or Men.

And it is called the Law of Nature, not as if Nature were the Author of it, for Nature properly consider'd is not any real Efficient, but is the Effect, Law or order that the supream^j intellectual being hath instituted or ordered in things but it is therefore called the Law of Nature or a Natural Law, because as in Animalls Plants, and other things, their instincts Order or^k Rule is^l connaturall to them by the wise institution of Almighty God, so this Law that I now speak of is connaturall to the intellectuall Nature implanted^m and /fol. 58r/ characteriz'd in it, by the wise Lord of Heaven and Earth in such Manner as shall beⁿ hereafter declared.

^aCausalities] Casualtyes B2 | casualties B3 ^bConsecution] B1, B3 | Constitution B2
^ccame] B1, B2 | come B3 ^dwhich] B1, B2 | which <& B3 ^eorder & ... admirable]
<order & method which [MS. trimmed]> B1 | Order and Method which the Divine Will hath
with admirable B2 | order and method, which the divine will hath with admirable B3. Ed.
note: the insertion in B1 was written perpendicularly in the margin at the edge of the page,
which was subsequently trimmed, resulting in partial loss of text. The missing text has
been supplied from B2 in the bracketed portion. ^fthe] in the B2, B3 ^gSecondly, but] B1,
B2 | <But> Secondly but B3 ^hintellecte] intellectuall B2 | intellectual B3 ⁱAngels] em.
| Angles ^jsupream] em. | spreame ^kor] and B2, B3 ^lis] B1, B2 | is <are> B3 ^mim-
planted] em. | implainted ⁿshall be] em. | shall [be] B1 | shall be B2, B3

3. Cf. *Primitive*, passim; *Discourse*, 33–37.

Touching the Law of Nature^a connaturall to the Angelicall Nature, we cannot determine any thing, we are not acquainted with their Natures or^b frame thereof;^c And therefore I apply my self to that Law of Nature which we suppose to belong^d to the human Nature; And here in I shall indeavour in^e what follows^f to give a description of that Law to shew what is its Author, its object, the Manner of its Communication to the human Nature.^g I shall also shew, that it is properly a Law, what its force is, what the kinds and at least some of the Principle^h *Capita Legis Naturae* [heads of the law of nature], And shall shew that really and truly thatⁱ is such a Law comon to the humane nature: and shall herein follow that method that seems to me most naturall and proper for the Explication^j and Declarition of this Argument.

^a[Law of Nature] *em.* | [[Law] of Nature *B1* | Law of Nature *B2* | law of nature *B3* ^bor] or <the> *B2* | or the *B3* ^cthereof;] there<of>; ^dbelong] b<e>long ^ein] *om.* *B2* ^ffollows] *em.* | fellows ^gNature.] Nature[.] ^hPrinciple] Principles, *B2* | principte<al> *B3* ⁱthat] *B1, B2* | that <it> *B3* ^jExplication] *em.* | E<x>plication

CHAPTER 4^a

Touching the Discription of the Law of Nature in Man and whence^b it is to be Gathered;

He that goes about to evince any thing or supposition to be most^c of necessity in the first Place, sets^d down what that thing or supposition is, which he intends to prove, that it may be understood what it is he contends for, it would therefore be a vain endeavour to prove there is such a thing as the Law of Nature in the human Nature or given to it, unless we first give^e intelligible Explication what that Law of Nature is; /fol. 58v/

And therefor to bring this question to its proper state, we are to consider, that the human Nature hath something in it, that is common to other things, as wel as it,^f & something that is proper specifical and appropriate^g to him as constituted in *specie humana* [human kind].

As to the former he^h consists partly of a Bodily Substance, as well as things inanimate: And therefore is subject to those Law's of Nature that Bodys of that kind are subject to, itⁱ cannot be in severall places at once, it^j moves downwards as other heavy Bodys doe; again he is *Corpus vivens* [a living body] or *animatum* [ensouled], and therein participates with the Laws that are common to the vegetable Nature, he concocts, grows, Again he is *Corpus animatum sensibile* [a

^aChapter 4] *em.* | Caput 4^{um}. ^bwhence] *B1, B2* | when <whence> *B3* ^cmost] *must B2, B3* ^dsets] *sett B2* | set *B3* ^egive] *give some B2, B3* ^fit,] *B1, B2* | it<self,> *B3* ^gappropriate] *approp<v>iate* ^hhe] *B1, B2* | he <man [?men]-the-human-nature> *B3* ⁱit] *B1, B2* | It <He> *B3* ^jit] *B1, B2* | it <he> *B3*

sensible ensouled body], and therefore if there be due application of the Object to the Organ he sees, hears feels, tastes as other Animalls do, and is subject to those Laws of sensation that animalls are subject to^a if the distance be too great, or the Organ hurt, sensation is impeded: These Laws, therefore, thô naturall to Man yet are not the Subject of this Enquiry: For they concern him not under the specifick nature of Man: and the will hath not to do in them taken simply and precisively in themselves: But those Laws of Nature that we enquire after in the human Nature are such as^b concern him in the complement & specifick Constitution of the human Nature as he is a reasonable Creature, and endued with understanding and will.

It is therefore that Law that^c we inquire of, that relate to those actions that come under the Dominion of his will, and these we call Morall Actions. /fol. 59r/

And it will not be material whither those actions may be possibly terminated in that which concerns the Animal or vegetable life, or no, for as hath been observed^d before, those very actions may be, and for the most part^e are under the dominion of the will, and^f considerable part of the morall actions of the human Nature are such as terminate in the actions belonging to the vegetable^g or sensitive Nature: If I eat my Meat is digested and distributed without the Concurrence of the Empyre of my will but my Act of Eating is spontaneous and under the Regiment of my will.^h If I open my Eye-lid, my Eye does see by the Laws of Sensation without the Concurrence of my will, but the opening of my Eyelids is spontaneous and under theⁱ Regiment and Empyre of my will.

These Natural Laws therefore that we enquire after in the human Nature as^j such Laws that concerne a^k Man in the complement of his specifick Nature, that concerns him as an intellectuall and voluntary Agent; and that concerne those actions of the human Nature that^l are under the Dominion and regiment of the will, and these are call'd truely and properly Moral Actions.

^athose Laws ... to] <those Laws of sensation that animalls are subject to> B1 | those Lawes of sensation that Animals are subject to: B2 | those lawes of sensation, that animals are subject to. B3 ^b as] as [??] ^c that] om. B2 ^d observed] em. | obseved ^e part] B1, B2 | <part> B3 ^f and] and a B2, B3 ^g vegetable] em. | vegetabe ^h will.] will[.] ⁱ opening ... under the] <opening of my Eyelids is spontaneous and under the> B1 | opening of my Eye Lids is spontaneous and under the B2 | opening of my eye lids is spontaneous, and under the B3 ^j as] are B2, B3 ^k a] em. | a a ^l that] B1, B2 | that <which> B3

This Natural Law therefore^a may be thus described.

It is the Law of Almighty God given by him to Man with his Nature discovering the morall good and moral evill of Moral Actions, commanding the former, and forbidding the latter by the secret voice or dictate of his implanted nature, his reason, and his conscience: And now to pursue the method propounded, I shall endeavour to shew first, what those Laws are that are thus given: Secondly^b that these Laws are given to Mankind by Almighty God and that not only as Rules / fol. 59v/ of direction, but as^c obliging Law's: 3. The Manner how they are given; 4. The End for which they are given; 5. I shall consider the Objections Against it.

Touching the first of these namely what the Laws of Nature are.

That there are Laws of Morall righteousness planted in the human Nature, is a Truth confessed by most Men: if we look into the Sacred Scripture we shall find the same soundly evinced by the Apostle, Rom. Chapt: 1. and 2. *per totum* [throughout].^d If we are minded to here the Learned amonge the Heathen Plato, Aristotle, Seneca Tully and others do assert and prove it, and generally the Stoicks whose *communes notitiae* [common notions] and anticipations,^e are no other then severall Expressions of this Naturall^f Law of God given to Man and inscribed in his heart [Rom. 2:14–15].^{g 1}

But^h those Learned Observing Philosophers altho theyⁱ here and there mention some few of these common notions, yet none have proceeded so farr as to give us a perfect Catalogue thereof; And those moderne writers that have attempted

^atherefore] <therefore> B1 | therefore B2, B3 ^bSecondly] *em.* | Secondly B1 | Secondly B2 | <(2.)> Secondly B3 ^cbut as] *em.* | [but] as B1 | but as B2, B3 ^d*per totum.*] *per totum*[.] ^eanticipations,] *Anticipationes* B2 | *anticipationes* B3 ^fNaturall] *om.* B2 ^gheart.] heart[.] ^hBut] B1, B2 | But <although> B3 ⁱaltho] altho they B2 | altho they B3

1. Protestant theologians generally followed Philip Melanchthon (1497–1560) in identifying Stoic common notions or preconceptions with the law written on the heart (Rom. 2:14–15). See Philip Melanchthon, *Loci communes rerum theologicarum* (1521), in *Opera quae supersunt omnia*, ed. C. G. Bretschneider and H. E. Bindseil, vol. 21 (Braunschweig: C. A. Schwetschke, 1854), cols. 116–17; ET: *Commonplaces: Loci Communes 1521*, trans. Christian Preus (St. Louis: Concordia, 2014), 62; John Calvin, *Commentary on the Epistle of Paul the Apostle to the Romans*, trans. John Owen (Edinburgh: Calvin Translation Society, 1849), 96–97; and Willet, *Commentarie upon ... Romanes*, 117–18.

it^a have either rested in very few and those very generall, and those that have attempted to give them more particularly and explicately, have but made up certaine Conclusions finely^b spun by Speculation, which either the generality of Mankind can never expect to undergo, and nor never^c did they come into their minds, and with the same labour and subtilty that they have spun out these they might deduce a thousand more equally evident or inevident with those they have enumerated, And therefore thô it may be true that the consequences /fol. 60r/ and deductions that may be made by reason may be ramifications of the Law of Nature, yet possibly it may be heard^d to conclude that all those Deductions and Inferences are that Law of Nature which was intended for the common Rule or Law of Mankind; because thô they may be truths, yet every Man is not capable of that perspicacity to follow Consequences so far, But all thô it be difficult to set the uttermost bounds of the common Law of Nature, as it was intended to be common, to Mankind, yet we may reasonably think that those remoter Consequences and Conclusions were not intended as the common Rule for all Mankind, but at most for such that having their facultys exercised, were able to follow the clew² of reason to such a Degree.

Others again have shrunk up the Laws of Nature into a very narrow Compass and have made in^e effect self preservation the only Cardinal Law of human Nature, and all these rules or consecaryes^{f,3} that they have observed to be conducible to that Cardinal Law, or deducible from it, they conclude to be so many ramifications of that grand Naturall Law:⁴ wherein their mistake hath happend by this meanes; That whereas, the Naturall Laws of mankind are of that excelent

^ait] *em.* | it. ^bfinely] *B1, B3* | fairely *B2* ^cand nor never] *B1, B2* | nor never *B3* ^dheard] hard *B2, B3* ^ein] *B1, B3* | it in *B2* ^fconsecaryes] *B1, B2* | **consecaryes** <consequences> *B3*

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2. *OED*, s.v. *clew*, def. 3a: “A ball of thread, which in various mythological or legendary narratives (esp. that of Theseus in the Cretan Labyrinth) is mentioned as the means of ‘threading’ a way through a labyrinth or maze; hence, in many more or less figurative applications: that which guides through a maze, perplexity, difficulty, intricate investigation, etc.”
 3. *OED*, s.v. *consecary*, def. a: “A consequence, deduction, conclusion, corollary.”
 4. Cf. Hobbes, *De cive*, 1.7; *Leviathan*, 14.1–3.

frame, that consequentially they produce the Good of every individuall, thò besides that to many other excellent Ends they have improvidently singled out this one, as the only Governing Law of Nature which is no other, but one of those excellent Effects that this excellent Law produceth /fol. 60v/ and therefore they are too parsimonious:^a if a Man should conclude, that because Architecture is a notable Effect or Product of Geometry, therefore the building of houses should take up the whole Compass, designed^b End and Use of that Art;

[*Media* of Natural Law]

The difficulty therefore^c of giving a Catalogue of the Laws of Nature, depends upon this difficulty, what *Media* are proper to be used for the settling of this Enquiry and the great variety and discrepancy that possibly^d may happen in, and among the particulars that shall occur in those *media*.

And touching this Enquiry, these things ought to be remembered;

1. That there is a great difference to be observed in the Enquiry, touching the matter, kind and number of these things which we call the Law of Nature and the discovery of them, what they are, and that Enquiry, that is touching the reason and ground and Principle of their Obligation as Laws; As to the former of these, we shall and must make use of the Experience and Observation of the Usages of severall Nations in severall ages, & under severall Governments, especially of these that are Civiliz'd and the *moratiores*^e [more civilized] of Nations the Sentiments of the more wise considerate Men in all times, the institution of Laws of wise-Lawgivers the Suffrage of reason and the Conclusions thereof, the voice of the Naturall Conscience in Men, And out of these particulars, and by an^f induction there upon to^g collect those Common Sentiments, which we have reason to beleive are the Matter of those Natural Law's; But any of /fol. 61r/ those, or all these put together, do not give us the true ground or formall reason of that Obligation where by they become properly Laws of Nature; for

^aparsimonious:] parsimonious[:] B1 | parsimonious B2 | parsimonious, as B3 ^bdesigned] designe B2 | design B3 ^ctherefore] [?] <therefore> ^d<and the great ... possibly> <and the great variety and discrepancy that possibly> B1 | and the great variety and discrepancy that possibly B2 | and the great variety and discrepancy, that possibly B3 ^e*moratiores*] *em.* | *moraliores* B1 | *Moraliores* B2 | *moratiores* B3 ^fan] *om.* B2 ^gto] B1, B2 | to B3

this is to be refered to a higher Original as hath been observed and will be further manifested, namely the soveraigne^a authority of Almighty God, enacting these as Laws to the Children of Men and by that effectuall promulgation, inscription^b thereof in the^c minds of Men in such way as shall be farther^d illustrated in the ensuing Discourse;

2. That to give some tolerable *Elenchus Caputum Legis Naturalis* [list of the heads of the natural law], one single *medium* is hardly sufficient, but^e must be evidenced by Consonancy^f and Concurrence of severall instances concentrating in the same Common Sentiments or Notions;

And thò it be true, that Divine Revelation might be sufficient of it self for this Discovery, yet there is^g some Considerations, that in the state of Divine Revelation as it stands exhibited to mankind, seems^h not of it self to answer fully this Enquiry.

1. Because Divine Revelation as such and manifestly appearing to be such, hath not been communicated in that amplitude answerable to the extent of Mankind in all Ages and places; For althòⁱ I do not doubt; but that^j Spirit of God, that did strive with the Men of the old world, Gen. 6:3.^k that exhibits itself as a light to every Man that comes in the World; Joh. 1:9.^l that even in the Gentile world^m hath in all Ages producedⁿ eminent Men^o for the reducing of Men to naturall Religion and morality^p doth still by secret ways unknown to us secretly, move Mankind to wayes of piety and Morality, yet that standing Revelation of the Holy Scriptures hath not^q been freely commu- /fol. 61v/ nicated to the Gentile world, til these last sixteen hundred yeares: 2. Because thò there^r are certaine Indications of the Naturall Law, and discrimination of them^s from positive Laws in the^t Holy Scriptures which a considerate and attentive Reader may observe by comparing of the several Places of Scripture, yet the Holy Scripture doth in no place expressly distinguish them by saying this is a Law of Nature, this is a positive Law, neither was it needfull it should, because whether the Laws were

^asoveraigne] *em.* | soveraigne ^binscription] *B1, B2* | <& inscription *B3* ^cin the] *em.* | [in] the *B1* | the *B2* | <in> the *B3* ^dfarther] *B1, B2* | further *B3* ^ebut] *B1, B2* | but <it> *B3* ^fConsonancy] a Constasy *B2* | a consonancy *B3* ^gis] *B1, B2* | is <are> *B3* ^hseems] *B1, B2* | <it> seems *B3* ⁱFor althò] *em.* | For althò. ^jthat] the *B2* | <that the> *B3* ^kGen. 6:3.] *em.* | gen. 6.3. *B1* | Gen: 6.3 *B2* | Gen. <c.> 6. <v.> 3. *B3* ^lJoh. 1:9.] *em.* | joh. [1:9] *B1* | Joh: 9 *B2* | Joh. <c.> 9. *B3* ^mworld] wor<d> ⁿproduced] *B1, B3* | hath produced *B2* ^oMen] *em.* | Man *B1* | Men *B2* | men *B3* ^pmorallity] *em.* | mortallity *B1* | Morality *B2* | morality, *B3* ^qnot] *om. B2* ^rthere] [?] there ^sthem] *B1, B2* | them <it> *B3* ^tthe] *om. B2*

positive or naturall in respect of their matter, yet being given by the Sovereign^a Law-giver, they were to be obeyed by those to whom they were given, and for the time they were continued, For the Sovereigne Command of God is sufficient obligation to all Creaturs to obedience without distinction of naturall or positive, 3. That the^b Laws of Nature with all the helps we have for their discovery, cannot be certainly and definitively^c enumerated in their uttermost extent partly by reason of mixture of the Laws that are naturall, with^d Laws that are positive, wither of God or Man partly^e by reason of the prevalence of corrupt Education & Custom's among Men, partly, by reason of the great variety of Circumstances which Accompany moral actions which strangly diversify the application of the Generall Laws which we may suppose naturall whereby those that perchance subscribe to the same more universall^f Laws of Nature, yet are contradictory in their Conclusions touching particular Morall Actions.

And partly^g because of the Multitude of those particular Elations^h ⁵ or Conclusions whichⁱ men according to the /fol. 62r/ fertility of their wits^j deduce from the more general Lawes of Nature, whereby that^k as from the greate veine in the Body called *vena cava* there are derived some less, and from them other^l Less than these, til at last the Ramifications of this single vein ends in an innumerable Company of small capillary veines, and^m yet are as properly veines as the greater, thò notⁿ equally evident, so the ramifications of the Laws of Nature by deductions & inferences^o and conclusions infer'd upon them are carried on by traines of consequences to a^p great number of other particular Laws, thò^q they

^aSovereign] *em.* | Severaign ^b3 That the] 3^{dy}. That the B2 | 3. That t<T>he B3 ^cdefinitively] *em.* | deffinitively ^dwith] B1, B3 | which B2 ^epartly] B1, B2 | <This is> partly B3 ^fperchance ... universall] *may* perchance subscribe to the same more universall B2 | perchance subscribe to the same universal B3 ^gAnd partly] B1, B2 | partly /And partly B3 ^hElations] A[?]ti[?] <Elations> B1 | illations B2, B3 ⁱwhich] B1, B3 | of B2 ^jwits] w[?]its <wits> B1 | Witts B2 | wits B3 ^kthat] B1, B2 | that B3 ^lthem other] others B2 | them others B3 ^mand] B1, B2 | & <which> B3 ⁿnot] <not> ^oinferences] B1, B2 | inf[?]erences B3 ^pa] <a> ^qthò] B1, B2 | <which,> tho B3

5. *OED*, s.v. *elation*, def. 2a: "Elevation of mind arising from success or self-approration, pride of prosperity; pride, vainglory."

are reasonable & consequentia, yet they are not to be all reckon'd among those Laws of Nature which were^a intended the common Rule for all Mankind.

Now touching the *Media* whereby the discovery of these Naturall Laws is made, they are many, and thô perchance any of them singly and apart may not be effectual enough to draw out the Conclusion intended, yet the Concurrence of many of them may make up a sufficient^b induction to frame a Conclusion touching them: And^c are principally these that follow;

1. The Common Consent of Nations in all ages and places, or at least such of them, as have been civiliz'd^d reduced into culture.

It must be agreed that many people and Nations have been overgrown with evill Customes and Barbarism, that they have imbas'd thir very human Nature to a degree not much superiour to Beasts as appears at this day in many^e of the Countries of the West Indies, and^f anciently in some remote /fol. 62v/ Northern Countries,⁶ And althô by a strong Application of these remedys of Civilier Laws, Customes and Education they may be reducable into a Menage⁷ more congruous to the true state and standard of human Nature, yet it is not without great difficulty.⁹

^awere] B1, B2 | are B3 ^bsufficient] B1, B2 | ~~efficient~~ <sufficient> B3 ^cAnd] And they B2 | and they B3 ^dciviliz'd] civilizd and B2 | civilized and B3 ^emany] *em.* | may B1 | many B2, B3 ^fand] B1, B2 | and <appeared> B3 ⁹difficulty.] difficulty[.]

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6. By this time reports of human sacrifice and cannibalism in the New World had become widely known. See Girolamo Benzoni, *History of the New World*, trans. W. H. Smyth (London: Hakluyt Society, 1857), 9, 45, 72–73, 108, 112, 248; Richard Hakluyt, *The Principal Navigations, Voiages, Traffiques and Discoveries of the English Nation, Made by Sea or Overland*, 3 vols. (London: G. Bishop, R. Newberie & R. Barker, 1598–1600), 3:465, 504, 507, 516; and Sir Walter Raleigh, *The History of the World* (London: Walter Burre, 1614), 370. Hale was familiar with Hakluyt's account of the West Indies (Hakluyt, *Principal Navigations*, 3:498–627). See *Pleas*, 1:55. The “Northern countries” is likely a reference to the Gauls' acceptance of human sacrifice and theft, according to the account of Julius Caesar, *De bello gallico*, 6.16. This example was used by Aquinas as evidence of differing degrees of the knowledge of natural law. See Aquinas, *Summa theologiae*, I-II q. 94 a. 4.
7. *OED*, s.v. *menage*, def. 2: “A domestic establishment, or its members collectively; a household, a home ...”

But even among the rudest of these Nations, the Brasilians only excepted,⁸ we may find scatter'd under that rubbish of evil Custom's certain common Sentiments of truth & morality; As the acknowledgment and veneration of something as a Diety, thò they mistake in the application of that Notion to such as are not truly God; somewhat of Government of keeping faith of compassion to Men in misery and such like.^a

But as a Man in the inquisition whither^b there be one Common Principle in human Nature which essentially runs thrò the whole kind, will not take his Measures^c from what he observes in small Children,^d in Ideots or Madmen, in those that either by intemperance extream passion, or brutish Customes have degraded themselves of the actuall, dignity of human Nature:^e but from those that are *Moratiores*, and that by their own industry or the Care of others by Education Lawes and other helps have brought or kept themselves nearer to the true Standard of humanity, so in this Disquisition touching the Natural Laws, we are to inspect the Usages & Common Notions of these *gentes Moratiores* [more civilized nations], because in these we may reasonably suppose the true exercise of reason and the conformity to the true Standard thereof, and of the human Nature is^f more vigorous and regular;⁹

^alike.] like[.] ^bwhither] w<h>ither ^cMeasures] *em.* | Meassures ^dChildren,] *em.* | Children, ^eNature:] *B1, B2* | reason; *B3* ^fis] *B1, B2* | is <to be> *B3*

8. The Reformed pastor, Jean de Léry (1534–1611), in his *Histoire d'un voyage fait en la terre du Brésil, autrement dite Amérique* ([La Rochelle]: Chuppin, 1578), chs. 15–17, described Brazilians as practicing cannibalism, irreligion, and polygamy. The work was translated into Latin in 1586. English translations of extracts appeared in Johann Boemus, *The manners, lawes, and customes of all nations*, trans. Edward Aston (London: G. Eld, 1610), 485–502; and Samuel Purchas, *Hakluytis Posthumus or Purchas His Pilgrimes*, 4 vols. (London: William Stansby for Henrie Fetherstone, 1625), 4:1325–47. For English translation, see Jean de Léry, *History of a Voyage to the Land of Brazil, Otherwise Called America*, trans. Janet Whatley (Berkeley: University of California Press, 1990), 122–57.
9. The words *gentes moratiores* appear in Grotius, *De jure belli ac pacis*, 1.1.12: “... quod apud omnes gentes, aut moratiores omnes tale esse creditur.” The same notion expressed as *communis consensus* appears in Grotius, *De jure belli*, Prol. 40. Cf. Nathaniel Culverwell, *An Elegant and Learned Discourse of the Light of Nature*, ed. Robert A. Greene and Hugh MacCallum (Toronto: University of Toronto Press, 1971), 72–73.

Therefore when I shall see severall Notions^a under /fol. 63r/ distinct, and severall Ages, places, governments,^b agree in certain Common Sentiments of Morality, or if perchance some one People in some one or more of these Sentiments, may be Anomalous,^c yet the greater number^d agree in them, I speak still of those generall Sentiments, not in the^e particular Modification or application of them, I have reason to beleive, that some one common regnant Principle (which I call the Law of Nature) is that which inclines and disposes and carries them into this Common Sentiments^{f,10}

Now we shall observe the several Notions in severall Ages of the cultivated world, as Egyprians Syrians, Greeks Romans Phoenicians and others, that have their peculiar positive Institutions, Customes and Laws proper^g to themself's, have yet agreed in those generall & common Sentiments of Morality hereafter mentioned, or the greatest^h part of them.

And if it be said that this Consent in these Sentiments had its rise from some Imitation oneⁱ of another, or some common tradition that they received from the Ancestors that were perchance common to all, or the most of them; I answer, 1st. That this^j doth not appeare to be so, because then there might be as much reason to expect the like in other things that are of positive Constitution, as the form of their Government, their Municipall Laws, the variety of the Methods of acquist and translation of property, and^k besides there hath not been that Universality^l of Mutuall Convers between many distint Nations,^m which yet have accorded in the same common Sentiments of morality, haveⁿ been either by the help of^o intercourse & commerce,^p imitation, or^q some /fol. 63v/ common tradition^r that hath pervaded

^aNotions] *B1, B2* | nations, *B3* ^bgovernments,] *B1, B2* | <&> governments, *B3* ^cAnomalous,] *em.* | Anamoulous, ^dnumber] [?] <number> ^ethe] <the> ^fSentiments] *B1, B2* | sentiment *B3* ^gproper] *om.* *B3* ^hgreatest] *em.* | greates ⁱone] *B1, B2* | [?of a] <one> *B3* ^j1st. That this] First that this *B2* | <1st.> ~~That~~ <T>his *B3* ^kand] *B1, B2* | ~~And~~ *B3* ^lUniversality] Unive<r>sality ^mdistint Nations,] *em.* | distint Notions, *B1* | distinct notions *B2* | distinct nations, *B3* ⁿhave] *B1, B2* | <And though this concurrence may> have *B3* ^oof] of] of mutuall *B2* | of mutual *B3* ^pcommerce,] commerce[,] *B1* | Commerce, *B2* | commerce, <by> *B3* ^qor] *B1, B2* | or <by> *B3* ^rtradition] *em.* | tradition

10. Cf. *Discourse*, 55: “Hence several Nations, that we know not ever to have had correspondence one with another, yet agree in many Natural Observations and Customs, as agreeing to the common Reason of both ...”

all these Nations: yet when I see that this tradition^a the Communication which yet hath^b not alter'd or modify'd the positive^c or municipal Laws & Customes of one People to another, but stil they retaine their discrepancy one from another, hath^d so generall and comonly obtained in the comon Rudiments of morality, I have reason to think there is some admirable Consonancy thereof to the human nature itself, and that which we call reason in it: That^e these Rudiments have a kind of secret Interest and party in the human nature, that sides and closeth with them by a kind of Connaturality,^f otherwise they could^g not be so readily entertained & constantly preserv'd among the generality of Men, whose Governments, interest & Laws are in other respects different & severally appropriate.^h

2. Butⁱ suppose, we should not find this Consonancy in the Notion of the word^j in those Sentiments of morality that might be of it self effectuall to make up an induction sufficient to prove our conclusion, Let us Look amonge these Men that have been as it were the Elixir¹¹ of Mankind, that have made it their buisness to search into the Nature of things & men as the Learned Philosophers and Moralists; These^k that have made it their Care & Employment to cultivate Mankind, and improve it to the best & noblest advantage as excellent Governors and Lawgivers: These of all other Men are the likeliest by their Placits¹² and Edicts and Instructions to give us the best account of things congruous to human Nature and reason, and to propose a right Standard of humanity (as far as the Light of /fol. 64r/ nature could Lead them).^l And all these scarce one excepted, no not

^atradition] *em.* | tradiction *B1* | Tradition, *B2* | tradition <& [?this] *B3* ^bwhich yet hath] *B1, B2* | ~~which yet hath~~ <which have> *B3* ^cpositive] *em.* | pasitive ^dbut stil ... hath] *B1, B2* | hath <have> *B3* ^eThat] *B1, B2* | <&> That *B3* ^fConnaturality,] Connfonaturality *B2* | connaturality; <for> *B3* ^gcould] *B1, B3* | would *B2* ^happropriate.] appropriate[.]
ⁱ2. But] 2^{dy}. But *B2* | But <(2.)> *B3* ^jword] *B1, B2* | wor<d> *B3* ^kThese] Those *B2* | <&> those *B3* ^lthem).] them)[.]

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11. *OED*, s.v. *elixir*, def. 3b: "The quintessence or soul of a thing; its kernel or secret principle."
 12. *OED*, s.v. *placit*, def. 1: "What is decided or determined upon; an opinion, a judgement, a decision; a decree, an ordinance."

Epicurus himself (if we may believe his Apologists and Advocates)¹³ have agreed in the common Sentiments of Morality: There may be possibly a Diagorus or a Lucian, that may at least despise much of the gentile Religion: But where shall we find any of any note, or esteem that ever held or taught that all things were equally Just or honest, that there is no difference between *Decorum et turpe*^a [the decent and shameful], antecedent to human Laws commanding or forbidding that ever condemned or prohibited Justice, beneficence, keeping faith, modesty, sobriety temperance, reverence and Worship of God, or that commended,^b or by a Law enacted impiety injustice, injury, perfidiousnes, impudence, intemperance, ingratitude;

Nay further they were not only for the most part uniform & consonant to themselves, and one to another, in their Arms & Laws touching moralls: but the most Learn'd of them^c professed that these were Laws of Nature, Aristotle lib.^d 1 *Rhetoricor*. Cap. 13^e *est enim*^f *aliquid quod opinantur universi natura commune ius et iniuria tametsi nullum habeunt*^g *invicem ipsi communionem nullave pactio intercedat*; [in fact, there is something that all, by a common nature, suppose of the just and unjust even if they do not have a mutual association or there is no agreement between them.]¹⁴

^a *decorum et turpe*] B1, B3 | *Decorum* and <et> *Turpe* B2 ^b commended,] B1, B3 | condemned B2 ^c them] *em*. | then B1 | them B2, B3 ^d lib.] I[ib]. ^e 13] *em*. | 15 ^f *enim* [?] <enim> ^g *nullum habeunt*] *nullum habeunte* B2 | *nullam habeant* B3

13. Pierre Gassendi (1592–1655) was the most well-known apologist of Epicurean philosophy. Among English authors, see Walter Charleton, “An Apologie for Epicurus,” in *Epicurus’s Morals* (London: W. Wilson, 1656); John Evelyn, “The Interpreter to Him that Reads,” in *An Essay on the First Book of T. Lucretius Carus De rerum natura* (London: Gabriel Bedle and Thomas Collins, 1656); and Thomas Stanley, *The History of Philosophy, The Fifth Part: Containing the Epicurean Sect* (London, 1659), “Epicurus, His Life and Doctrine. Written by Petrus Gassendus,” in *The History of Philosophy, The Third and Last Volume, in Five Parts* (London: Humphrey Moseley and Thomas Dring, 1660), 105–275.
14. Aristotle, *Rhetoric*, 1.13 (1373b6). Hale’s Latin citation is nearly identical to that of Selden, *De jure naturali*, 75–76, who cites *Rhetoric*, 1.13 and 1.15. If Hale was working from Selden’s text, it may explain his erroneous citation of *Rhetoric*, 1.15.

I shall not now instance in Epictetus, Tully, Seneca and others, whô all speak to the same purpos, they are collected to my hand by the industry of others and I shall have further occasion to instance.

Now what can we reasonably think could make Men of this sublimated reason great industry and curious inspection thus to agree in the common Rudiments of /fol. 64v/ morality, but that Congruity that those Sentiments, had to that common reason that actuated them all as Men: The same Thread of Natural light and Law did run through them all, and conformed them to the same Common Sentiments; That^a as when Titius^b and Gaius and Sempronius^c look upon the same visible Object and upon that perception the report is made to their severall Phantasies that it is red or square or thus distant and the same report Titius^d and Gaius and Sempronius^e give one to another; And therefore^f we may reasonably suppose the Object that each of them beheld is the same the Medium through which they beheld the same, and the faculty by which they saw it specifically^g the same because each of them report the same thing, so we have reason to think theⁿ common consent of these learned exelent Men in these Common Sentiments is out of the consonancy that they bare to that common nature and reason of Mankind;

3. But because we have not that opportunity to be acquainted with the Sentiments of others as we have to be acquainted with our own, I shall in the next place appeal to the particular Judgmentⁱ & Conscience of every Man that is not miserable^j captivated under the power of his sensual Lusts passions or evill Customs. let any Man impartially^k examine himself whither he hath not a secret approbation of moral goodness, honesty, veracity, clemency, benignity, sobriety, modesty &c. whither he honours & values it in others and is best pleased with himself when he contains himself within the bounds of it, And whither he hath not /fol. 65r/ a secret detestation of dishonesty, perfidiousnes, cruelty intemperance and the like in others, and blames^l it in himself, is^m troubled & disorder'd and discomposed inⁿ a serious reflection upon^o his failings herein: And thô perchance

^aThat] *B1, B2* | That <And> *B3* ^bTitius] *em.* | Titus *B1* | Titius *B2, B3* ^cSempronius] *em.* | Sempronius *B1* | Sempronius *B2, B3* ^dTitius] *em.* | Titus *B1, B2* | Titius *B3* ^eSempronius] *em.* | Sempronius *B1* | Sempronius *B2, B3* ^fAnd therefore] *B1, B2* | And therefore *B3* ^gspecifically] *B1, B2* | superficially *B3* ^hthe] *B1, B2* | <that> the *B3* ⁱparticular Judgment] *em.* | particular[?]s] Judgments *B1* | <particular> Judgment *B2* | particular judgment *B3* ^jmiserable] miserably *B2, B3* ^kimpartially] *em.* | inpartially ^lblames] blame *B2* | <doth not> blames *B3* ^mis] *B1, B2* | is <& is not> *B3* ⁿin] *B1, B2* | into *B3* ^oreflection upon] reflection up<on> *B1* | reflection upon *B2* | reflections upon *B3*

the hipocrisy^a of some and superciliousnes, censoriousnes^b and sowerness of others professing Religion, brings^c some disreputation upon others professing the^d Religion, because these deportsments excites Mens passions and^e Animositys against them, yet where is that Man that doth not really approve religion even whilst his passions & Lusts transports^f him to an unsuitableness of conversation^g to it that beares not a secret & real veneration to that Man that^h without ostentation or vanity practiseth it & walks according to the Rules of it, the most unjust Subject in a Kingdom desires that his Controversys may be determin'd by a Just and a wise, and a honest Man; how many Persons in the World that thrô ill Customes or by the determination of his Lusts and passions have been very much addicted to Lying, Intemperanceⁱ Immodesty, yet have reprov'd their children^j whom they love best next themselves when they have found them^k in the same faults,^l and therefore have been unwilling^m that their children should be tainted with their own Example, butⁿ rather chuse to have them otherwise educated, what other reason can be assign'd why when so many are transported by their own Lusts and follies by their owne avarice^o or injustice in their particular dealings, yet oftentimes a few wise just honest men are even^p by them chosen or at least desired as their /fol. 65v/ Leaders, Governors and Judges, so^q that the greater part of the unruly World is manag'd, order'd, & Governed by the^r farr less number^s of sober^t wise Just unpassionate^u Men, and to these they willingly submit, and these they reverence and value no other or at least no better Cause can be assigned then this, that thô Men by their Lust^v and passions are transported to evil Courses, yet their Judgments give a Suffrage to goodness and vertue and honesty, and those other Laws of human Nature, whereof we speak: And there is scarce any Man so perfectly divested of his Naturall Conscience, or can so far unman himself; But that still morall Goodness will keep a party in him, & hold

^ahipocrisy] *em.* | hipocri<o>sy ^bcensoriousnes] *em.* | senseriousnes B1 | sensoriousnes B2 | censoriousness B3 ^cbrings] B1, B2 | brings B3 ^dthe] the same B2, B3 ^eexcites Mens passions and] Excites Men passions to B2 | excites mens passions and B3 ^ftransports] B1, B2 | transports B3 ^gconversation] *em.* | coversation ^hthat] B1, B2 | <who> B3 ⁱIntemperance] B1, B2 | intemperance <&> B3 ^jchildren] *em.* | clildren ^kthem] *em.* | then B1 | them B2, B3 ^lfaults,] fa<u>lts, ^munwilling] | uwilling ⁿbut] bu<t> ^oavarice] <a>varice ^peven] *om.* B2 ^qso] B1, B2 | Sθ B3 ^rthe] <the> ^snumber] *em.* | Nnumber ^tsober] B1, B3 | the sober, B2 ^uunpassionate] B1, B2 | impassionate B3 ^vLust] Lusts B2 | lusts B3

so much interest^a in him, as to gain,^b & keep his Judgment in a great measure, thô by reason of other Contingencies it obtain not the entire Regiment of his life;

4. There, is no one moral precept but^c carries in it its own reasonableness and usefulness and^d speciall objective Congruity to that great and appropriate faculty in Man called Understanding, and that greates Engin or Instrument of that faculty, which we call reason.^e And these precepts of morality whereof we shall more fully speak in the next Chapter, carry in them that^f objective excellent Usefulness^g and Congruity to the human Nature, and all Circumstances thereof; And^h that antecedently to any positive Law thatⁱ cannot but be subscribed unto as a suitable^j rule for a reasonable nature. But because the Examination of This Reason requires farther particular instances and a /fol. 66r/ further illustration and inforcement in what follows, I shall at present abstain from the farther pressing of this *medium* for the discovery of the *Capita Legis Naturalis* [heads of the natural law].

And this is all that I shall at present say touching the *Media Elicientia Cognitionem Legis Naturalis* [means to elicit the knowledge of the natural law]; And herein I do purposely omit that excellent instance of the 7. *praecepta Noachidarum*^k [precepts of the Noachites] 1. Because they have been incomparably urged by the excellent Author of the Book *de jure naturali apud Haebreos*.¹⁵ 2. Because it may be objected upon the comon tradition of the Jewes, that they were given *per modum Legis positivae* [by way of positive law] to the generality of Mankind as the Decalogue was given to the Jews and thô in the one as well as the other, diverse of the most important Laws of Nature are included, yet their Obligation might be *virtute praecepti*^l *Divini* [by virtue of divine precept], obliging the generality of the Sons of Noah 3. because althô those express precepts did contain most of those great and important Laws of Nature, and possibly by

^a interest] inter(⟨)st ^b & hold ... gain] *B1, B3* | as to gain *B2* ^cbut] that *B2* | that ⟨but⟩ *B3* ^dand] and a *B2, B3* ^ereason.] reason[.] ^fthat] *B1, B2* | that ⟨such⟩ *B3* ^gexcellent Usefulness] Excellence, usefulness *B2* | excellence *B3* ^hAnd] *B1, B2* | And *B3* ⁱthat] *B1, B2* | that ⟨they⟩ *B3* ^jas a suitable] as a suitable *B1* | as a suitable *B2* | ⟨as⟩ [?of] a suitable *B3* ^k*praecepta Noachidarum*] *em.* | *precepta Noachidar[um]* ^l*virtute praecepti*] *em.* | *virtute precepti* *B1* | *virtute precepti* *B2, B3*

15. See Selden, *De jure naturali*, 118–29 (summary) and 130–847 (individual precepts).

deduction from them most others might be inferr'd and evidenced, yet there seem^a some Naturall Laws *primo intuitu* [at first glance], evident to Mankind, besides those that are expressly and *in terminis* [in express terms] deliver'd in those *praecepta Noachidarum*,^b thô by following of consequences easily deducible from them, and Implicitly contained in them;

^a seem] *em.* | seen *B1* | seem *B2, B3* ^b *praecepta Noachidarum,*] *em.* | *precepta Noachidar[um],*

CHAPTER 5^a

Concerning the severall Heads of that *Lex Naturalis*, whereof before;

In the former Chapter, we have been searching into those /fol. 66v/ *Media*, from whence by induction we may gather what those common propensions or notions^b are in the human Nature which are the Matter of the Law we call Morall or Naturall; For as I have before observed, these nor^c any of these *Media* goe no further than the Discovery of the Matter of the Laws of Nature. But do not either contain or give the formall reason of their Obligation as Laws, for this depends upon a higher Principle.

And now^d I come to give some account of the particulars of these Natural Laws, or at least of some of them for it is besides^e my purpose and possibly beyond the capacity of any one Man to give an exact^f adaequate account of all the particulars of Natural Law in all its ramifications, and under al the variety of Circumstances that make a difference in the particular Application of it, for what the Prophet saith of the Law of God in general is verified^g in a special Manner of this, Psal.^h 119.96. *I have seen an End ofⁱ all perfection but thy Commandments^j is exceeding broad.^k*

^aChapter 5] *em.* | Caput 5^{sum.} ^bor notions] <or notions> ^cnor] *B1, B2* | nor *B3* ^dnow] *om. B2* ^ebesides] *em.* | besides ^fexact] [?] <exact> *B1* | Exact and *B2* | exact and *B3* ^gverified] *em.* | varified ^hPsal.] *em.* | psal. ⁱof] *em.* | tof *B1* | of *B2, B3* ^jthy Commandments] [?] <thy> Commandments *B1* | thy Commandment *B2* | thy commandment *B3* ^kbroad.] *B1, B3* | large. *B2*

Both the amplitude and perfection of the Natural or morall Law appears^a by these Considerations.

1. It was instituted and given^b to Man by the great & wise Rector of the World in the first institution of the humane Nature, to be the great Rule and direction of all the most important morall actions of human life, and to conduct & guide and manage him not only^c in the temporary concerns of his temporal^d life, but^e also to bring him to his cheif End, his felicity and happines, and therefore a Law proceeding from such an Author, directed to such an End, must needs be a most Excellent Law, and in its full amplitude and extent very great and extensive; / fol. 67r/

2. After the^f great Concussion that this Law had in the Nature of a^g Man by his fall; All those various Oeconomies^h of the Divine speciall Providence relating to Man have been principally directed to restore Man unto that primitive Law, and to reduce, contain and preserveⁱ Mankind unto, and in the conformity unto it, & obedience of it,¹ this is the reason of those *adminicula divinae gratiae*^j [supports of divine grace] that secret striving of the Spirit of God with the Old World [Gen. 6:3], and in all succeeding ages of the World secretly contending^k against the Corruptions of Nature, which arose^l by evil Customs and^m unrulines of the sensual appetite; The reason of raising up Men in all ages, even in the Gentile world, wise Philosophers and Law-givers and other wise men, to reduce Men to the obedience of this Law, and containing them in it;ⁿ the reason of those Extraordinary^o and Speaking Providences Manifesting to the Children of Men the Regiment of Almighty God and his indignation against the violation of this Law; The reason of his giving out the Compendium of the^p Cheif Moral or Naturall

^aappeares] *B1, B2* | appears *B3* ^bgiven] *em.* | give *B1* | given *B2, B3* ^cnot only] *om.* *B3* ^dtemporal] *B1, B3* | temporary *B2* ^ebut] *B1, B2* | and *B3* ^fthe] *B1, B3* | this *B2* ^ga] *B1, B2* | a *B3* ^hOeconomies] [?] <Oeconomies> ⁱpreserve] *pr[?]erve* <preserve> ^j*adminicula divinae gratiae*] *em.* | [?] <*adminicula divinae gatiae*> ^kcontending] *B1, B2* | contend *B3* ^larose] *B1, B3* | are *B2* ^mand] *B1, B2* | and the *B3* ⁿit;] *it[;]* ^oExtraordinary] *em.* | Extaordinary ^pthe] *B1, B2* | <the> *B3*

1. Cf. *Discourse*, 46–47: “Thus without question at first, God did indite his Law in the Heart of Man; but this being not essential to the Soul, though he retained his Intellectual Soul; his Principles of this kind were obliterated: and therefore it was the Mercy of God from time to time to inculcate them into Man’s Posterity.”

Laws to Noah and his Sons, namely the *septem praecepta Noachidarum*;^a The reason of the reinforcing of this Natural Law by the Precepts of the Decalogue given from Sinai in Thunder and Fire;^b The reason of Raising up Prophets in all ages of the^c Church of the Jews enforcing^d this Law, and giving a testimony of the truth of their Mission by Miracles and predictions;

And altho these two latter were immediately given to one particular Nation, the Jewish Church he^e made that Nation signal and eminent and conspicuous to all the world by signes wondrous and observable providence; that /fol. 67v/ they might be like a Beacon upon a hill, like a mighty and stately Piller set up in the middle of the World to hange up upon it those Tables of Natural righteousness which might be conspicuous and legible to the greatest part even of the Gentile world for many Ages. And, lastly this was one of the great reasons the^f Mission of the Messias, his admirable doctrine Miracles, Death, Resurrection to republish this Natural Law given to Mankind, unto all the World to reinforce it with such new and Further Manifestations of Divine Truthes with such admirable and effective^g Motives that never before were so fully declared bringing life and immortality to Light by the Gospel; shewing explicitly and evidently the rewards of a due conformity to this Law of Nature the^h punishment of the disobedience thereof; So that (excepting some positive institutions which nevertheless do reasonably and clearly tend to the same great End) the whole Doctrine of the Gospel of Christ drives at nothing more then the discovery of the true Law of Nature, andⁱ conformity of the human Nature thereunto in order to a perfect state of living here and the perfect injoying of an intimate Communion with God in this life, and the consummate and everlasting injoying of him hereafter:² And therefore

^a *praecepta Noachidarum*;] *em.* | *precepta Noachidarum*[;] ^b Fire;] *em.* | first; *B1* | Fire: *B2* | fire: *B3* ^c of the] *em.* | [of] the *B1* | of the *B2*, *B3* ^d enforcing] in forcing ^e he] yet he *B2*, *B3* ^f the] *B1*, *B2* | <of> the *B3* ^g effective] effectuell *B2* | effectual *B3* ^h the] *B1*, *B2* | <&> the *B3* ⁱ and] and the *B2*, *B3*

2. This strong identification of the gospel with the natural law likely reflects the moralism of Hale's later shift to a more Arminian and Latitudinarian position. See Cromartie, *Hale*, 165–66. By contrast, in Hale's early thought, which reflects a Reformed understanding of the third use of the law (*DLGT*, s.v. *usus legis*), the natural law is significant as a rule of righteousness in sanctification (*Discourse*, 438), but the law holds a subordinate place in relation to the great end of Christ's work in accomplishing the "Remission of sin and guilt, and Reconciliation, and Eternal Happiness in Christ" (*Discourse*, 170).

let any Man run over all the Doctrine of the Gospel deliver'd by Christ and his Apostles he shall find nothing in it derogatory to that Law of Nature whereof we speak,^a but a full System of all the excellent and morall Precepts of the Natural Law commanding all things that are good and /fol. 68r/ vertuous and becoming the Dignity of the human Nature, & prohibiting the contrary, so that whereas by the bare help of Nature, we may be under some difficultys of sifting out that pure Gold namely the Natural Law from the corrupt Usages & Customes under which it many times is^b covered, and where as by the help barely of the Natural Conscience and the conduct of reason a Man (without a great exercise of his understanding and self^c deniall) cannot follow the traine of consequences to the discovery of all the Laws of Nature; And where as most Men either by reason of the incompetence of their parts or the want of exercise of them or by reason of the prejudice or unhappines of their Education or by reason of self Love or self interest are under great deficiencies^d in discovery of the full extent of Naturall Laws;^e The Gospel of Christ^f gives to all Men *quasi per saltum* [as if without intermediate steps], and without the Great Exercise of ratiocination a plain easy obvious Catalogue of all these Naturall Laws only^g superadds this, namely, a command of faith to beleive it, and a sufficient Evidence to oblige Men to that faith.

And that the great Scope of the Gospel of Christ^h is to reimprint and reinforce, this Natural Law upon the human Nature appears by the whole tenor of the Gospel. take some instances among many, when the Lawyer asked Christⁱ what was the great Commandment of the Law, he sends him to those two great Natural Laws, the Love of God, and the Love of his Neighbour. Math. 22:36.³ when he gives an account of these things that defile and imbase the human Nature, the Catalogue he gives is of moral iniquity Math.^j 15.19. when he gives a account of the various rewards /fol. 68v/ of the good and evil his instances are in^k particulars of the observance and^l violation of the Natural Law of Charity Math. 25.31.^m when

^aspeak,] *B1, B3* | spake *B2* ^bmany times is] *B1, B3* | is many times *B2* ^cself] *em.* | seff ^ddeficiencies] *em.* | deficiencis ^eLaws;] *Laws[;]* ^fChrist] *em.* | Chirst ^gonly] *B1, B2* | & only *B3* ^hChrist] *em.* | Chirst ⁱChrist] *em.* | Chirst ^jMath.] *em.* | math: ^kin] *B1, B3* | of *B2* ^land] *B1, B2* | of and *B3* ^mMath. 25.31.] *em.* | math. 25.31[.]

3. Cf. Hale, "Of doing as we would be done unto," in *Works*, 1:378–416; and *Discourse*, 447–57.

he gives an Abstract of the Law and the Prophets that^a he gives this short excellent precept of Nature, all Justice^b *whatsoever ye would that Men should do to you that do ye to them*, Math. 7:12.^c when he gives the necessary Preliminary to the Kingdome of heaven, it is such a^d righteousnes as exceeds the righteousnes of the Scribes & Pharisees, the strictest Sect^e of the Jews; Math. f 5.20. and teacheth the perpetuity of the moral Law, Math. g 5.17.18. The whole tenor both of his Doctrine and Life was Humility, Sincerity purity, Patience Justice, Peace, Beneficence, Submission and Obedience to the Divine will, adoration, and invocation of him, and the whole train of those vertues which we call the Naturall Law.⁴

If we come to the Doctrine deliver'd by his Apostles we shall find in every place this Natural Law commended and the contraries forbidden, Take but a few instances for many: Rom. 14:17.^h *The Kingdom of God is righteousnes, peace & joy in the Holy ghost*, Ephe. 2.10 *For we are his Workmanship created in Christⁱ Jesus unto good works which God hath before ordained that we should walk in them*. Ephe: 4:24.^j *put ye on the New Man which after God is created in righteousnes and true Holines*.

1 Thess. 4.3 *This is the will of God even your Sanctification that ye should abstaine from fornication; that every one should know how to possess his vessel in Sanctification & honor &c*. 1 Tim. 1:5.^k *Now the End of the /fol. 69r/ Commandments^l is Charity, out of^m Pure heart and Good Conscience and faith unfained* Tit. 2.11. *For the Grace of God bringing Salvation hath appear'd unto all Men, teaching us that denying Ungodliness and Worldly lustⁿ we should live soberly righteously and Godly in this present World looking for the blessed hope and glorious appearance of the Great God & our Saviour Jesus Christ^o who gave himself for us that he might redeem us from all iniquity, and purify unto himself a peculiar People zealous of good Works*.

^athat] B1, B2 | ~~that~~ B3 ^bNature, all Justice] *em.* | Nature, all. Justice B1 | nature; All Justice B2 | nature-all justice: B3 ^cMath. 7:12.] *em.* | math. [7:12] B1. Ed. note: B1, B2, and B3 all leave a blank for the chapter and verse reference. ^da] *om.* B3 ^eSect] B1, B2 | set B3 ^fMath.] *em.* | math, ^gMath.] *em.* | math ^hmany: Rom. 14.17.] *em.* | many[:] rom. 14[:]17. ⁱChrist] *em.* | Chirst ^j4:24.] *em.* | 4[:]24. ^k1 Tim. 1:5.] *em.* | 1 tim. 1[:]5[.] ^lof the Commandments] of Commandement B2 | of the commandment B3 ^mof] of a B2, B3 ⁿlust] Lusts B2 | lusts B3 ^oChrist] *em.* | Chirst

4. On Christ's life and teaching as a model of the natural law, see *Discourse*, 443–44.

By these and the like instances that might be given out of the new Testament, and by what is said in this digression, I would have these things observed: 1. That the great End of the Gospel is the conforming^a of Men to the true Standard of^b Naturall Law, consisting in godliness sobriety and righteousness. 2. That consequently by this natural Law is a most Excellent Law, the institution of God touching Man and the Image of God in Man. 3. That this Natural Law is most excellently and incomparably set forth evidenced and deliver'd in the Gospel more explicately and fuller then ever it was done since the Creation of Man, and evinc'd^c to be such not only by the Divine Person that publish'd it by the supernatural Miracles that attest'd it, but by the exact Consonancy of it to the true and solid Suffrage even of reason and the Naturall Conscience.

And therefore my business of recollecting the Laws of Nature may seem impertinent since the Evangelical Doctrine contains a perfect System of it, yet^d because the Christian Doctrine was not known to the Heathen World and yet /fol. 69v/ the Law of Nature even then oblige them even upon^e the light and evidence of Nature and reason, And because among those^f that dare do not^g otherwise then profess they beleive^h the Gospel, yet realy and truely do no further beleive it then they find reason asserting it, and because it is consonant to the designe of these Papers to give out some *Specimina Legis Naturalis* [examples of the natural law], I shall make a short Collection of some of them under severall Rankes.

And, yet before I come to Particulars I shall give a general account touching the Generall State of Natural Laws;

[Kinds of Natural Law]⁵

The Laws of Nature seem thereforeⁱ to be of four kinds.^j

1. Those that are most universall and most remote from any particular determination to this or that perticular action as that the *Legis^k naturae primo primae*

^aconforming] confo(r)ming ^bof] of the *B2, B3* ^cevinc'd] *B1, B2* | evidenced *B3* ^dyet] *B1, B2* | But *B3* ^eoblige ... upon] obliged them, Even upon *B2* | obliged them upon *B3* ^f[those] *B1, B3* | them *B2* ^gnot] no *B2, B3* ^hbeleive] *B1, B3* | doe beleive *B2* ⁱseem therefore] *B1, B3* | therefore seem *B2* ^jkinds.] kinds[.] ^k*Legis*] *Leges B2* | *leges B3*

5. A nearly identical description of the following principles and conclusions of natural law is found in Suárez, *De legibus*, 2.7.5.

honestum est amplectendum, inhonestum^a est fugiendum [the chief point of the first kind of the law of nature, the honorable must be embraced, the shameful must be avoided]: This, it is true is^b in the human Law of the human Nature, but by reason of its generality and indeterminatenes it becomes equally applicable to Contradictory Conclusions according to the various Opinions of Men^c touching the thing to be done. Hence in Arrianus in Epictetus lib. 1. cap. 22,^d in the Controversy between Agamemnon and Archilles, touching the returning of Chreseis to her Father both assumed the same antecedent, viz: *honestum est faciendum* [the honorable must be done], yet from those general premisses that^e framed Contradictory Conclusions one for, and the other^f against her returne.⁶

2. Certain Principles of Morality which thô they are not wholly restrained to particularity, yet are of a much more restrictive Nature^g than the former & therefore of greater^h Use and more directive in Moral Actions *Legis Naturalis* /fol. 70r/ *secundo*ⁱ *primo* [the second kind of natural law] as that it is not Just to do that to another which we would not that another should do to me,^j in the same Circumstance that I am not to do hurt to him that is innocent that I am to be thankfull for benefits received, and many more both in the preceptive and prohibitory instances of Moral or Natural Law's.

And thô all these be clearely deducible by discursive ratiocination to be highly reasonable and becoming the human nature, yet they have that congruity to the rational Nature, and that self evidence in them that the understanding needs not the help of^k graduall discovery or ratiocination to gain an Assent to them, but takes them in *per saltum* [without intermediate steps] by a kind of intuition, altogether as the Eye perceives Light, or colour without Argumentation, and it^l seems as it were ingraven'd in the human Nature characteris'd in it, growing up with it connaturall to it, and therefore they are taken up and assented unto, not as a conclusion, but as a Principle^m of Naturall Righteousnesⁿ just as that Common

^a*inhonestum*] in *honestum* ^bis] *om.* B3 ^cMen] <Men> ^dlib. 1. cap. 22,] l[ib]. 1. c[ap]. 22[,] ^ethat] [?] that B1 | that B2 | they B3 ^fthe other] B1, B3 | another B2 ^gNature] B1, B2 | <nature> B3 ^hgreater] *em.* | greater ⁱ*Legis Naturalis secundo*] *em.* | *Legis Naturalis secundo* B1 | *Leges naturales secundo* B2, B3 ^jme,] B1, B2 | me <us> B3 ^kof] B1, B2 | of the B3 ^lit] B1, B2 | it <they> B3 ^mPrinciple] B1, B2 | principa[~~le~~] B3 ⁿRighteousnes] *em.* | Rightuousnes

6. Epictetus, *Discourses*, 1.22. Cf. *Abridgment*, [3], [7]; and *Dialogue*, 502–3.

Principle^a in Physicks or Mathematicks, *totum est Maius sua parte* [the whole is greater than its part], thô it be demonstrable to be true by a rationall Process, yet the evidence of the truth of it is so sensible that the Intellect assents to it without any rationall Process or induction to make it out;

3. Certain Conclusions immediately, and necessarily arising from some Common Principles admitted; for since the Conclusions of every Proposition are in truth virtually in the Premises thô they are not yet formed into the shape of a distinct^b Conclusion, so there are some /fol. 70v/ Conclusions that have that^c evidence of inexistence in the premises, that vicinity^d to and necessary Conjunction with them, that they are as soone known and subscribed to as the premisses themselves without the formality or *Mora* [delay] of a discursive process, the transition from the Supposition of the premisses unto the conclusion so natural, so easy, swift and speedy, that the assent^e to the Conclusion seems to run hand in hand, with the assent to the premisses, whereby thô in Nature they are not Principles but Conclusions, yet they are in time congenite with them, and have the same manner of Entertainment, as if they were the very Originall Principles^f themselves, and as before I said are^g assented to by a kind of intuition^h without the help of discursive ratiocination; Thus att the very same instant, that a man entertaines the Notion of Deity (which is as shall be shewn not only a Conclusion of reason but a Principleⁱ connatural to Man) he presently concludes without the help of a Syllogism, that he is to be worshiped, invoked, honored and obeyed, so that^j a Man cannot tell which is first in time^k in the Soul, the Notion of a Deity, or the Conception of that Obligation^l of Naturall Law, to Honor and obey him, yea many times where the Notion of a Deity is confused^m indistinct yet a kind of distinct adoration is performed to him so that after an Offence committed against /fol. 71r/ God, it is most rational to esteem repentanceⁿ sorrow for what is past, and resolution to do better for the time to come, the most rational way to propitiate an offended God, because thô^o that which is don cannot be undon yet the nearest Method to undoing of it is by sorrow for it^p and amendment of it;

^aPrinciple] *em.* | Principle ^bdistinct] distinct B2 | distant <distinct> B3 ^cthat] *om.* B2 ^dvicinity] [-?] <vicinity> ^eassent] B1, B2 | consent B3 ^fPrinciples] Princ<i>ples ^gare] *om.* B2 ^hintuition] *em.* | institution B1 | Intuition B2 | intuition B3 ⁱPrinciple] *em.* | Principal B1 | principle B2, B3 ^jthat] *om.* B2 ^ktime] B1, B3 | him B2 ^lObligation] B1, B3 | natural obligation B2 ^mconfused] B1, B2 | confused & B3 ⁿrepentance] B1, B2 | repentance, & B3 ^othô] *om.* B2 ^pto undoing ... for it] B1, B2 | of it is by sorrow for it B3

Yet even^a naturally, repentance is taken up upon any Offence committed by those that scarce ever knew^b the Natural Connexion and Consequence between repentance and pardon so in that most necessary precept of the Law of Nature *fides est servanda* any Man that can^c give himself the leisure and can connect Consequences to another will easily shew many reasons that may discursively^d evince this by way of Conclusion, as first that it is derogatory to the dignity and honor of the human Nature to be false to his word, that it is a means to provoke others to do the like by him; That without it^e there can be no security to human Society, and many more yet without all this process, and even in Men that know not how to make it every Man in the World that is not lapsed into Brutishnes, takes it for granted that a man must be as good as his word: And of^f these two last mentioned Instances in this and the former Section seem to make up the ordinary bulk of the common rudiments of the Law of Nature because easily and quickly perceived and digested by Most Men. /fol. 71v/

4. There be many^g Natural or moral Lawes (for I use^h the Words promiscuously Moral, because concerning the Mannersⁱ of Men, and Natural because implanted in Nature) that are really and truely, Natural Lawes; But yet are conclusions more remote from the first rudiments of Natural Law, & therefore not easily elicited or deduced^j without a rational Process, or Discourse and according to their distance^k from first Principles or Conclusions before mention'd, sometimes by a Chaine of two three or more Consequences.^l And this happens in relation to such Moral Acts or actions as are either 1. more remote or distant^m from the selfⁿ evident Principles or Conclusions. 2. or^o such as are mingl'd with, involved or difficult Circumstances of^p particular acts or Actions; or 3.^q such as have a mixture or complication with other Lawes of Nature that either cross or ally or are interwoven with the Moral Actions to be don;

And according to these various states and textures of actions to be done or omitted, the decisions are more difficult and inevident, and the variety of Mens Judgments give different Theorys and make different Conclusions touching them: And therefore to settle and determine these^r is required much exercise of the

^aeven] B1, B2 | even <as> B3 ^bknew] know B2, B3 ^ccan] om. B2 ^ddiscursively] em. | discursively ^eit] <it> ^fof] B1, B2 | of B3 ^gbe many] must be B2 | may be many B3 ^huse] [-?] <use> ⁱManners] B1, B2 | morals B3 ^jdeduced] em. | reduced B1 | deduced B2 | deducted B3 ^kdistance] B1, B3 | first distance B2 ^lConsequences.] Consequences[.] ^mor distant] B1, B3 | or more distant B2 ⁿself] em. | seff ^o2. or] 2^{dly}. or B2 | <or> 2. or B3 ^pof] of the B2, B3 ^qor 3.] or 3^{dly}. B2 | <or> Or 3. B3 ^rthese] B1, B2 | these <them, there> B3

reasoning faculty, much Judgment and advertence which doth not so commonly fall under ordinary Capacities, this we may easily perceive in the curious and subtle Works of Many Writers of Morall Philosophy and in the^a Schoolmen^b and Casuists of this and /fol. 72r/ former ages,^c whereas thô they many times differ, yet certainly there is truth of moral or Natural Law's even in relation to these complicated and perplexed moral actions, if it can be attained, as in Anatomy there is a real Existence and use of the minutest ramifications of the veines, arterys and nerves in the body thô the discovery thereof be not so easily attained^d and one Age discovers those vessels & motions that a former Age never thought of;^e

And^f yet the Divine goodness is admirable in this, that there is scarce any Man that hath the use of reason and will attentively^g exercise it in the Consideration of the moral actions of his life, and that will keep a strict hand over his lusts and passions, and will curiously observe the secret inclination and voice of his Conscience but shall be directed to do that which is morally good, and avoid that which is morally evil in the most intricate and complex'd morall actions of his life, thô he be unacquainted with the curious distinctions and definition^h contained in the Writings of Casuists and Morall Philosophers, especially if he do humbly and sincerely implore the direction of Almighty God, whose secret wise and gracious advice will never be wanting to them that humbly and sincerely desire it,ⁱ and listen^j unto it.

I shall not goe about to set down the particulars of these secondary or deducible Laws of Nature that may be ranged under this fourth distribution of /fol. 72v/ Natural Law's, for it^k were too voluminous,⁷ and besides my purpose

^athe] *om.* B3 ^bSchoolmen] Schoolemen ^cformer ages,] former[?] <ages>, ^dattained] attainable: B2 | attainable, B3 ^eof;] Ed. note: paragraph followed by “/ subsoleme” in B1, perhaps a variant of *sub solem*, “under the sun”. ^fAnd] B1, B2 | ~~And~~ B3 ^gattentively] *em.* | attentivly ^hdefinition] B1, B2 | definition<s> B3 ⁱit,] B1, B2 | ~~it~~ B3 ^jlisten] *em.* | lissen ^kit] B1, B3 | if it B2

7. Hale could have in mind collections of common law “maxims” in addition to the casuists and schoolmen mentioned above. Seventeenth-century common lawyers identified the deductions or secondary principles of natural law as either the “maxims” of their science or the basis thereof. See Sir John Doddrige, *The English Lawyer* (London: I. More, 1631), 191–94, 208–9; Sir Henry Finch, *Law, or, A Discourse Thereof* (London: [Adam Islip] for the Societie of Stationers, 1627), 3; and Michael Hawke, *The Grounds of the Lawes of England* (London: H. Twyford, et al., 1657), A8^r. For examples of these maxims, see Doddrige, *The English Lawyer*, 154–90; Finch, *Law, or, A Discourse Thereof*, 6–73; and Hawke, *Grounds of the Lawes of England*, passim.

but^a shall proceed to the Enumeration of those Laws of Nature that are contained under the second and third head, namely such Principles or Conclusions as seem to be *primo intuitu*^b [at first glance] evident in the Naturall Conscience or to it, or as many as I can remember or as occur to me: For I take those under the foregoing second and third head^c to be the comon Laws of Nature, being equally obvious almost to every Capacity: But^d those under the fourth head, thô they are or may be consonant to natural Law, yet in respect of their difficulty multiplicity and remotenes from those first Principles or neare Conclusions, I shall not range them, under this law of Nature, which is the comon Rule of a Law for all Men;

And I shall distribute them under those three relations, habitudes or ranks; 1. Such as relate to almighty God: 2. Such as relate to a Mans self; 3. Such as relate to other:^e either in or out of the Bonds of Civil Societys;

[I. Natural Law Relating to God]

1. Touching the first of these; The Notion of Existence of^f God or Supream Governor of the World, is not only evident by undeniable reason and natural Evidence, but^g seems to be engraven in the very Crasis⁸ of^h human Nature, and congenite with it and connatural to it; Andⁱ not only /fol. 73r/ so but there are also evident by the light of Nature, so very many of his Attributes, and especially that great trinary of perfect and infinite Power, wisdom and goodness as also his purity, holiness, Justice, omniscience, placability, beneficence,^j truth^k which are but so many branches of his wisdom & goodness: And besides there is a secret Consciousness in every^l Man that all the things^m in Nature had their Being from his power, their preservation from his Providence, their benefit and good from his Beneficence: These Notions are evident to be in the Nature of Man, and by

^abut] B1, B2 | But <1> B3 ^bintuitu] em. | intuita B1 | intuitu B2, B3 ^chead] B1, B2 | head<s> B3 ^dBut] B1, B2 | Butt (but as to) B3 ^eother] B1, B2 | other<s> B3 ^fof] of a B2, B3 ^gbut] B1, B2 | but it B3 ^hof] of the B2, B3 ⁱAnd] B1, B2 | And (it is) B3 ^jbeneficence,] em. | beneficence, ^ktruth] B1, B2 | <&> truth, B3 ^levery] e[?]y <every> ^mthings] B1, B2 | things in every man and that all the things B3

8. OED, s.v. *crasis*, def. 1a: "As a permanent characteristic: Composition, constitution, temperament, 'complexion'. *Obs.*"

the Experience of all Nations, by the testimony of the Apostles,^a Rom.^b 1.20. *The invisible things of him from the Creation of the world are clearly^c seen, being understood by the things that are made, even his eternal power and Godhead, so that they are without excuse;*

And indeed this great Principle, is the foundation not only of all Natural Religion, but of the Obligation of all Laws,^d hither they are to be reduced.

And altho in the particular determination of their Deity, particular Nations differed and^e affirming one thing to be God, another, another, yet they all in general agree in this Common Notion that there is such a being as^f God, and that he is of immense power, wisdom and^g goodness, which seemes to be a cleare indication, that the Notion of an Existence of a god is connatural^h to the Common Natureⁱ of Mankind; /fol. 73v/

And from this Principle thus stated in Nature, there do naturally and without any perplexed or difficult deduction flow all those ensuing Natural Consequences or conclusions which are so many Laws of Nature;

1. The affirmative or preceptive Laws of Nature necessarily and immediately resulting from hence, are^j these that follow; 1. That there is to be a great reverence of mind towards this great and glorious God, this is the immediate Conclusion that ariseth in relation to a being of infinite Power wisdom and Goodness^k and consequently of infinite Majesty, glory and dignity;

And this internal temper of the mind necessarily produceth the Signes thereof in the external deportment in all those external applications and addresses to him;

2. That he ought to be feared because of infinite power and wisdom able to discern and recompence any neglect of him or disobedience to him, and because he is the Rector & Governor of the World and he upon whose pleasure all our good or evil depends.

3. That he is to be loved with a most intensive love, both because he is the most intense & soveraigne good essentially in himself and full of Beneficence to all his Creatures, especially to the human Nature, he is not only our Soveraigne^l Rector, but also our greatest Benefactor;

^aApostles,] Apostle: B2 | apostle B3 ^bRom.] em. | rom: ^cclearly] B1, B2 | thereby B3 ^dLaws,] B1, B2 | Laws, & B3 ^eand] B1, B2 | one B3 ^fas] of <as> B1 | of B2 | as B3. Ed. note: Ed. note: different hand for strike-through and insertion. ^gand] em. | a B1 | and B2, B3 ^hconnatural] N[?atura] connatural ⁱNature] em. | Naturall B1 | nature B2, B3 ^jare] B1, B2 | as B3 ^kGoodness] Go<o>dness ^lSoveraigne] em. | Severaigne

4. And upon the same account the highest gratitude of soul is due to him which is the Natural Consequence in a reasonable nature toward^a its Benefactor; /fol. 74r/

5. That he is to be rested, trusted^b and depended upon because he is all-sufficient and full of beneficence; And all things in the world have an essentiall dependance^c upon him, as their Creator and preserver;

6. That he is to be adored, honored and worshiped, the principal parts of which worship consist in invocation of him, because our essentiall dependance is upon^d him, his Allsufficiency, wisdom and Goodness and praise & thanksgiving, because he is our most bountifull Benefactor.^e

That he ought with all humility and patience to^f be submitt'd unto, without any kind of murmuring or impatience for he is not only the Rector and Lord of all things and all Men but a most wise and gracious Lord and knows what is fittest for us, as well to suffer as to doe;

7. That he is to be obeyed, because he is the Sovereign Rector of all things, and consequently not only endued with infinite power to exact obedience to his Commands, but of Most rightful and Just authority^g to command, & that authority^h grounded upon the most naturall reason that can be imagined, because he is a Sovereign Lord, and Proprietor of all things: allⁱ things have their Existence and preservation from the Emanation of his own most free and sovereign Will;

And this Obedience is therefore not only due to his Natural Law, but also to his positive Laws & Institutions when Manifested to us, because they are the Commands of him that hath the absolute Dominion & just Sovereignty over Us: And because we may assure our selves that the most just Law-giver in the world will impose noe /fol. 74v/ unreasonable or unjust Laws upon us, but contrary-wise all his Commands are like himself full of wisdom & Justice in themselves and full of convenience & beneficence to his Creaturs;^j

8. That consequently Mankind^k ought to give all due diligence to know what his will is whither in such Laws as are naturall or in such as are positive that there by he^l may answer the will of his maker with a suitable and acceptable obedience;

9. That in case of any deficiency in the part of Man in his duty, he endeavour by all those ways that can be reasonable to propitiate^m his maker to obtain his

^atoward] towards B2, B3 ^bbe rested, trusted] rested trusted B2 | be rested trusted <& rested> B3 ^cdependance] *em.* | deppendance ^dupon] [-?] <upon> ^eBenefactor.] Benefactor[.] ^fto] *om.* B2 ^gauthority] *em.* | authory ^hauthority] B1, B2 | authority <is> B3 ⁱall] B1, B2 | <&> all B3 ^jCreaturs;] Creaturs[;] ^kMankind] B1, B3 | all Mankind B2 ^lhe] B1, B2 | he <each> B3 ^mpropitiate] *em.* | propiate B1 | propitiate B2, B3

pardon to reconcile himself to him which is no fruitles endeavour, because this placability is an essential branch of his Goodness;

10. And because after an Offence comitted it is impossible to make that to be *infectum quod semel factum*^a *est* [undone which is once done]; And repentance which consist^b in Sorrow for Sin comitted, and a firme purpose not to do the like, it^c is as much as can be possibly done, as it were to render that *infectum quod semel factum*, for it is a returning into the way of duty & obedience therefore repentance after an Offence committed is a natural duty, or due by the Law of Nature;

11. And because the mind is the Man⁹ and the will in Man is that, which gives the true value and Just denomination of all Moral Actions;

And because Almighty God is of infinite wisdom, and therefore knows the thoughts & purposes of the heart hence it follows that the Obligation of Natural Laws, layes hold not only upon the outward actions but upon^d the very thoughts /fol. 75r/ and purposes of the heart and soul; and requires those *sancti recessus mentis* [out of a pure conscience]¹⁰ as well as the outward confirmity of the outward Man;

12. And upon the very same reason in all that worship service and obedience which is performed by the Law of Nature,⁹ sincerity and integrity is required: The Laws of Men cannot reach to those *interiores animi affectus* [inner affections of the soul], because it cannot discern them^f nor have cognisance of them, but Almighty God is of infinite wisdom searcheth the heart and his Laws extend to the deliberations, resolutions⁹ and purposes of the minds,^h because he discerns them, and gives his Laws primarily and principallyⁱ to them, as being the roots of outward actions and that gives the true denomination and modification of them;

^afactum] B1, B2 | est factum B3 ^bconsist] consists B2, B3 ^cit] om. B2, B3 ^dupon] upon<n> ^eof Nature,] em. | [of] Nature[,] B1 | of nature B2 | of nature, B3 ^fthem] <them> ⁹resolutions] resolut<i>ons ^hminds,] Mind B2 | mind, B3 ⁱprimarily and principally] B1, B2 | principally and primarily B3

9. A saying associated with Plato, *Alcibiades 1* 130c.

10. Cf. Aulus Persius Flaccus, *Satires*, Satire 2, vv. 73–74: “Justice and right blended in the spirit, the mind pure in its inner depths and a breast imbued with noble honour.” (*compositum ius fasque animo sanctosque recessus / mentis [sic] et incoctum generoso pectus honesto.*) Susanna Morton Braund, ed. and trans., *Juvenal and Persius* (Cambridge, MA: Harvard University Press, 2004), 70–71.

And these are some of those preceptive Natural Laws which relate to Almighty God, as being immediate and necessary Conclusions without any^a process of ratiocination resulting from the Notion of God; more might be added and many more secondary Conclusions deducible from them but these may give a Specimen of them, and the evident reasonableness or Naturall Consequence of them;

Now as to the prohibitory Laws of Nature they will appere by the preceptive, *rectum est Index sui & obliqui* [A straight line is the measure of itself and a crooked line]¹¹ the opposite of these preceptive Laws are such as fall under the prohibitory Law^b of Nature and the unnaturalnes and unreasonableness of these and the reasonableness^c of their prohibition will appere by the reasonableness & naturalness of those that I have mentioned as preceptive Laws of Nature.^d I shall but name them. /fol. 75v/

1. Such thoughts or Practises as do tend to the abasing^e of that naturall reverence due to God, or do imbase the Notion of it in the minds of Men, or as are unbecoming^f the Dignity of God, such^g are the common irreverent use of the Name of God, the imbasings of the Notion of the Deity by Images, Creature, Deitys and the like; this^h thô the corrupt Customs of the gentile world madeⁱ common, yet certainly it was against the due^j reverence, due^k to almighty God, and derogatory to his dignity, therefore excellently the Apostle^l Rom. 1:21.22.23.^m *because when they know God they glorified not as God, neither were thankful but became vain in their Imaginations,ⁿ and their foolish heart was darken'd & changed the Glory of the incorruptable God into^o an Image made like a corruptible Man and to Birds and four footed beasts & Creeping things;* And upon the same account the Multiplication of Deitys, especialy those that they supposed supream their *Dii* [gods] were not only things false in themselves but^p derogatory

^aany] any long B2, B3 ^bLaw] om. B3 ^creasonableness] B1, B2 | unreasonableness B3 ^dNature.] Nature[.] ^eabasing] ~~abating~~ <abasing> B1 | abateing B2 | abating B3. Ed. note: different hand for strike-through and insertion. ^funbecoming] em. | ubecoming ^gsuch] [?] <such> ^hthis] B1, B2 | This B3 ⁱmade] B1, B2 | made <this> B3 ^jdue] em. | dure B1 | due B2, B3 ^kdue] om. B3 ^lApostle] B1, B2 | Apostle <says> B3 ^mRom. 1:21.22.23.] em. | rom: 1.21.22:23. ⁿImaginations,] em. | Imginations, ^ointo] B1, B3 | unto B2 ^pbut] by <but>

11. A saying attributed to Aristotle, *De anima*, 1.5 (411a5–7). Cf. Thomas Aquinas, *Scriptum super Sententiis*, I d. 36 q. 1 a. 2; II d. 42 q. 2 a. 4; and *Summa theologiae*, II-II q. 9 a. 4 ob. 1.

to the true Notion of God who being *ens summe*^a *perfectum* [supremely perfect being] looseth both his perfection and dignity by such partition of the Divine Nature & power into many distinct Gods;

2. Upon the same reason *Maledictio Manus* ... [the curse of the hand ...] of^b his own perjury is prohibited by the Law of Nature;

3. Upon the same reason hatred of God, bold defiance of his power denying of the Regiment of his Providence in this inferiour World presumptuous independance upon him or dispair of assistance from him, denying all worship to him or performing it coldly, carelessly or hypocritically /fol. 76r/ resolved, and presumptuous disobedience against his known Laws, impenitence after sins comitted;

And^c a loose and ungoverned habit^d of thoughts & secret deliberate Motions of the will as being Under no Law, these and such of these are contrary to that Natural law given to Man that respects the Glorious God;

I have not named Atheism, for as I doubt whether^e there be any in the World that are perfectly dogmatical Atheists, so if they^f are, the error is not so much in their will as it is in their understanding & Judgment: But he that either beleives or but^g suspects there is a God, & wisheth there were none that he might not be within the reach of his power, but might offend with impunity is a hater of God;¹²

[II. Natural Law Relating to Oneself]

2. I come now to consider those Natural Laws that relate to a Mans self;

And as before I observed, that the true Notion of God is the natural roote of all these Laws of Nature, that in special Manner relate to God: so the true Notion of the human Nature and the constitution and value is the true fountain

^a *summe*] s[?]e <summe> ^b *Maledictio Manus* ... of] *Maledictio Manus* [blank space] of B1 | *maledictio manus* pr.... [sic] of B2 | *maledictus manus* [blank space] B3 ^c And] And Also B2 | <&> /And B3 ^d ungoverned habit] *em.* | ungoverned babit B1 | ungoverned Habit B2 | ungoverned habit B3 ^e whether] w<h>ether ^f they] B1, B2 | they<re> B3 ^g but] *om.* B2

12. Atheism was a major concern of Hale's later years. He spent seven years writing a multi-part apologetic work, of which only the first part on creation was published as *The Primitive Origination of Mankind* (1677). The second, third, and forth parts covered, respectively, the nature of the soul, God's attributes and providence, and the Scriptures. See Burnet, *Life*, 81–82; and Baxter, *Add. Notes*, 4.

of those Naturall Laws that relate to a Mans self, wherein there are those *postulata* [postulates] which almost all Mankind agree in: that are^a necessary to be premised to this purpose;

1. That Man thô he have many of the facultys, Affections and Lusts that are common to him and the animall Nature yet he^b hath a specifical dignity belonging to his Nature far more excellent then the common Animal Nature, namely his reasonable Soul: 2. That that reasonable Soul /fol. 76v/ of his is^c immortall and dyes not^d with the Body: 3. That that reasonable Soul ought to have the Regiment and Regancy over the Animal Lust^e and affections, other wise in this^f life he should have no prelation over^g brutall or animal nature; 4. That althô there may be accidental or adventitious preferences that may Give one Man preference & prelation above another, or^h sharpnes of wit, excellenceⁱ of memory, Learning strength or health or beauty of Body, power, Denomination,^j wealth or the like, yet essentially naturally & in the specifical Constitution all Men are equall;

Now these Natural Laws that relate to a^k Mans self, or are immediately deducible from the due consideration^l of his Constitution, & frame are generally the Observation of those things that are convenient & suitable to his nature, and the avoiding of these that are contrary.^m I shall mention some of the particular instances thereof;

1. That he useⁿ all due and just means for his own preservation: This it^o is true is common, almost to all natural beings, and appears signally even in the vegetable and animal Nature, every thing desires and endeavours its own preservation, both in its species and in its Individual, and therefore it is no appropriate^p Law of the human Nature, because common allmost to every natural^q being, & yet because in Man it is an^r act or disposition of a reasonable Nature,^s and of a voluntary Agent, it comes under the Law of human Nature and Morality; /fol. 77r/

And this Law of Nature brancheth it self into many particulars, as for instance, it is agreeable to the Law of^t Nature to preserve it self with due moderation from

^aare] B1, B2 | <are> B3 ^bhe] B1, B2 | he B3 ^cis] <is> ^dnot] <not> ^eLust] Lusts B2 | lusts B3 ^fthis] B1, B2 | his B3 ^gover] over the B2, B3 ^hor] B1, B2 | or <as> B3 ⁱexcellence] *em.* | excellent B1, B2 | excellence B3 ^jDenomination,] domination, B2, B3 ^ka] B1, B2 | <a> B3 ^lconsideration] *em.* | cosideration ^mcontrary.] contrary[.] ⁿuse] *em.* | used B1 | use B2, B3 ^oit] <it> ^pappropriate] *em.* | appriate B1 | appropriate B2, B3 ^qnatural] *om.* B2 ^ran] B1, B3 | the B2 ^sNature,] B1, B3 | Creature B2 ^tLaw of] *em.* | Law [of] B1 | Law of B2 | law of B3

injurys which is a *debitum moderamen inculpatae tutelae*^a [due moderation of blameless defense]:¹³ It is consonant to the Law of Nature to provide for the convenient Supports of life, in the moderate^b provision of meat, drink, cloathing habitation: It is likewise consonant to this Law of Nature, to enter into Societys,^c Capitulations of Peace, because this is^d a convenient means of self preservation;

And on the contrary, these that follow are against^e this Law of Nature, self distruction, exposing a Mans self^f to needless danger,^g denying a Mans self the covenient Suppleys and Suports of his^h natural life; Idlenes & neglect of due industry, for the provisionsⁱ of the necessarys of life: aversation¹⁴ from peace, and those necessary conducibles thereunto and diverse others;

2. There is a Law of self preservation that seems more appropriate to the human Nature, as being most reasonable and suitable to the Structure of his Nature, viz that the greatest care & indeavour ought to be, to preserve that part of Man which is of Greatest value, and to avoid that which may be most noxious to it, namely, his Soul, and^l consequently by how much the Soul is more noble than the Body, by so much the more care is to be us'd in preserving it from that which will^k most annoy and hurt it, namely, sin and iniquity: And consequently in equal /fol. 77v/ dangers to the destruction of the Body^l when both cannot^m be avoided the latter must be rather tolerated than the former, we see obvious instances, of the like disposition. when a danger is eminent to the headⁿ the seat of life and sence the hand that is not of that Moment or value, as^o lifted up to receive the stroke to defend the head; It was a truth that the father of Iyes uttered, Job. 2:4.^p *Skin*

^a *moderamen inculpatae tutelae*] *em.* | *medoramen inculpate tutele* B1, B2 | *moderamen inculpatae tutelae* B3 ^b moderate] [?] <moderate> ^c Societys,] B1, B2 | societies <& B3 ^d is] B1, B2 | <is> B3 ^e against] *em.* | againt ^f Mans self] *em.* | Manself ^g danger,] dangers B2, B3 ^h his] B1, B3 | this B2 ⁱ provisions] B1, B2 | provisions B3 ^j and] B1, B2 | and B3 ^k will] *om.* B3 ^l to the destruction of the Body] B1, B2 | destructive to the body, B3 ^m cannot] *em.* | cannont ⁿ head] B1, B2 | hea<rt> B3 ^o as] B1, B2 | as <is> B3 ^p Job. 2:4.] Job. 2[:]4.

13. A concept originating with Ulpian and further developed by medieval civil lawyers. See Justinian, *Digest*, 43.16.3.9; and Frederick H. Russell, *The Just War in the Middle Ages* (Cambridge: Cambridge University Press, 1975), 42–44.

14. *OED*, s.v. *aversation*, def. 1: “The action of turning away; the turning of one’s back in flight. *Obs.*”

for Skin and all that a Man hath will he give for his life; And by how much the more the Soul is more^a valuable then the Body, by so much the more the life of the Soul is more preferable than the life of the Body: For what equall exchange can a Man give for his Soul [Matt. 16:26]; And therefore a Man is to choose to undergo the Death of the Body from the hands of a Tyrant, then^b knowingly and deliberately to comitt a mortal^c Sin against God;

3. From^d the Consideration of the Dignity of the human Nature, it is a Natural Law for a Man to avoid all such things as do degrade or imbase it: And therefore drunkenness immoderate Eating, intemperance,^e Luxury are contrary to the Law of Nature, not only because they are contrary to the Law of self preservation being the mothers of Diseases & Death, and contrary to the Good and Convenience of human Societys to the ends which^f they disable a Man, but are contrary^g to the dignity & honor of the humane Nature;¹⁵

4. From the same Consideration of^h those things thatⁱ /fol. 78r/ carry in themselves an indecorum and undecency or turpitude are contrary to this Natural Law: Such are^j immodesty, impudence, Obsenity of Language uncleannes *vagus et illicitus concubitus obsceni ponderis propalam^k et publice depositu, pudendorum devalatio* [irregular and unlawful sexual intercourse, bringing forth openly and publicly what is of obscene consequence, the uncovering of private parts], Lying, ridiculous and discompos'd gestures: Those seem to be *contra decorum et dignitatem humanae naturae* [contrary to the decency and dignity of human nature]. For thô those or some of those do in some sort relate to the 3^d. rank of Natural Laws, namely such as concern others, And thô it may be true that in matters of decorum and seemliness, various customs & usages do much prevail in their specification and determination, so that that may be there by^l a decorum in one Country, which by different Usages and Customes may be indecorum

^amore] <more> ^bthen] B1, B2 | <rather> than B3 ^cmortal] em. | moral B1 | mortal B2, B3 ^d3. From] em. | [3.] From B1 | From B2 | 3. From B3 ^eintemperance,] em. | intemperance B1 | intemperance B2 | intemperate B3 ^fwhich] of which B2, B3 ^gbut are contrary] but contrary B2 | but <because they> are contrary B3 ^hof] om. B2, B3 ⁱthat] B1, B2 | <which> B3 ^jare] B1, B2 | <are> B3 ^kpropalam] em. | propalum B1 | propalam B2, B3 ^lthere by] B1, B2 | hereby B3

15. Hale had a reputation for exercising moderation in his eating, attire, and residence. See Burnet, *Life*, 29–30, 150–51, 167.

in another, or under varied Circumstances, yet certainly there is a certain intrinsic reverence that a Man^a owes to the dignity of his Nature which must be observed^b thō no Eye behold him, and hath its *Decora* which becomes it, and its *indecora* unseemliness^c that do blemish and imbase^d it, antecedent to any Law, commanding the one or prohibiting the other; *Reverere teipsum*^e [respect yourself] is a Dictate of the Natural Law as was of that^f wise Philosopher that injoin'd it to his Disciples;¹⁶

5. From the Consideration of the Dignity of the human Nature specifical and appropriate to itself ariseth^g that Natural Law which requires that the due Order & Subordination of his facultys be observed, that the Regent Principle^h in him namely his Soul and his reason preside /fol. 78v/ and Govern the inferior facultys, and be not commanded or governed by them, that he keep the reins of his passions and sensual appetite in the handsⁱ of reason and moderate^j them according to that Law of Nature which is the rule of his reason; because otherwise he doth not order himself neither^k according to the dignity nor^l order of his Nature, but inverts it, going as it were with his heels upwards, he^m may observe in the Brutal Nature theⁿ many of the same passions that are in Man as anger, revenge, hatred &c. in the irascible part; Love delight, Joy &c. in the concupisibile part; and in the Brutes, these are excited and acted in the^o animal Nature by a kind of necessary Connexion between the Object and the passion, that they excite and for the most part they exercise them as fully and as durably as the Object or the Phantasm thereof, abides^p before them, for they are^q under the Regiment of the superior faculty, but are but the various habitudes & motions of the animal appetite, which

^aMan] *em.* | Mans *B1* | man *B2, B3* ^bbe observed] *em.* | [be] observed *B1* | be observed *B2, B3* ^cunseemliness] *em.* | unseemliness ^dimbase] *em.* | unbase ^e*Reverere teipsum*] *B1, B3* | *Revere teipsum* *B2* ^fwas of that] *B1, B2* | well as of that *B3* ^gariseth] *ar[?]* <ariseth> ^hPrinciple] *em.* | Principle ⁱhands] *B1, B3* | hand *B2* ^jmoderate] *em.* | moderat[?] ^kneither] *B1, B2* | neither *B3* ^lnor] *B1, B2* | nor *B3* ^mhe] *B1, B2* | He <We> *B3* ⁿthe] *B1, B2* | the *B3* ^othe] *om. B2* ^pabides] [?]des <abides> ^qare] *om. B2*

16. This is a Latin version of the saying *αισχύνεο σαυτόν* from the Golden Verses of Pythagorus often cited by early modern English authors. See O. Ritter, "Lesefrüchte," in *Festschrift Wilhelm Viëtor zum 25. Dezember 1910 dargebracht* [*Die Neueren Sprachen* 18 (1910–1911), supp.] (Marburg: Elwert, 1910), 121–26 at 125–26.

is the supream imperative faculty in the Animal Nature;¹⁷ Again, their sensuall Motions of the same animall appetite touching Eating and Drinking and venery, there are two things observable; 1. That they see Men to be carry'd by a kind of naturall necessity towards their Objects; and therefore have rarely any thing of choice or deliberation^a touching the decency or Seasonableness or Measure less then what answers the measure of their appetite; /fol. 79r/ because they are under no superior faculty, but the^b appetite or Phantasy: 2. That yet the motions or tendency of the sensuall appetite, are so limited that they rarely exceed the covenience or exigence of Nature, when a Brute hath eaten or drunk^c enough he will take no more, and even in that impetuous motions^d of the sensuall appetite *in congressus venereos cum appetitus venereus nunquam^e se exerit inordinate postquam femella impletur; nec mas coitam^f sollicitat nec femella patitur^g* [in sexual intercourse never exerts itself inordinately with sexual appetite, as after the female is fulfilled, the male neither incites sex nor does the female suffer it]. But in the human Nature the passions and sensuall appetite are but inferior facultys, and in their just state and exercise subject to the Empire of the will, at least as to the measure Manner, time, season and other Circumstances of its exertion.

And when this Subordination and the Exercises thereof, are but suspended; Man is under a double Offence against the Law of Nature that imbaseth and degradeth himself from the dignity of his Nature to a brutall life;^h 2, And not only so but the very advantage of his reason when prostituted to the Empire of his lusts and passions, makes him ten times worse than a brute, for the position

^adeliberation] delib(e)ration ^bthe] om. B2 ^cdrunk] B1, B2 | drank B3 ^dmotions] B1, B2 | motions B3 ^evenereus nunquam] em. | venerus nunquam B1 | venereus nunquam B2 | venereus unquam B3 ^fcoitam] em. | costum B1, B2 | coitam B3 ^gpatitur] em. | patitur <impletur> B1 | patitur B2, B3. Ed. note: in B1 "patitur" appears to be written over another word with "impletur" above it in another hand. ^hlife:] B1, B3 | Beast B2

17. Cf. *Discourse*, 304–5. This description of the passions as motions located in the sensitive soul (in common with animals), and generally divided according to irascible and concupiscible powers, is broadly Aristotelian and was recognized as Thomistic in the seventeenth century. See Aquinas, *Summa theologiae*, I-II q. 22 a. 3; I-II q. 23 a. 1; and David S. Sytsma, "The Logic of the Heart: Analyzing the Affections in Early Reformed Orthodoxy," in *Church and School in Early Modern Protestantism: Studies in Honor of Richard A. Muller on the Maturation of a Theological Tradition* (Leiden: Brill, 2013), 471–88.

of Nature being thus inverted becomes wild unruly and by so much the more disorderly but how much the more^a it hath the advantage of reason to assist him in these disorders: And hence^b it is, that whereas the passions^c of anger in a beast never ariseth to malice or envy, nor the passion of Love^d in a Brute never^e /fol. 79v/ ariseth to frenzy nor the Lust^f of the brutal^g appetite is inordinate but^h is satisfied within the boundⁱ and Limits proportionate to his Nature: A Man on the other side whose Lusts and passions are once out of the regiment and discipline of reason becoms prodigious in his passions and lusts, improves his passions of anger & hatred into malice and envy, his Passion of Love into frenzy invents enormous and unnatural Lusts & becomes insatiable in them: So that it happens with reason displaced and the Natural Order of the facultys of the reasonable Soul inverted; as it happens by the extravasation¹⁸ and displacing of the Animal Spirits in the Body from whence arise Spasms and Convulsions^j & distortions and those terrible Symptoms that wholly disorder the operations & beauty of the Body and mind;

By which^k it appears that the keeping up of the Regiment of the reasonable Soul over the passions, and Lusts of the animall Nature, and the subduing of them to the Law of reason is^l part of that Law of Nature which conserves^m the dignity and order of the human Nature;

6. And upon the same account those distempers of the Soul that arise from the want of regiment of the passions, like diseases that riseⁿ from the putrefaction of humors are contrary to this Natural Law as malice that ariseth from the putrefaction of /fol. 80r/ anger: Envy that ariseth from the putrefication of anger and self Love;^o Pride that ariseth from the overvaluing a^p Mans self, and from the putrefaction of self Love, Covetousness^q that ariseth^r from the putrefaction of

^adisorderly ... more] *om.* B2 ^bhence] *em.* | hench ^cpassions] passion[?]s B2 | passions B3 ^dLove] *em.* | Law B1, B2 | love B3 ^enever] B1, B2 | nor⟨ever⟩ B3 ^fLust] Lusts B2 | lusts B3 ^gbrutal] *em.* | bruital ^hbut] ⟨but⟩ ⁱbound] Bounds B2 | bounds B3 ^jConvulsions] *em.* | Covulsions ^kwhich] B1, B2 | ~~which~~ ⟨this⟩ B3 ^lis] [?] ⟨is⟩ ^mconserves] B1, B3 | concerns B2 ⁿrise] B1, B3 | arise B2 ^oEnvy ... self Love;] Envy that ariseth from the putrefaction of Anger and self Love: B2 | and self love; B3 ^pa] B1, B3 | of a B2 ^qCovetousness] *em.* | Covetuoussness ^rariseth] *em.* | arisheth

18. *OED*, s.v. *extravasation*, def. 1a: “*Pathol.* The escape of an organic fluid (e.g. blood, sap) from its proper vessels into the surrounding tissues; an instance of this.”

distrust and self Love; Ambition vainglory and those other diseases of the Soul that ariseth^a principally from the putrefaction of passion^b the neglect of the Light Law and guidance of reason and the mistake of the worth and value of things are^c prohibited by the Law of Nature upon a double account: 1. Because they are not suitable nor convenient to the state of human Nature, because they discompose and disorder it, makes it loose its peace and tranquillity and are directly contrary to the Law of self preservation in respect of the whole *Compositum*^d [composition] for they naturally tend to its dissolution, and in respect of the nobler part of the^e Soul wherein they are as so many Ulcers, Cankers and Gangreens. 2. Because they are contrary to the dignity of the human Nature, because they dispose^f and degrade reason, and put the human Nature below its dignity, nay below, the Very State of the Animal Nature.^g

7. By the same Law of Nature all those^h habits & temperaments of the mind that enoble and advance the true dignity of the human Nature orⁱ commanded by this Law of Nature, especially, such as promote tranquillity /fol. 80v/ of mind and all those contrary habits or dispositions that interrupt or hinder it.

And thô all vertue conduceth to this End, and all vices are Enemy to it, yet there are two habits or temperaments of the mind, that do most directly and naturally procure it, and their^j opposites do extremely interrupt and hinder it, namely 1. Contentation with that Station and Condition of life and^k Externals, which the Divine Providence allots: The contrary whereof namely murmuring and discontent like the worm at the root of Jonas gourd gnaws asunder the tranquillity of life [Jonah 4:6–7], 2. Patience under pains or afflictions, The contrary whereof impatience and tumult of mind creates more disorder and trouble then the affliction brings;

1.^l The Law of Nature thô it commands the Conservation of the Dignity of human Nature, yet it^m commands humility & lowlyness of mindⁿ and forbids its opposite^o namely Pride and haughtines, and the unreasonableness of the latter, discovers^p the great congruity and suitableness of the former to the human Nature;

^aariseth] *B1, B2* | ariseth~~r~~ *B3* ^bpassion] passions; *B2* | passions, *B3* ^care] *B1, B2* | <These> are *B3* ^d*Compositum*] *B1, B2* | composition *B3* ^eof the] *em.* | [of] the *B1, B2* | of the *B3* ^fdispose] *B1, B2* | depose *B3* ^gNature.] Nature[.] ^hthose] *B1, B3* | the *B2* ⁱor] *B1, B2* | or <are> *B3* ^jtheir] <their> ^kand] *B1, B2* | and <those> *B3* ^l1.] 1st. *B2* | †. *B3* ^mit] *B1, B2* | † *B3* ⁿmind] mi<n>d ^oopposite] *B1, B2* | opposites, *B3* ^pdiscovers] d[?] <discovers>

For Pride is not only one^a of the greatest Enemys to tranquillity of mind that can be, for it is restles never long pleased, always contending for what it would have, fretting & vexing if disappointed, and not satisfied when it attaines;

And besides is^b an unreasonable disease of the mind since by Nature all Men are essentially equal and that which gives the discrimination and prelation of one Man above another, whither it be excellence of parts honor, wealth, power are things that we have^c not from our selves, but by the gift^d of God or the collation of others, this one question *what hast /fol. 81r/ thou which thou hast not received* [1 Cor. 4:7], doth render all pride & haughtines^e unreasonable;

And thus far concerning those Laws that relate to a Mans self which tho in many respects they may in som degree concern others, yet they principally concern a mans self^f and come under that common vertue of Sobriety;

[III. Natural Law Relating to Others]

3. Therefore^g I come to those Laws of Nature that concern others, which is righteousness^h or Justice and these are of three kinds. 1. Such Laws of Nature thatⁱ primitively and antecedent^j to the institution of Civil Government, and^k abstractively from it considered;^l 2. Such Laws of Nature as seem to be directed and ordain'd in order to the Establishment of civil or political Government: 3. Such Laws of Nature as are in order^m to civil Government already instituted and settled;

[III. A. Natural Law Antecedent to Civil Government]

1. Touching the former of these it seems most evident that there are certain natural Laws antecedent to the institution of Civil and Political Government which

^aone] <one> ^bis] *em.* | in *B1, B2* | in<s> *B3* ^chave] *B1, B2* | are <have> *B3* ^dgift] *em.* | gilt ^ehaughtines] hau<gh>tines ^fmans self] *em.* | man self ^gTherefore] There<e>fore ^hrighteousness] *em.* | rightuousnes ⁱthat] *B1, B2* | that <as exist> *B3* ^jantecedent] *B1, B2* | antecedent<ly> *B3* ^kand] *B1, B2* | and <are to be considered> *B3* ^lconsidered;] *B1, B2* | considered. *B3* ^mare in order] *B1, B2* | are in order <relate> *B3*

did bind mankind and do bind to^a this day abstractively considered from these politicall^b Civil Constitutions.^c

And herein I shall suppose as unquestionable, and indeed not within the verge of the present question that all those Natural Laws that relate to almighty God, or immediately to a Mans self, did unquestionably, bind Mankind without relation of^d any Constitution of civil or politicall Laws or Societys,^e for we are not to suppose that the wise Lawgiver of the world should be so deficient as not to institute some Laws or rules for human Nature suitable to that state wherein he stood: 1. For^f the human Nature was well enough /fol. 81v/ capable of such Laws or Rules thô Political regiment in the World had never been instituted;

Therefore the Enquiry must proceed touching those Laws which relate from one Man to another;

And as to these it seems to me unquestionable that as to such moral actions relating to others which had in them an intrinsick congruity to the human Nature or dissonancy from it where of that state was capable: But that^g there were and must be necessarily^h suppos'd such moral or Natural Laws as such a state was capable of;

For there is no Man that doth acknowledge a Deity & thatⁱ Deity governs^j all things by his providence, and that he is a most wise being and orders every thing to suitable Ends by suitable Means, but must needs acknowledg another Regiment of the world, then that which the Laws of Man have made; That^k thô there were no human Monarchy Aristocracy or Oligarchy^l settled in the World, yet there would be the Divine Monarchy or Theocracy to the due administration where of there would be a necessity of Laws, for the regiment of the reasonable Nature;

And that althô there were no instituted human Government or Laws but Men were in that natural state wherein they were propogated into the World, yet even in that state there would be some things *iusta, honesta, and decora* & some things *iniusta, inhonesta* and *indecora*:^m every thing would not be lawfull to every Man, and that Imaginary state of warr, where in every Man might lawfully do

^a to] B1, B2 | it B3 ^b these political] these political or B2 | these political or B3
^c Constitutions.] Constitutions[.] ^d of] to B2, B3 ^e Societys,] Society: B2 | society;
B3 ^f 1. For] 1st. For B2 | ±. F. (f) or B3 ^g where of... But that] whereof that State was ca-
pable; But B2 | whereof that state was capable. But B3 ^h necessarily] necessar(i)ly ⁱ that]
that That B2 | that that B3 ^j governs] B1, B3 | does govern B2 ^k That] B1, B2 | & that, >
That B3 ^l Oligarchy] [??] <Oligarchy> ^m indecora:] indecora[:]

what he thinks best without any Law or Controule is but a Phantasy, or if it be admitted, it must not, cannot be supposed as the /fol. 82r/ just state of Nature, but as a Disease disorder & corruption in it.¹⁹

And I shall instance therefore such Natural Laws as are obliging in the state of Nature antecedently to any settled government among Men by mutuall^a Capitulation or Consent.

1. That great Natural Law of *fides est servanda*, keeping faith and pacts, did as forcibly bind, thô there were noe external human Power, settled as it did after such human Government settled; for 1. It included the same congruity to intrinsic Naturall Justice for a Man to keep his Contract before human Government settled, as well as after the Institution of Coersive,^b which only added an externall power of the exacting of the fulfilling of it; 2. Without the supposition of this truth it were impossible to maintaine the Obligation, either of human Laws or government that should be established by such pacts and promises, because such Pacts, and promises must necessarily antecede^c the institution of such Law or Conventioll^d Government, And therefore the Obligation of such pacts must needs be suppos'd antecedent to the Obligation of Government, and to be at first made in that state, which those Men suppose to be a State of Warr; 3. If it should be otherwise, there should no Obligation arise between Supream Princes by their promises or pacts, because neither is under the Law or government of the other, but stands as in relation one^e to the other, as men are supposed to stand in the imaginary State of Nature, which they call a State of War: And such a Doctrine as this, would put the World into Combustion;

2. The Consequence whereof, is, that if in this state /fol. 82v/ of Nature; A. should contract with B that B. should have those or these Goods or this or that Portion of Lands,^f though there were no other externall Law or Government in the World to enforce *A de non contraveniendo hinc contractus*^g [regarding an irrevocable contract], yet by this Law of Nature A. were obliged thereunto;

^amutuall] Natural <mutuall> ^bCoersive,] Cohersive B2 | coercive <laws> B3 ^cantecede] em. | antecede ^dConventioll] em. | Contentioll ^eone] B1, B3 | the one B2 ^fLands,] Land, B2 | land, B3 ^g*hinc contractus*] *huic Contractus* B2 | *huic contractus*<i> B3

19. A reference to Hobbes' natural state of "war of all against all." See Hobbes, *De cive*, 1.12–13; and *Leviathan*, 13.8, 14.4.

3. There be some things in the world that antecedently to any contract or pact a Man hath an undoubted property in, that may not be^a without natural injustice and violation of the Law of Nature be causelesly invaded by another, as every Man hath an unquestionable property in his own life, and in his own self; And therefore if for the purpose A gives himself up to the propriety of B. as in Matrimonial Contracts, and Contracts of Servitude as A. may not contravene his own Contract without violation of the Law of Nature, soe neither can C between whom and B. their intervenes no Contract devest B. of such his possession or property because it is given up to B. by him that had the full dominion or propriety^b of what he so gave up, and the like is to be said touching the propriety that a Man hath in his Children;^c

4. Consequently antecedently to any pact or Constitution Civil, no Man may take away the life of another, or do his Body any corporal injury without a Just Cause, without the violation of this Natural Law: and upon this stands the Natural Law against^d Murder: I say without a just Cause, for there may be a Cause to take away anothers life as in case^e of self defence,^f *cum debito* /fol. 83r/ *moderamine inculpatae tutelae*^g [with due moderation of blameless defense]: But it is not an imaginary^h cause that either hath noⁱ reality in it, or that ariseth not to that height as naturally to justify it, that can make such bodily injury Justifiable by the Law of Nature, for thô there be no Terrene²⁰ Judge or Governor to punish it, yet that no more makes the thing lawfull, then the most unjust action under Heaven, that by the Power of the party comitting it, renders it^l *de facto* unpunishable;^k

5. Upon the same reason the violation^l of another Mans wife adultery is against the Law of Nature, thô no pact intervened between the adulterer and the husband, because the Husband hath a propriety in the body of his wife, by the

^abe] B1, B2 | be B3 ^bdominion or propriety] B1, B3 | Denomination or property B2 ^cChildren;] B1, B3 | owne Children B2 ^dagainst] ag⟨a⟩inst ^ecase] B1, B3 | a Case B2 ^fdefence.] em. | deffence, ^g*moderamine inculpatae tutelae*] em. | *moderamine inculpate* [?] <tutele> B1 | *moderamine inculpate tutele* B2 | *moderamine inculpatae tutelae* B3 ^han imaginary] em. | ⟨an⟩ immaginary ⁱno] B1, B3 | not B2 ^lrenders it] B1, B2 | ⟨is⟩ renders⟨ed⟩ it B3 ^kunpunishable] unpunishable[;] ^lviolation] violating B2, B3

20. *OED*, s.v. *terrene*, def. 1: “Belonging to the earth or to this world; earthly; worldly, secular, temporal, material, human (as opposed to heavenly, eternal, spiritual, divine).”

matrimoniall Contract which was in her power to give up and is well transfer'd to her husband;

6. And upon the very same reason, and by the same Law of Nature, C. may not take away the Servant of A. which is made his by the Contract of the Servant who had power to transfer the propriety of himself at least temporaly^a to A.

7. And upon the same reason it is against Natural Law for C. to take away the Child^b of A. while they are *sub iure parentum* [under the right of parents] because they are naturally and *iure Naturae* [by right of nature], the goods of A. antecedently to any Contract;

8. As touching the right of propriety that any Man in^c the state of Nature and antecedently to any Contract or Consent touching^d translation or acquisition of particular property, the Question seems more difficult; because most of the methods of acquisition of property seems^e to be by institution thô^f/fol. 83v/ possibly much may be said to maintain a secondary Law of Nature for the acquist of property by the first possession or occupation, because that in as much as before the institution of the Laws of property it is admitted, that all have an equal right to all things, the Man that hath acquir'd the first possession hath some what^g superadded to that primitive right in common, that puts him in a better condition, than any other & to his interest in common, there is superadded somewhat by his industry that another hath not namely a prior possession; And the same may be said in reason of such acquisitions that are made by Art or industry whereby the things so acquired are in some kind become his Effects as by planting, Semination Culture, artificial^h Manufactures and the like;

Yet to avoid all disputes of this Nature, I will suppose that in the state of Nature all things are common and that antecedently to civill institutions, where by the Rules and Laws of Property are settled, there is no means peculiarly to appropriate any thing to any Man: (This thô it be a difficult Supposition I shall *argumenti gratiâ* [for the sake of argument] at present admitt) Yett I say in thatⁱ state of Community there are certaine rights of Natural Law and Justice instituted by almighty God and obliging every Person of Mankind;

^atemporaly] temporally B2 | tempora<ri>ly B3 ^bChild] B1, B2 | child<ren> B3 ^cin] B1, B2 | <may have> in B3 ^dtouching] B1, B2 | <&> touching B3 ^eseems] B1, B2 | seems B3 ^fthô] B1, B2 | the <However> B3 ^gsome what] B1, B3 | some thing B2 ^hartificial] em. | artificial, ⁱthat] B1, B3 | the B2

For I do suppose it unquestionable that the originall Dominion and propriety of all things is in Almighty God;^a And that he hath given the profitable use of all things in this lower world to mankind,^b *terram vero dedit filiis* /fol. 84r/ *hominum* [truly he has given the earth to the children of men] [Ps. 115:16]: And now suppose that he gave it promiscuously to Men as they should^c be born in the world in common, without any particular Laws of property, yet certainly in that state no Man hath a right totally to exclude another: for if every Man hath^d a right in that state of Community, no Man can Justly be^e excluded by another from all participation of that right, without the violation of that right that was in that state of Community or Nature which was common to all;²¹ For instance, if I am Justly intitl'd^f by the Laws of settled property at this day unto a piece of Land and give it to A. B. and .C. thô neither of them have a distinct or seperate propriety in this or that Acre, yet it is most certainly a wrong and against Natural Justice for A. wholly to exclude B. and .C. from any Portion of the profits;^g thô the settled Laws of England give them not any remedy by action against^h him that takes the whole profits;

So in that state of Nature in as much as every Man hath a right, the rule of natural justice forbids any Man to usurpⁱ the whole, because it takes something from him that is agreed of all hands to have a right as well as himself thô not determined in the particular *quantum* [amount];

But it is true that even in the reason of Nature, in that^j state of Community, there may be differing reasons of proportion or inequality,^k he that hath Many Children hath reason to have a greater Share thereof then he that hath None; But when in that state of Nature antecedent /fol. 84v/ to the institution of property *de facto*, there might be, and was sufficient for all according to the exigence of their condition^l (as there was of the Manna that fell among the Israelites) it is against Natural Justice, that he that might have & had enough proportionable to his state & condition should wholly exclude another from all which had at^m least an equall right to so much as answer'd his condition;

^aand obliging every ... God;] *om. B2* ^bmankind,] *em. | makind* ^cshould] s<h>ould ^dhath] <hath> ^ebe] <be> ^fintitl'd] *em. | instituted B1 | Intituled B2 | intit[?]led B3* ^gprofits;] p<r>ofits; ^hagainst] again<s>t ⁱusurp] [?] <usurp> ^jthat] *B1, B3 | the B2* ^kinequality,] *em. | in Equality, B1 | in Equality: B2 | inequality. B3* ^lcondition] co<n>dition ^mat] *em. | a B1 | att B2 | at B3*

21. Cf. Suárez, *De legibus*, 2.14.17.

Again even in that state of Nature that Law or rule of Naturall Justice obtained and was equally applicable to that condition of indeterminate property, as is real or might be to^a a state of Civil Settlement, namely, not to do to another what a Man would not have done to himself; And therefore if in that state of Community, that Man that without any reasonable or Just Cause, invades the whole, and excludes another; would not be so served himself he gives Judgment against himself as an invader, of that rule of Naturall Justice, which is applicable, even to that state of Community.^b

Again that Law of loving a Mans Neighbour, is a Law of Nature given by God indistinctly to Men under any condition, whether of comunity or seperate interest: This our Saviour excellently instanceth in the Parable of the Jew that fell among Theeves, that^c was releived by the Samaritane, not only as an Act of Beneficence but of Duty *goe thou and do likewise* [Luke 10:37] thô there was no intervenient Law, nor so much as any common Commerce between the /fol. 85r/ Jewes and the Samaritans.

And it is^d true, the specification of those actings of this Command of Loving one another be^e various according to variety of Circumstances, & therein receives a great determination, even where civil institutions are settled by the secret guidance of the Judgment and Concience, yet^f it is most certain that it is a Law of eternal rectitude and righteousness & given out by the Sovereigne Lawgiver of the world who did, & most Justly might equally oblige all Men in that state of Nature, by his Naturall Laws, as well as in a^g state of Civil Settlement.^h For the Obligation of his Laws, especially those that are Natural, respect Men as his own Subject,ⁱ whether under any settled form of Civil Government, or in the state of Nature antecedent to it, And it^j had been clearly an evident breach of this^k Law of Mutuall^l Love, even in that^m state of Comunity to have deprived another of the whole benefit of those necessarys for his life wherein he had a common Share by the consession of the Lord of the whole Earth, without any Just Cause for him so to do;

^ato] *om.* B2 ^bCommunity.] Community[.] ^cthat] B1, B2 | ~~that~~ & B3 ^dit is] thô it is B2 | tho it be B3 ^ebe] <be> ^fyet] B1, B3 | And yet B2 ^ga] <a> ^hSettlement.] Settlement[.] ⁱSubject,] Subjects, B2 | subjects, B3 ^jit] <it> ^kthis] B1, B3 | the B2 ^lMutuall] B1, B2 | natural B3 ^mthat] B1, B3 | the B2

But the Objection is made that there may be a just Cause for one Man in the state of Nature to deprive another, not only of his common Share in that comon interest that every Man hath^a in the things of this World: And if there may be such a^b Cause it must necessarily follow^c that every Man is naturally the Judge of that Cause, and of the reasonableness of it;

I answer, it is true, first that there may be a Just Cause in that state of Nature,^d for one Man to invade the comon interest that another may have, yea, and to take /fol. 85v/ away the Life of another: And so there may be also even in a state of Civil Settlement; And to omitt that disputed Problem, whither *in casu extremo necessitatis omnia sunt communia* [in the extreme case of necessity all things are common];²² a Man may *cum debito moderamine inculpatae tutelae*^e [with due moderation of blameless defense], as in case of a^f necessary defence of his own life, not only temporarily^g take away those weapons, which an Enemy hath whereby the others life is indanger'd, but may also take away the life of his Enemy, if he cannot otherwise save his own, and^h consequently if that Natural Law of self preservation cannot be other wise observed, nor a Mans life preserved,ⁱ or if another Man in that State of Nature doth wrongfully invade my possession, first^j then indeed we are in the State of War, and what by the Just Laws of War may be don, may be justified in such a Case; Secondly^k antecedently to civil government settled, there is no external Judge but a Mans self of what is a just or reasonable^l Cause to invade another Mans life or to deprive him of his common interest in the things of this^m life, because all Men as in relation to themselves are equall;

But in that Case he Judgeth at his peril and if he doth either wilfully and presumtuously or erroneously and mistakenly Judge amiss if he entertaine a vain fear or suspicion, that unlessⁿ he invade the other, the other will invade him, and thereupon Judgeth it expedient for his safty to be the agressor doth^o not truely

^ahath] *B1, B2* | <hath> *B3* ^ba] *om. B2* ^cfollow] <follow> ^dof Nature,] *em.* | of, Nature, ^e*inculpatae tutelae*] *em.* | *inculcate tutele B1, B2* | *inculpatae tutelae B3* ^fa] *om. B3* ^gtemporarily] *B1, B3* | temporally *B2* ^hand] *B1, B2* | and *B3* ⁱpreserved,] *B1, B3* | otherwise preserved: *B2* ^jmy possession, first] *B1, B2* | any possession, first *B3* ^kSecondly] *em.* | Secoundly *B1* | Secondly *B2* | 2. secondly *B3* ^lof what ... reasonable] what is a just or a reasonable *B2* | of what is a reasonable *B3* ^mthis] *B1, B3* | his *B2* ⁿunless] *em.* | uless ^odoth] *B1, B2* | <it> doth *B3*

22. This topic is discussed in *Pleas*, 1:54–58.

justify such an action: For 1. the Law of Nature by which he is bound not to commit^a any unjust action, is not therefore^b dispensed withall, /fol. 86r/ because there is no other temporall Judge to punish it; or because a Man mistakes in his Judgment, for it is an intrinsicall Obligation, other wise, it were impossible for an absolute soveraigne Prince to do^c any thing intrinsecally unjust because he hath no superior power on Earth to Judge him, 2. Even in that state of Nature, there is a Sovereign^d Lord & Judge who hath given this Law of Nature, by the most Just reason and authority imaginable, hath^e authority to give it, and power to exact^f conformity to it, and to vindicate the breach of it; when there were^g but three Men, that we read of in the world:^h And Cain took an Offence at his Brother & slew him; God Almighty sends him not toⁱ the parental Government of Adam; but convents himself:^j And thô there were no other Law in the world that we know of, there was then a discrimination of good and evil, and Divine vengeance for the one and reward for the other; Gen. 4.7.^k *If thou dost well shalt thou not be accepted,^l and if thou dost not wel, Sin lyes at the Doore.^m* And it had been but a pittiful answer for Cain to have said we were both *iure parentis emancipati* [freed from the right of the parent], and there was no Law intervned between,ⁿ but we were in a state of war, and I was a competent Judge what was fit for me to do to my Brother;

And therefore, it is but a mere fancy a pleasing imagination that some men have taken up and made much of: & built goodly and fine Consequences upon: That the State of Nature antecedent to Civil Laws or government is a State of War, and that therefore whatsoever a Condition of War, /fol. 86v/ renders^o Justifiable, is justifiable in the State of Nature; The falsness of which Supposition^p appears in what follows;²³

^acommit] *em.* | limit B1 | limitt B2 | **h**imit <commit> B3 ^btherefore] B1, B2 | thereby B3 ^cto do] *em.* | to [do] B1 | to [blank space] B2 | to do B3 ^dSovereign] *em.* | Seveiraign ^ehath] B1, B2 | <& > hath B3 ^fexact] Exact a B2 | exact a B3 ^gwere] *om.* B2 ^hworld:] wor\>d: ⁱto] *em.* | to <be> B1 | to B2, B3 ^jhimself:] *em.* | himseff: | him himselfe: B2 | himself himself. B3 ^kGen. 4.7.] *em.* | gen. 4.7[.] ^laccepted,] *em.* | excepted, B1 | accepted, B2 | accepted? B3 ^mDoore.] Doore[.] ⁿbetween,] B1, B2 | between us, B3 ^orenders] *om.* B3 ^pSupposition] *em.* | Spposition

23. Hobbes, *De cive*, 1.12–13.

1. The state of Nature, is really, and in its Nature a state of peace, under the Obligation of duty^a to the great Sovereigne Rector of the World, which is^b God of peace, under the Obligation of the Laws of this Sovereigne implanted in Nature which are Laws of Love and Naturall Justice;

And if they fall into a condition of war, one with another, it is not^c connatural to the state of Nature but accidentall a Disease & disorder in the Nature of some, at least of Mankind, and to measure the state of Nature by the disorder of it, we may with as much reason conclude that intemperance cruelty & villany is the Law of Nature, because many are of that distemper;

2. It is plain, that antecedently to any positive institution the frame of human Nature, tends naturally to Society, & the law of Society and tis a vain thing to say, this ariseth from fear, for we may see this propension grow up even in Children and from them, so that it is rightly observed by the Great Philosopher, that Mankind are more sociable^d then Bees even upon a kind of naturall propension;²⁴

3. It is a mistake in fact, that there is no^e *medium* between a state of warr and a state of Peace, so far forth as peace stands established by mutual pact and contract;

There is a state of peace established by mutual tongues,^f contracts,^g or stipulations which is varied^h according to the varietyⁱ of the Capitulations,^j some are of mutual defence, some of simple friendship.

Again there is a state of war, which some time^k is solemn with a solemn denunciation going before it, sometimes it^l /fol. 87r/ hath not that solemnity, but Men or people fall into an actual hostility either by occasion of some Dammage don by one to the other, or by some other provocation or Jealousy happening between them;

But there is a Third State either between Man and Man or Nation and Nation, which hath neither the superinduction of a Capitulation or Contract to make it perfect peace, nor any hostility between them either denounced or begun,

^aduty] B1, B3 | a Duty B2 ^bis] is a B2, B3 ^cis not] *em.* | is [not] B1 | is B2 | is <not> B3 ^dsociable] soci<a>ble ^eis no] *em.* | is [no] B1 | is B2 | is <no> B3 ^ftongues,] tongues[,] B1, B2 | ~~tongues~~ <leagues> B3 ^gcontracts,] *em.* | contractts, ^hvaried] B1, B3 | urged B2 ⁱvariety] *em.* | vriety | variety B2, B3 ^jCapitulations,] Capitulation; B2 | capitulation; <&> B3 ^ksome time] B1, B2 | sometimes B3 ^lit] B1, B2 | <it> B3

24. Aristotle, *Politics* 1253a7–8.

which at its best or highest advance is a mutual commerce^a or intercourse as there is between the English and the Persian or Indian at this day, or at least a^b bare^c negation of war or hostility according to the ancient Roman Law; *si cum gente aliqua neque amicitiam neque hospitium neque foedus amicitiae^d causa factum habeatur, hi^e hostes quidem non sunt* [if with any nation there is neither friendship, nor hospitality, nor an alliance made for the sake of friendship, they are certainly not our enemies],²⁵ and thô the corrupt Customes of some Nations permitted Pyracys & Robberys to be committed between them, yet they were always blamed^f and stiled by the Name of *Latrocinia* [brigands].

And this was the true state of Men in nature^g out of the extent of paternal government before the institution of Civil Society, neither perfect peace settled by Contract nor War, but a state of mutual intercourse and commerce, or at best or^h worst a state undetermined to perfect peace or plaine hostility, and rather tending to the former, then to the latter, so that the affirmation that the state of Nature is a state of war, is but only a pretty phrase taken up and pleasing to the inventers of it, thenⁱ any thing of truth or reality in it;

9.^j Again the paternal power of the^k Children dureing /fol. 87v/ their minority, and while their dependance is upon the Parents, is a right settled in the Father by the Law of Nature, and accordingly was in use till civill and political Government^l established in the World;

10. Again by the very Law of Nature there is a secret Obligation of gratitude to him from whom I freely and without reciprocal contract receive a benefit, and this held as well in the state of Nature as after the institution of Civil Government neither hath the institution of Civil Government^m or any Laws induced, thereby

^acommerce] *B1, B3* | Converse *B2* ^ba] *B1, B2* | <is> a *B3* ^cbare] *em.* | bear ^dfoedus amicitiae] *em.* | *fides amicit[i]ae* *B1* | *fides amicitiae* *B2, B3*. Ed. note: *fides* is a corruption of *foedus* in *Digest*, 49.15.5.2. ^ehi] *si* *B2, B3* ^fwere always blamed] are always blamed *B2* | were always claimed *B3* ^gnature] [-?] <nature> ^hbest or] *em.* | best or *B1* | best or *B2* | best, or <at> *B3* ⁱthen] *B1, B2* | then <without> *B3* ^j9.] *om.* *B2* ^kof the] of *B2* | of <over> the *B3* ^lGovernment] *B1, B2* | government <was> *B3* ^mneither ... Government] *om.* *B2* | <Neither hath the institution of civil government> *B3*

25. Justinian, *Digest*, 49.15.5.2: "...si cum gente aliqua neque amicitiam neque hospitium neque foedus amicitiae causa factum habemus, hi hostes quidem non sunt..." Paul Krueger, ed., *Corpus iuris civilis*, 3 vols. (Berlin: Weidmann, 1915–1928), 1:884. Cf. the use of this citation in Grotius, *De jure belli ac pacis*, 3.9.18.

alter'd this Obligation, for thô the Law of gratitude^a be most certainly a duty by the Law of Nature, yet it stands as it then was, no Law that I know of, having made it compulsory by any Civil Action, but it is^b as it stood before merely as a Natural Law^c obliging *in foro interiore*^d [in the inner court].

And thus far touching^e those Laws^f that are Natural, yet applicable to that Natural State which may be supposed antecedent to any politicall or civil Law's or government;

[III. B. Natural Law Preparatory to Civil Government]

2. Therefore I descend^g to those Laws of Nature which are preparative, and in order to the attaining of civil or political Society;

And previous to this Consideration, we must premise that as the frame and order of the greater world was not digested into that comely and usefull Constitution that is still observed by Chance or Casualty^h 26 so neither did the frame and texture of the lesser world, Man, come together by Casualtyⁱ or Chance but by the most high Wisdom of the most wise God, And as thus the contexture of the human Nature was the Contrivance of the most soveraigne^j wise & intelligent /fol. 88r/ Being so all^k the propensions, inclinations & common tendencys of the human Nature and the adaptation^l of all his facultys to their suitable Objects in order to the well being of Man, were all ordained dispos'd and placed in that Nature by the same wise intelligent being; who foresaw all his works from the begining and knew what was most^m convenient for the human Nature in all the various ages & circumstances of his being;

In the first ages of the world, the people were few, long lived and that natural regiment which wasⁿ lodged in the parental power, might possibly serve that

^agratitude] B1, B3 | nature B2 ^bis] B1, B2 | is <being> B3 ^cNatural Law] *em.* | Natural [Law] B1 | naturall Law B2 | natural law B3 ^d*interiore*] B1, B2 | *interiore*<i> B3 ^etouching] *em.* | touch[ing] B1 | touching B2, B3 ^fLaws] *em.* | Law[s] B1 | Lawes B2 | lawes B3 ^gdescend] des<c>end ^hCasualty] *em.* | Casualty B1 | casualty B2, B3 ⁱCasualty] *em.* | Casualty ^jsoveraigne] [?] <soveraigne> ^kall] B1, B3 | also B2 ^ladaptation] B1, B3 | adoption B2 ^mmost] *om.* B2 ⁿwas] B1, B2 | was so B3

26. *OED*, s.v. *casualty*, def. 1: "Chance, accident (as a state of things)."

infancy of time: But Almighty God, to whom all his works are known from the begining [Acts 15:18], easily foresaw that as people were multiply'd there necessary in order to the well Being of mankind that^a political externall regiment and Laws would be necessary for the well ordering of Mankind: And that without it, those Laws of Nature thô sufficiently obliging to the human Nature without any positive or^b human institutions would be usurped upon by the prevalence and Lusts of Men, did^c therefore partly by the propensions and inclinations of the human Nature, partly by the exhibition of the reasonableness of things to the understanding^d of Men, bend them to Coalitions into Civil Societys and Laws, as being admirable^e congruous and suitable to the wel being of Mankind: And these are those Natural Laws, which come now to be consider'd^f preparatively and^g disposing to civil regiment & society;

1. Therefore there is in the human Nature a natural /fol. 88v/ propension and Love of Society which is highly improv'd by the reasonableness and usefulness thereof to his^h well being apparent to his reason and understanding, This the great master of Observation and Learning in the first of the first ofⁱ his Politicks observes to my hand, wherein after some instances to this purpose he concludes *ex quo patet sociale animal esse hominem magis quam omnes apes et omne gregarium animal nihil¹ enim Natura frustra facit* [From which it is clear that man is a social animal more than any bee or any gregarious animal, for nature does nothing in vain],²⁷ two things are observable herein, namely 1. That there is a natural propension in Man to Society, even antecedent to any discursive operation of the mind: And 2. That this is no casual incidence in the Nature of Man, but an instituted Charector, imprinted upon that Nature which appears by this, that by the advantage of speech, and instituted Signes (which no Creature besides Man is capable of) he is adapted and fitted to that sociability that his Nature is

^athere necessary ... that] *B1, B2* | ~~there necessary in order to the well being of mankind that~~ *B3* ^bor] [[?]of] <or> ^cdid] *B1, B2* | <[?And] He> did *B3* ^dunderstanding] *em.* | understand[ing] *B1* | Understanding *B2* | understanding *B3* ^eadmirable] *B1, B2* | admirably *B3* ^fconsider'd] *B1, B2* | considered, <as> *B3* ^gand] *B1, B2* | and *B3* ^hhis] *B1, B2* | his <man's> *B3* ⁱthe first of the first of] *B1, B2* | the first of ~~the first of~~ *B3*. Ed. note: the citation is to Aristotle's *Politics*, book 1, chapter 2, so this may be an instance of dittography. ¹*nihil*] [[?]] <*nihil*>

27. Aristotle, *Politics* 1253a7–8.

inclined to; The ordering of any thing to the use of another being the greatest Evidence^a of such an Agent that works by intention and intellect; And^b therefore this natural propension thus accomodated with the faculty of speech so singularly apposite^c thereunto was the work of the great and^d wise and intelligent Being;

And therefore it is but a narrow and weak conjecture that feare was the *primum Movens* [prime motive] of Man to the entring into Societys,²⁸ since it is apparent that this natural propension placed in Man is antecedent /fol. 89r/ not only to the actings of the passions, but in some^e measure antecedent even to any act of deliberation^f of the mind;

But besides this natural propension which is the *primum movens* to Societys, there is some thing that seconds and inforceth it, namely that congruity and convenience which renders it usefull and beneficial^g to the human nature, and is so presented to the Judgment of reason; first^h it gives a Man security against his fears of injurys from others by the mutual association, confederacy and united strength of those of the same Society, but this is not allⁱ nor indeed an^j half of the reason and reasonable of Society, and therefore they do look but half way that make fear the only or principal reason of Mankind^k affecting Societys. 2. Therefore^l there is a further advantage namly the mutual communication and participation of one Man in that good that he wants, and another hath or hath in greater abundance, for Nature hath so order'd the several states and conditions of Men that one Man stands in need of what another hath, and this creates necessitude between one Man and another, and by this disposition of the Divine regiment of things, there is a Mutual necessitude and indigence of mutual Offices between Man and Man, one Man hath more wit, another more Courage, another a^m good Naturalist or Physician, another aⁿ good Orator, one dexterous^o in Mechanicks of one kind, another of another; /fol. 89v/ And the advantage of Consociation^p

^aEvidence] *em.* | Evident *B1* | Evidence *B2* | evidence *B3* ^bAnd] *B1, B2* | and *B3* ^capposite] *em.* | oposite | apposite *B2, B3* ^dand] *om. B2* ^esome] *B1, B2* | <some> *B3* ^fdeliberation] *em.* | deliberation ^gbeneficial] benefic(i)al ^hfirst] *B1, B2* | First <1.> *B3* ⁱnot all] *em.* | moral *B1, B2* | moral <not all>, *B3* ^jan] *om. B2* ^kMankind] *B1, B2* | mankind's *B3* ^lTherefore] *B1, B2* | Therefore *B3* ^ma] *B1, B2* | <is> a *B3* ⁿa] *B1, B2* | <is> a *B3* ^odexterous] *em.* | dextor<ous> *B1* | dextrous *B2* | <is> dextrous *B3* ^pConsociation] Cons<ociation

28. Cf. Hobbes, *De cive*, 1.2.

makes the Communication of the good of^a one to another more ready, facile and usefull, and by this meanes one Man is^b as it were mortis'd into another and contiguat²⁹ by the communication of offices and supplying of wants each of other;^c

2. By the same propension and the consonence also of reason,^d distinction of property, for tho the full complement of settling of property and of the Laws for the acquiring & translating, was not fully obtain'd or regulated til government settled, yet it is plaine that the distinction of property^e began early in the world, and that by a kind of natural congruity and propension to which men were inclined, without any great process of ratiocination: And the reason of the thing gave in it self a great Suffrage to it. 1. The great inconvenience and disturbance that must necessarily grow upon an indistinction of propriety. 2. The distinction of property engaged mens industry for no Man would take pains for that wherein another should be participant that took none, neither would any take pains for that which he might equally enjoy^f without the derogation of it, and so the habitable world would run to disorder and confusion, and never be improved for the advantage and supply of the increase of Mankind, because there would be no necessity nor incouragement in it, which would be a detriment to the beauty and usefullness of the World and^g to the common disadvantage of Mankind: And^h /fol. 90r/ therefore Plato's Community hath been deservedlyⁱ rejected notwithstanding the reputation of the Author³⁰ because in the frame of it, pernicious to industry, and consequently to the human Nature, which is advanced and improved by industry, and would like a standing Water putrify without Motion;

3. By the same preparatory Law of Nature, is the propension of^j the Institution of Government in a Society: And hence it was that among those *praecepta*^k *Noachidarum*, that *de Iudiciis* [regarding judges] was one, which was no other then a comand of institution of Government, and this is^l upon those two grounds formerly deliver'd, there is a kind of natural propension in the human Nature, to have some imperative and coercive power lodged in the Society and thô the

^a of] *om.* B2 ^b is] *om.* B2 ^c each of other;] B1, B2 | <of> each of other. B3 ^d reason,] B1, B2 | reason <there is> B3 ^e property] p[ro]p[er]ty <property> ^f enjoy] B1, B3 | joy B2 ^g and] B1, B2 | and <would be> B3 ^h And] B1, B2 | and B3 ⁱ deservedly] B1, B3 | reservedly B2 ^j of] to B2, B3 ^k *praecepta*] *em.* | *precepta* ^l is] B1, B3 | was B2

29. OED, s.v. *contiguat*: "Contiguous to; in immediate contact with."

30. Cf. Plato, *Republic* 416d, 449c.

various formes of that government are not^a determinate in Nature, yet the generality of Mankind have most of all fix'd in^b monarchical government as most resembling the regiment of Almighty 2. The reasonableness of Government is apparent; for as a Society much contributes to the peace and good of Mankind, so government is the Bond of Society that holds it together, &^c without which it would be imperfect to its End, and soon fall in sunder by factions, and that popular argument of the Equality of Mankind by Nature: The^d Ends of Society would faile, and the Nerves and Ligaments which hold it^e together would be cut a sunder;

4. By the same preparatory Law^f the reasonableness /fol. 90v/ of institution of Laws for the government of a Society are^g apparent: For. 1. there would be no sufficient externall terror to keep from evil, because the penaltys which are Naturall to Laws would not otherwise be known nor publick.^h 2. without such Laws there would be no certain external Rule whereby the Governor or Governed should orderⁱ themselves; Either the Government of the Governor would^j be arbitrary & uncertaine or else none at all, and the Govern'd would^k be at a loss how to walk and order themselves or their actions, but of this hereafter;

And thus far^l for those Laws of Nature that are preliminary to the institution of civil government or Laws.

[III. C. Natural Law Subsequent to Civil Government]

3. Therefore I^m come to those Laws of Nature, that obtaine after politicall government and Laws established: And herein I shall be very breif, not intending a Discourse at large of Politicks, or human government ofⁿ Laws, for that is besides my purpose and would be too large a Subject for this time.

And these Natural Laws that abstractively^o belong hereunto, are very few, because notwithstanding the institution of civil or political Laws and government,

^aare not] *em.* | are *B1, B2* | are <not> *B3* ^bfix'd in] *em.* | fiex'd in *B1* | fixed in *B2* | fixed on *B3* ^c&] and *B2* | and *B3* ^dThe] *B1, B2* | <&> the *B3* ^eit] *om. B2* ^fLaw] Law of nature *B2* | law of nature *B3* ^gare] *B1, B2* | <is> *B3* ^hpublick.] *em.* | pulick. ⁱorder] *B1, B3* | governe *B2* ^jwould] *B1, B2* | should *B3* ^kwould] *B1, B2* | should *B3* ^lfar] *om. B2, B3* ^mTherefore I] *B1, B3* | I therefore *B2* ⁿof] | or *B2, B3* ^oabstractively] *em.* | obstractively

all those Laws of Nature whereof before still obtain and retain their force and obligation, and therefore it were but vain to repeat them over again;

1. First^a therefore the great Law of Nature, upon which all civil or political government and Laws are built, and wherein the strength and stability of them among men consists,^b it is this great Law of Nature *fides est servanda*: for this being that Law of God which we call Natural is fixed in Nature obligeth /fol. 91r/ in Conscience and renders all human government Laws Contracts and promises reductively and consequentially under the Obligation of the Divine Laws^c of Almighty God;

And this *fides* is either express and verbal or implicite and by way of reasonable interpretation;

Expressa fides is that which is given expressly as when people enter into a mutual Society or Confederacy^d one with another, when they set up a government and oblige themselves to obey it, when they either make Laws by common Consent among themselves, or transfer that^e power to some person or Society among them, and oblige themselves to be obedient to them, when one Man contracts with another gives to another his faith or promise to do, or not to do this or that thing, here thò the mater of the contract or agreement and the formality of its Constitution be human, yet when it is made the Signature of this Divine Law of almighty God, is set to it, *servabis^f fidem* [you will keep faith], and consequently thò the Breach^g of such faith, as to the matter of it be of some human contract or institution, yet in relation to this Signature that superadds the^h stamp, value, and authority of Almighty God unto it,ⁱ is a breach of his^j Law;

Tacita or *implicita fides*, when^k a Man that was not the first party to the Contract, but comes in after and list^l himself under that Society that was at first engaged in this faith or that by succesion of new pacts and capitulations hath been bound to it, comes into a City Kingdom or Common wealth and participates of the benefits and ad- /fol. 91v/ vantages thereof, he^m is tacitely obliged in the same manner as the rest of the Society is obliged, namely to keep their Laws &

^aFirst] *om. B3* ^bconsists,] *B1, B2* | consists. *B3* ^cLaws] *Law B2* | *law B3* ^dConfederacy] *Confed(⟨)eracy* ^ethat] *B1, B3* | the *B2* ^f*servabis*] *em. | sevabis B1 | Servabis B2 | servabis B3* ^gBreach] *Bre(⟨)ach* ^hthe] *B1, B2* | (unto it) the *B3* ⁱunto it,] *B1, B2* | ~~unto it,~~ *B3* ^jhis] *B1, B3* | this *B2* ^kwhen] *B1, B2* | (is,) when *B3* ^llist] lists *B2, B3* ^mhe] *B1, B2* | (Here) *he B3*

support the Government and to the common assistance and defence of the Society^a wherein he Lives;

And to this head I may refer the matter of veracity, or speaking truth and avoiding lying, especiall^b in matters of accusation, testimony and reports; certainly veracity or speaking truth from the heart is a dictate of human Nature, it^c is suitable to the honor and dignity of the human Nature, and lying is unseemly base, and an^d argument of an ignoble and impotent mind. 2. Nature having given to mankind the common Use of Speech to render themselves and^e communicate each with other,^f there is a kind of common Obligation runs thro' the whole human Nature to observe that power or faculty considerable^g to its end and institution.

And certainly the supervenience^h of contracted civil Society superadds a further Obligation for men to speak truth one to another, the contrary whereof is lying and deceit and to speak truth one of another, the contrary whereof is false witness both whichⁱ are extream violations of Civil^j Society, & that comon faith that every one either expressly or implicately gives to^k other to speake truth^l and not to testify^m or affirme falsely: A Lye or false testimony being a breach of Faith touching a thing to be known, as a breach of contract, or promise, is a breach of faith, touching things to be done;

Secondlyⁿ but since the duty we owe to God as the Supream Lord of all things is greater and prior to the duty /fol. 92r/ we owe, or can owe to human^o Government, and since the Obligation to the Laws of Men or civil Societys is subordinate and inferiour to that Obligation to the Laws of God; whether naturall or positive, therefore in all that faith between Societys or the Governors and Govern'd for the observation of such^p there is tacitely implied *salva fide et ligeantia Deo debita* [without violation of faith and allegiance owed to God], and therefore a Man is not bound to offend God by the active obeying of the Comands or Laws of Men but then let him look to it at his perill, that he hath a good warrant to Justify him

^aSociety] *em.* | Society. ^bespeciall] Especially B2 | especially B3 ^cit] B1, B2 | 1. It B3 ^dan] <an> ^eand] B1, B2 | <useful to> and <to> B3 ^feach with other,] B1, B2 | <with> each with other; B3 ^gobserve ... considerable] B1, B2 | observe <preserve> that power or faculty considerable <conformable> B3 ^hsupervenience] *em.* | supervariance B1 | super . . . ience [*sic*] B2 | supervenience B3 ⁱwitness both which] B1, B2 | witness<ing>: both with which B3 ^jCivil] B1, B3 | humane B2 ^kto] B1, B2 | to <the> B3 ^ltruth] B1, B2 | well truth B3 ^mtestify] B1, B2 | justify B3 ⁿ2.] Secondly B2 | 2. Secondly B3 ^ohuman] *em.* | humany ^psuch] B1, B2 | such <human lawes,> B3

in the Sight of God, for other wise his disobedience to the human Laws of Men is *violatio fidei* [a violation of faith], which is against the Laws^a of God;

Thirdly,^b but even in that Case thô in the Contradiction of the Laws and Commands of God, and of Men, there the Obligation activ'ly to obey the latter, is taken away yet according to the ordinary Constitution of Government a Man in such a Case^c is under the Obligation of Non-resistance & passive Subjection: For thô the Governor that imposeth a Law contrary to the Law of God and punisheth for not observing it breaks the duty he owes to^d God by comanding things contrary thereunto, yet the Subject offends no Law of God or Man in suffering and^e not resisting and as he observes the duty he owes to the Supream Sovereign^f of the world, in not yeilding an active obedience to the unlawfull Commands or Laws of Men, he also observes the duty he owes to this Natural Law, which is the Law of God *fides est servanda* /fol. 92v/ For thô an active^g obedience in such case be tacitely except'd,^h yet a passive Subjection even in those Cases, is not excepted but injoyed by vertue of this Natural Law *fides est servanda*;

And this stands with natural reason, and the convenience of human Societys,ⁱ without which confusion and dissolution of government would insue.^j For every Man would thereby be put into a condition not only to dispute the Lawfulness of every thing commanded, but also the power and authority of Laws in inflicting punishment in whatsoever they should Judge not Lawfull, wherein every Man would be a Judge of the Lawfulness of the Comand the Lawfulnes^k of inflicting the penalty and consequently of^l the Lawfulnes of resistance when and how he please;

And thus I have run thrô some *Specimina Legis Naturalis* [examples of the natural law], I take not upon me to give an exact Catalogue, or System of Natural Laws, I know I have omitted many, as namely Charity, Compassion, remitting offences upon repentance for injuries Longanimity, Clemency the various partitions^m and instances of distributive and commutative Justice; together with the various temperaments of them, my designe was not to pursue all the *Capita Legis naturalis* [heads of the natural law], but to give such instances to make what I say and shall say touching the Laws of Nature the more intelligibleⁿ and applicable;

^aLaws] *B1, B2* | law *B3* ^bThirdly,] *B1, B2* | 3. Thirdly *B3* ^ca Case] Case *B2* | case *B3* ^dto] <to> ^eand] or *B2, B3* ^fSovereigne] *B1, B3* | Governour *B2* ^gactive] actively *B2, B3* ^hexcept'd,] *B1, B2* | æ<ex>cepted, *B3* ⁱSocietys,] *em.* | Sietys, ^jinsue.] *B1, B2* | issue *B3* ^kof the Lawfulness ... Lawfulnes] *B1, B2* | of the lawfulness *B3* ^lof] *om. B2* ^mpartitions] par<titions ⁿintelligible] *em.* | <intelligible>