

The Judgment of an Anonymous Writer on the Original of This Abridgment

*With reflections of the translator, intended to clarify
certain of the author's principles*

[379] There fell into my hands, a year or so ago, a Latin letter in which an anonymous writer¹ gives his opinion on this abridgment, *De Officio Hominis et Civis*. The letter, which appeared in print in 1709, forms part of an academic program in which Justus Christoph Böhmer, a professor at Helmstadt,² gave notice of twelve public disputations on the system of natural law that our author, Samuel Pufendorf, publishes in this short book. Anonymous, who is described as an “Illustrious Man,” doubtless had reasons for not revealing his identity. He feared, perhaps, that he would be suspected of wanting to denounce, as if out of [380] personal envy, a work that has enjoyed such general esteem. Perhaps for this same reason he preferred to publish his thoughts only within the context of an academic program, in other words in a printed form that has rather a limited dissemination. Or perhaps he never even thought that such a use would be made of the letter that the Helmstadt professor

1. That is to say, the late Mr Leibniz. See the postface to the fourth edition of my translation.

2. Böhmer was then Professor of Politics and Rhetoric. In 1710 he became Professor of Theology, while retaining his other two chairs. Subsequently, in 1723, he was made Abbot of Loccum, succeeding his uncle Gerhardt Walter van den Muelen. He was neither the brother, nor the relative of the famous Mr Böhmer, Professor at Halle, as I had conjectured he might be.

Livros Grátis

<http://www.livrosgratis.com.br>

Milhares de livros grátis para download.

has released without seeking permission.³ Whatever the case, since his name has now been published, I trust there will be no offence to its author's modesty if I give it a yet wider dissemination,⁴ not just by another reprint but by translating the work into one of the best known of modern languages. I shall not seek to draw aside the curtain behind which the anonymous writer is hidden, but leave each reader free to conjecture.

I shall do no more than record how, in reading his letter, I discerned the marks of a penetrating mind, one that was far from allowing itself to be swayed by the judgment of other men. I congratulated myself on the happy chance which had brought such a [381] tract to me, from such a distance, a tract of which not only had I heard no mention, even when I was living much nearer to the place where it appeared, but

3. This was pure conjecture on my part, given my intention to appear to know nothing of the identity of the writer, although I knew it perfectly well. Leibniz had himself sent this piece, by the post, to one of my friends in the neighbourhood of Lausanne, knowing that it would be communicated to me. Therefore I could scarcely imagine that it had been published without his permission. If Mr Böhmer had paid attention to what I subsequently stated, in my Postface, when, the situation having changed with the death of Mr Leibniz, I believed I could reveal the name of the anonymous writer, the author of this *Opinion* here translated with my commentary, he would soon have recognised that I had not seriously suspected him of taking the liberty of printing the work without the author's consent. This was his complaint to me in a gracious letter that he did the honour of writing to me in November 1719, when sending me a second edition of his *Academic Programs*. In the letter he informed me that, in response to a request, Mr Leibniz had written and conveyed his *Opinion* to the late Mr Gerard Molan, Abbot of Loccum and Director of the Churches of the Electorate of Brunswick, Mr Böhmer's own uncle. The piece had been sent on 22 April 1706, with full permission to have it printed under the title *Epistola Viri Excellentissimi ad Amicum, qua monita quaedam ad principia Pufendorfiani Operis De Officio Hominis & Civis continentur*. But it was three years before Mr Böhmer had occasion to act on the permission. Given this declaration on my part, I hope that Mr Böhmer will not find it displeasing if I do not erase with a "perhaps" what I said here concerning him. To do so would require me to change my plan to leave—for good reasons—the text of my reflections precisely as it was composed.

4. I did not know then what I later learned on arriving at Groningen, that the late Mr Alexandre Arnold Pagenstecher had already had Mr Leibniz's letter printed in 1712, and revealed the author's identity, having himself found the name indicated in a Flemish journal, the *Neuer Bucher-Saal*. He published it at the end of Van Velsen's edition of Pufendorf's *De Officio Hominis et Civis*, an edition of which I had not heard.

which must still be as rare as it is little known. Since I already knew that I would shortly have to deliver to the printer the abridgment, *Les Devoirs de l'Homme et du Citoyen*, I resolved to adorn this new edition of my translation with the anonymous writer's *Judgment* of the original, attaching to it my comments. This could contribute, it seemed to me, to a greater awareness that, if the work he criticizes is not without fault, since few are, it is all things considered nonetheless a good work.

I will confess once more the pleasure I had in discovering that I had anticipated the anonymous writer in respect of certain matters concerning which I had already written that I too was not entirely pleased with my author's thinking. This led me to hope that it would not be taken amiss were I to defend him on other matters. If I so succeed, I take no great pride in it. Nor [382] do I in any way set myself alongside this "Illustrious Man" who, it appears, is a great genius. If, as he tells us, he had not read for a considerable time the work he is examining, and if it was doubtless just as long since he had read my author's other works, it should come as no surprise that he had not understood my author's principles as well as I, who have committed such labor to winning understanding for them. I shall therefore translate the letter in question, not in a continuous form but by interposing my reflections, to the extent that I shall have occasion. However, there will be no confusion. The separate elements of this little piece, that I shall number for the convenience of references and quotations, will be clearly distinguished by [italics], thanks to which it will be easy to recombine these elements should one wish to read the entire letter without interruption. I shall attempt to express the anonymous writer's thoughts with the utmost exactitude; and I shall record in the margin, or in footnotes, the exact terms of his original, whenever I fear I might not have caught the sense, or for some other reason. Here follows the preamble.

I. You ask me, Monsieur,⁵ on behalf of a friend of yours, for my judgment on the treatise, Les Devoirs de l'Homme et du Citoyen, written by

5. The person to whom the letter is written—he too is not named—is addressed here as "most eminent man," *vir summe*. It is Mr Abbot Molan, or Molanus. See the note to p. 380.

Samuel Pufendorf, a man whose merit made him famous in his lifetime.⁶ I have glanced [383] at this work, it being long since I had consulted it, and I found considerable defects in its principles. However, since most of the thoughts developed in the work have scarcely any link with the principles, not being logically derived from the principles as from their causes but rather being borrowed from elsewhere, from a variety of good authors, nothing prevents this little book from containing numerous good things, or from serving as a compendium of natural law for such persons as are content with a superficial knowledge, as is the case with most of the public, and who do not aspire to a deeper understanding.

It would surely be a grave fault, or rather a fault that would render the work in question inappropriate to its author's purpose, if it was nothing but a kind of rhapsody, *scopae dissolutae, arena sine calce*, as it seems to be represented here. But I leave it to the public to judge whether, for all the faults one may find in the system of natural law outlined here and now known throughout most of Europe, one does not in general discern in it both fairly sound principles and a fairly clear link between the fundamentals of each particular topic and these principles. I admit that the whole is not arranged in the manner of the geometers, with Issues, Definitions, Axioms, Corollaries, etc., but their dry method is in no way necessary in every field of knowledge, and less so in those fields concerning manners than in any other. To bring to bear a geometric mind is enough, that is to say a precise mind,⁷ and this does not always depend on [384] a deep study of the abstract sciences: an orderly mind, precise and sharp, attentive to following the plan that has been adopted without admitting any major principle that is either false or doubtful or drawing a wrong consequence that cannot be traced back, from principle to principle, to the most general. I hope to demonstrate clearly, in examining what our anonymous writer says below against the principles expounded by my author, that, all in all, these

6. "*Suo quondam merito celeberrimi.*" He is yet more renowned since his death than he was in his lifetime.

7. See the fine and judicious *Reflexions sur l'Utilité des Mathématiques* of Mr de Crousaz.

principles are indeed well-grounded. And as for the consequences, let us take what chapter we will, and I dare say that we shall quickly be convinced—if we read him carefully—by our author's breadth of reasoning on some truth that follows, directly or indirectly, from the general principles informing the work as a whole. It would be easy to show this by a full analysis: but that would go beyond the scope of my reflections, and be superfluous, given the book itself, where those who read the work can undertake the analysis for themselves.

II. My wish, nevertheless, would be for a stronger and more solid work in which one could find rich and illuminating definitions; in which the conclusions would follow logically [veluti filo] from correct principles; in which the grounds of all actions and exceptions in accord with nature were set down in order; and in which, finally, nothing would be neglected of what is required by those beginning their studies of natural law in order to furnish themselves with what may have been omitted, and to determine according to rules and principles [determinata quaedam via] the questions that are posed. For this is [385] what we expect of a complete and well-ordered system.

For myself, I would wish that Anonymous was himself willing to give us a work such as he conceives a good system of natural law to be. He is without doubt more capable than anyone of fulfilling the program that he has proposed. My only fear, with regard to the “actions and exceptions in accord with nature” of which he appears to insinuate there are many, is that he may be confusing the subtleties of the civil law of the Romans with the simplicity of the natural law. We must take care lest we repeat here what happens when someone, offended by a few irregularities in a building that is otherwise solid and well-conceived, rather than seeking to remedy as best they can the inconsiderable faults, chooses instead to demolish the whole edifice and draw up a new plan, which in various ways could turn out to be far more defective.

III. One might have anticipated something like the sensitive judgment and immense erudition of the incomparable Grotius, or the profound genius of Hobbes, if only the former had not been sidetracked by the many concerns that prevented him doing what he could have done on this topic, or if the

latter had not proposed bad principles which he then followed all too closely. Felden [Jean de Felde, in Latin, Feldenus] too could have given us something better and more complete than what is commonly taught, had he chosen more fully to apply his mind and knowledge.

I am not sufficiently acquainted with the last of these authors to judge whether he deserves the praise accorded to him; [386] nor do I know whether what he published on Grotius could lead us to attribute to him the capacity for something like the work at issue.⁸ As for Grotius, it must be recognized that he is the first to have systematized a science that, prior to him, was nothing but confusion and, more often than not, impenetrable darkness. With the result that it was scarcely possible this great man should have done more, above all in the times in which he lived. It can thus be said that his excellent work, *Droit de la Guerre et de la Paix*, provided a wealth of starting points sufficient to guide all who have subsequently worked, or who will do so in the future, to produce something more exact and complete.

IV. It would also be most useful to introduce into a system of natural law the parallel laws in the civil law [parallela juris civilis &c.] as recognized

8. *Stricturae in Grotium, etc.* This work, and its author, are not held in great esteem by judicious scholars even in his own nation. See *L'Histoire du Droit Nat.* by Mr Buddeus, §.27, at the head of the *Selecta Jur. Nat. & Gent. et la Bibliotheca Juris* de Mr Struvius, p. 347, 5th Edit. The latter speaks of Felden (or de Felde) on the occasion of a book that he published in 1664 at Frankfurt and Leipzig, under the title *Elementa Juris Universi, & in Specie Publici Justiniani*. I have since seen this work, and as a result am more than ever convinced that there is no reason to expect from such a mind all that Mr Leibniz promised himself regarding what is required. I wrote further on this in my Preface on Grotius (p. ix), and I do not retract what I said there. What is more, Mr Leibniz's defender, having never apparently heard of Feldenus, thought to work a miracle in changing this name to that of Seldenus, as if there was a printing error or some inadvertency in the original text. However, the name of Feldenus appears also in the second edition that Mr Böhmer published in 1716. Basically, no-one who knows the works of the English scholar will ever imagine that Mr Leibniz could have judged him likely to provide a system of natural law, according to the concept and plan that he believed this should follow. His good opinion of Feldenus was based, it appears, on the *Elementa Juris Universi*, to which he refers in his *Nova Methodus docendae discendaeque Jurisprud.*, printed in 1668 at Frankfurt, p. 39.

among men, above all the civil law of the Romans, and of the divine law also. In this way, theologians and jurisconsults could more easily make use of natural law; whereas, due to the manner in which natural law is taught, it consists more in theory than in practice [magis sermonibus celebratur, quam negotiis adhibetur], and finds little application in the business of life.

[387] Grotius, in the book of which we have just spoken, and Pufendorf, in his great work *De Jure Naturae et Gentium*, frequently drew the comparison that Anonymous finds so useful. But I fail to see that it is so necessary in a system such as that in question, which must be designed for the needs of beginners and, as a result, should contain only the elements of the science. The admixture he proposes might rather be harmful, to the extent that it confused the picture, there being few civil laws that do not add something to natural law or otherwise change it. When one learned of natural law only those elements that appeared, piecemeal, in the civil law of the jurisconsults' books, the ideas that one formed whether of natural law or civil law were anything but accurate. The truth of the matter is that before undertaking a comparative study, one must first gain a solid knowledge of natural law alone, only then proceeding to a comparison with the civil law, through study of the laws particular to each country. In this way there is no fear of confusion: it is simply a case of recalling and applying principles that one has already learned. This is the reason behind our author's project of constructing a kind of *Index* on the books of Roman law, to distinguish that which belongs to natural law [388] from that which belongs to positive law. And we can only wish death had not prevented him from executing this project, as well as certain others, of which he speaks in the Preface to the second edition of his major work. If the jurisconsults and theologians make little use of natural law in deciding the particular cases with which the affairs of life confront them, this is scarcely because in studying natural law they did not compare it with the civil law of all peoples on earth. Rather, truth be told, it is because most of them never studied natural law or, if they did, they studied it wrongly.

V. However, since we still lack a work presenting what a good system of natural law ought to be, as I have just said, and since Pufendorf's abridgment

is, amongst us, the best known instance of the genre, in my view it is right to give readers and listeners some warnings, particularly with regard to the principles most liable to abuse. The most important thing, in this respect, is that the author seems to have correctly established neither the end and the object of natural law, nor its efficient cause.

Here revealing himself as German, Anonymous could have added that it is not only in Germany that the work which he finds so defective is considered one of the best or even the very best of its genre. Elsewhere, it is regarded [389] similarly, including among nations that are somewhat too liable to discount what comes from abroad, especially from certain countries. I shall not speak of the manner in which the French translation was received: but I can confirm that prior to this fourth edition, there was a fourth edition of the English translation,⁹ which was in fact a fifth, since from what I learn this little work was included in its entirety in an abridgment of the *De Jure Naturae et Gentium* that has just appeared.¹⁰

VI. The author states explicitly that the “end of the science of natural law lies within the limits of this life” [Preface, §.6 of the French Translation; §.8 according to the division of the last editions of the original]. And since he clearly saw the possible objection that the immortality of the soul can be demonstrated by natural reason and that, regarding law and justice, the consequences of this pertain to the science of law as understood in the light of natural reason, the author answers at this same point: “Indeed, man sighs impatiently for immortality, and cannot envisage without horror the destruction of his being, and as a consequence even most of the pagans believed that the soul survives its separation from the body, and that the good are rewarded and the wicked punished; but it is only the word of God which can enlighten us on this, and give us the assurance that produces a faith that is whole and all-embracing.” That is what the author says. But, even sup-

9. By Mr Andrew Took[e], Professor of Geometry at Gresham College, printed at London in 1716. The translator added my notes, but he had seen only my first edition.

10. By Mr Spavan who, from what is said, also used my notes on both of Pufendorf's works. This abridgment appeared at London, in 1716, in two octavo volumes.

posing true what is in fact false, namely that natural understanding does not furnish a perfect demonstration of the soul's immortality, it would always satisfy a wise man that the proofs derived from reason are at least weighty, and serve to give good people great hope for another life better than this one, and to inspire in the wicked a just fear of dire punishment to come. For when it is a matter of a great evil, one should take steps to guard against it, even though one has small reason to fear it, but especially when one is most likely to be exposed to it. Nor must one disregard reason supported by the consensus of almost all peoples on this matter, or reason that reflects the natural desire for immortality. But a strong argument, recognized by all, not to mention other more subtle arguments, is furnished by sheer knowledge of God, a principle that our author correctly accepts and establishes as one of the foundations of natural law. For it could not be doubted that the supreme ruler of the universe, most wise and most powerful, has resolved to reward the good and punish the wicked, and that He will execute His plan in the life to come, since in this life as we manifestly observe He leaves most crimes unpunished and most [391] good actions unrewarded. Thus here and now to neglect consideration of the next life, inseparably linked as it is to divine providence, and to rest content with a lower degree of natural law valid even for an atheist [*inferiore quodam juris nat. gradu, qui etiam apud atheum valere possit*], (I have treated this question elsewhere),¹¹ would be to deprive this legal science of its finest part and, at the same time, to destroy many of this life's duties. Indeed, why would one expose oneself to loss of property, of honor or even of life itself on behalf of those who are dear to us, or on behalf of country, or state, or to uphold law and justice, when one could be at ease, and live among honors and wealth, at the expense of others' prosperity [*eversis aliorum rebus*]? For would it not be the height of folly to prefer real and solid goods to the simple desire to immortalize one's

11. So our anonymous writer has published something else, as it appears also from what he says at the end of his letter. But I am no clairvoyant. This is what I said, speaking as if I did not know the author of this piece. Now I can indicate the work to which he refers. It is the Preface to the *Codex Juris Gentium Diplomaticus*, pp. 7, 8. See also his *Jugement sur les Oeuvres de Mylord Shaftsbury*, published after his death, by Mr Des Maizeaux, in the *Recueil de diverses Pièces sur la Philosophie, la Religion Naturelle, etc.*, Vol. II, p. 282.

name after death, that is, to be spoken of in a time from which one no longer draws any advantage? The science of natural law, explained according to Christian principles (as Praschius has done),¹² or even according to the principles of the true philosophers, is too sublime and too perfect to measure everything against the advantages of this present life. What is more, unless one is born with such a disposition or brought up in such a way that one takes great pleasure in virtue and finds great distress in vice, [392] which is not everyone's good fortune, nothing will be able to prevent one from acting most criminally when, by crime, one can acquire great wealth with impunity. Should "one hope to go undiscovered, one will profane the most sacred things."¹³ But no one will escape divine retribution, which extends beyond this life to the life to come. And this is a sound reason to make men understand that it is in their interest to practice in full the obligations that the law imposes on them.¹⁴

I had already observed in the first edition of my translations both of the major work, *De Jure Naturae et Gentium* [Book II, chap. iii, §.21, note 6 of 1st Edit., note 7 of 2nd and 3rd Edit.] and of its abridgment *De Officio Hominis et Civis* [note 1, §.6 of Preface], that all consideration of the life to come must not be excluded from natural law. In order to show this, I adopted the same argument that Anonymous uses, following others. Our author has never denied the principle on which this argument rests: far from it, he recognizes it himself, in that part of his major work where, concerning the choice of advantageous things [*De Jure Naturae et Gentium* Book I. chap. iii. §.7],¹⁵ he cites a passage from Arnobius [In my translation these passages were transposed to note 5] and refers to Pascal's fine chapter on the issue.

I do not examine here whether the proofs that human reason alone

12. In a dissertation of Jo. Ludovici Praschii, entitled *Designatio Juris Naturalis secundum disciplinam Christianorum*, which appeared in 1689.

13. *Sit spes fallendi, miscebis sacra profanis*. It is a line of Horace, Book I, Epist. xvi, 54.

14. *Eaque firma ratio est, quâ homines omnem Juris obligationem in factum traduci debere intelligant, si sibi ipsis consulere velint*.

15. See my comment in this volume, Book I, chap. I, §.11, note 3.

offers of the immortality of the soul, and of the rewards and punishments of another [393] life, have demonstrative force, as Anonymous submits. Nor do I examine whether the contrary might not appear with the instance of the wisest heathens, who could only speak of this important truth without full knowledge, even though they had discovered the very reason which is asserted here, and which is indeed the strongest of all.¹⁶ It suffices for me to observe that Anonymous proceeds to argue in such a manner as to reveal that he lacks accurate and consistent ideas as to the nature and force particular to duty. Whereas our author's slight omission can be excused on the grounds that he was led to it by his noble conception of the impressions surely made by the mere sight of law on the heart of any reasonable person. Anonymous evidently confuses duty and the effects or the motivations that observing obligation produce; that is, he confuses the immanent force of duty and the impact that it has on men's spirit, given the make-up of the majority. Absent consideration of reward and punishment in the life to come, so he claims, one would have no reason not only to "expose oneself to loss of property, honor or even life itself on behalf of those who are dear to us, or on behalf of country, or state, or to uphold law and justice," but one could even "be at one's ease, and live among honors and riches, at the expense of others' prosperity," or by doing whatever harm one can to others so as to destroy their business and bring them to despair. For that is what [394] is entailed by the expression in the original, *eversis aliorum rebus*, far stronger than that of my translation. Without the prospect of a happy immortality after this life, so he supposes, one's practical conduct could measure up to one's duty only through desire for an illusory immortality. According to our author's principles, one is obliged not only not to harm others, in order to procure some benefit to oneself, but also sometimes to sacrifice one's property, one's honors and even one's life, regardless of the prospect of rewards and punishments in the

16. See a passage from Plato that I cited in my Preface to *Droit de la Nature et des Gens*, §.21, p. lxxxvi of the second edition.

life to come,¹⁷ and for the simple reason that these are duties imposed on us by the wise author of natural law, by the sovereign leader of the universe. Which of these two moral codes, I beg you, is the purer, the more noble? Which most conforms to the ideas of the heathen wise, who distinguished so well between the virtuous and the useful? But how can we reconcile Anonymous's argument with his statement that there is a "degree of natural law valid even for an atheist"? Or with what he further maintains below, in section 15, namely that "there would still be a natural obligation even were one to allow that there is no God"? If ever there was a palpable contradiction, this is it. For, once you postulate that there can be some obligation, properly so-called, some indispensable necessity to act or not to act in a certain manner, independently not only of the life to come but also of the existence of God, then all duties—excepting those directly concerning God Himself—are in place, since, as Anonymous recognizes (section 13), they all have a real foundation "in the very nature of things." See my comment on section 15.

So in seeking to pick our author up on a simple omission, Anonymous has put himself into difficult straits. There are clearly two different questions: *Why is one obliged to do or not to do certain things?* And: *What is the motive best able to drive men to practice what they recognize as their duty?* As to the latter question, we easily recognize that the motive of *utility*—above all, the punishments and rewards of the life to come—is what determines the greatest number of people. From this we see how greatly men needed a clear and certain revelation of the state of the life to come. A revelation, nonetheless, whose goal is not to bring men to virtue or to turn them from vice solely on consideration of their interest, but rather to lead them in this way little by little to fulfil their duty for a nobler motive: to find in the practice of virtue this profound pleasure, of which Anonymous speaks, the pleasure that is produced not by the prospect of rewards or less still by the

17. See what our author says in *Droit de la Nature et des Gens*, Book II, chap. iii, §.19, where he maintains that *it has not yet been proven, that every good action must necessarily be followed by some external reward.*

prospect of punishments in the life to come, but by long and deep reflection on the sheer beauty of virtue. For there are wicked persons who are struck by the fear of ills and the hope of good to come, but who for all that remain insensible to the pleasure of the practice of virtue, or to the horror of vice. They desire [396] eternal happiness, yet remain far from loving that which alone can lead them there, and which for its own sake merits our love.

Considering utility alone, we would still have good reason to commit ourselves to virtue, and to flee from vice, regardless of the rewards and punishments in the life to come. Of itself, virtue is certainly more fitted than vice to render us happy in this world. And in the normal course of things, there is far more evidence that we gain a solid advantage from living a good life, rather than letting ourselves lapse into disorder, as our author judiciously remarked in his major work [Book II, chap. iii, §.21], where I included a very fine passage from Isocrates on this topic [note 4]. The question has been discussed very fully by various authors.

VII. Nor, therefore, must we admit what the author insinuates, namely that the internal actions of the soul, which lack external manifestation, lie beyond the jurisdiction of the science of natural law. Having cut short its end, he now evidently seeks to restrict its object too narrowly. For after stating, at the end of paragraph 8, that "the maxims of natural law apply only to the human tribunal, which does not reach beyond the limits of this life," he then adds at the start of the following paragraph that "the human tribunal deals only with man's external actions, and that it cannot penetrate internal actions save insofar as they manifest themselves in some effect or some external sign." Hence he does not trouble himself with them. Whatever lies beyond, the author relates to "moral theology, the principle of which is [397] revelation" (§.4) [§.1 of the translation], and which is the discipline that "forms the Christian man" (§.8) [§.6]. Here he adds that "regarding certain things the maxims of natural law are wrongly applied to the divine tribunal, the rules of which lie principally within the jurisdiction of theology." This is why, he says in the following paragraph, "for moral theology it is not sufficient to regulate man's conduct to conform to external pro-

priety,” (as if this was the whole concern of those who teach moral philosophy or natural law!), “but it seeks above all else to regulate the heart, such that the heart’s every movement conforms exactly to the will of God. Moral theology condemns in particular those actions which on the outside appear correct and beautiful but which flow from a bad principle or an impure conscience.” It therefore pertains to theologians alone, according to our author, to treat this whole matter. Yet we see that not only Christian philosophers, but also the ancient pagans, made this the subject of their precepts, such that even pagan philosophy is in this regard more wise, more severe and more sublime than the philosophy of our author. I am astonished that despite the great enlightenment of our century this celebrated man could have uttered things as absurd as they are paradoxical [*non minus paraloga, quam paradoxa*].

But softly, please. *Parcius ista viris tamen objienda memento*, etc. When it is a question of a person whose merit is undeniable, we should—it seems to me—before accusing him of advancing absurdities be sure to have examined thoroughly whether there is not a way to give a positive turn to his thoughts. I am myself astonished that [398] Anonymous, in transcribing so many passages, failed to take note of something essential which lies between two of those he quotes and which would have forced him to step back from his astonishment and to moderate his zeal. In paragraph 9 (paragraph 7 in my translation) it is explicitly stated that “natural law is concerned *in large measure* to form men’s external actions.”¹⁸ What is more, in one of the passages that Anonymous actually cites, does not our author say that the rules of the divine tribunal, whose jurisdiction is over internal actions, “are *principally* the concern of moral theology”?¹⁹ According to our author, then, there is some other science, a natural science, which does not

18. *Jus quoque Naturale MAGNAM PARTEM circa formandas hominis actiones exteriores versetur*. In his 1728 edition of *De Offic. Homín. & Civ.*, Mr Otto here declared himself opposed to Mr Leibniz and his defender.

19. See what the author says in his *Specimen controversiarum &c*, chap. iv, §.19, to which I refer below regarding section XI.

neglect these rules governing internal actions. Note should also have been taken of what our author says in his major work (Book I, chap. viii, §.2) and in this present abridgment (chap. ii, §§.11 and 12). It should have been recalled that he treats the issue of conscience and its different kinds (Book I, chap. i, §.5 et seq.). But this only serves further to show decisively just how unfounded is Anonymous's censure. Only the author of an action can know and judge for sure whether that action is morally good internally, as well as externally. On this no other person ever has anything but signs to go on, and these are notoriously equivocal. Now one learns natural law in order to judge the actions of others, as well as one's own. In consequence, the application of the rules of natural law [399] most often has to be limited to the external act.

As is clear from the very passages that Anonymous cites, our author's wish is to speak of this application to actions whose principle we can penetrate only through some effect or some external sign. His wish is to speak of those things that the human tribunal can know. Moreover, is it not true that the greatest number of natural laws turn on what men have a right to require one of another? Now this right does not extend beyond the external act. Once one has done in this regard all that one was required to do, whether the internal act was as vicious as you please, nobody can ask any more of us, nor, finally, must they do so, even though the internal principle of the action by which one has acquitted oneself of what was required had something about it that the divine tribunal and our own conscience would condemn. The author does not exclude from the ambit of natural law that judgment which each can and must exercise over their own actions, to assure oneself that they are good and innocent in all respects. Rather, he simply generalizes this judgment as the application of the rules of natural law to particular cases, in consideration of the morality of this or that action on some person's part.

VIII. The Platonists, the Stoics and even the poets taught that the gods must be imitated, that one must offer to them "a heart shot through with

sentiments of justice and [400] honesty."²⁰ Nor was it to a philosopher, but to a jurisconsult of the civil laws that Cicero attributes the idea of resting content with externalities, when he says that the laws concern themselves only with what is palpable, whereas philosophers consider rather what only the light of an acute reason can uncover. Will Christians now allow the philosophy that was so holy and noble in the hands of the pagans to degenerate to such an extent? Certain ancient authors complained that Aristotle was too lax [*de laxitate Aristotelis*]: but he lifted himself far higher than our author, and the schools correctly followed him in this. For Aristotle's philosophy embraces all virtues in the idea of universal justice. We are surely obliged, not only for our own sake but also on behalf of society, and above all with regard to the society we have with God through the natural law written in our hearts, to fill our spirits with true knowledge, and to direct our wills always toward that which is right and good.

These reflections are all as ill-directed as they are commonplace, and they remain inseparable from an invective based entirely on the false assumption of which I have just spoken. Has Anonymous forgotten that, in the Chapter "On duty to oneself," our author seeks above all to have us see that natural law [401] wants each of us to work at forming his mind and his heart by filling the former with true and useful knowledge, and by ruling the inclinations of the latter? The passage that we are offered from Cicero is not taken here in its proper sense.²¹ For Cicero it is a question neither of purely internal acts nor of external actions considered as being or not being the effect of a good internal disposition, but simply of certain injustices or certain more sophisticated frauds unpunished by the civil law, despite being outwardly manifest, as well as other cruder ones. This is clear from all the prior and subsequent arguments and examples. Immediately before the formu-

20. *Compositum jus fasque animi, sanctosque recessus, / Mentis, et incoctum generoso pectus honesto, Haec cedo, ut admoveam templis, et farre litabo.* Persius, *Satirae* II, 73, et seq.

21. See the treatise *De Officiis*: *Sed aliter Leges, aliter Philosophi, tollunt astutias Leges, quatenus manu tenere possunt; Philosophi, quatenus rationi & intelligentia.* Book III, chap. xvii.

lation in question, the Roman orator had just spoken of those who do not reveal in good faith to a buyer the faults they know to exist in the thing they are selling.

IX. The author recognizes that oaths have great force in natural law; yet I do not see what place they can have in this science, if natural law does not concern that which is internal.

This remark appears to have been added subsequent to the composition of the letter as a whole, and is therefore badly placed, interrupting the flow of the argument, as anyone can see. Anonymous continues to assume, mistakenly, that according to our author consideration of acts internal to the soul in no way falls within the ambit of natural law. Yet, surely, do not oaths [402] essentially embrace an exterior as well as an internal act? The force of the exterior act, I admit, derives from the disposition of the one who swears the oath. But, aside from the fact that this disposition, by very virtue of being internal, remains hidden from other men who can only presume as to its nature, is one not obliged to keep an oath that has been sworn as to something neither illicit nor invalid, even though one did not intend to swear? And would it not be very bad form to swear to an illicit subject, even though one only mouthed the oath?

X. This is why those responsible for directing the education or instruction of others are obliged, by natural law, to give them the taste for sound precepts and to orient them so as to acquire a habit of virtue which, like a second nature, will guide their wills toward the good. This is the best method of effective teaching, for, as Aristotle rightly observed, manners are stronger than laws.²² Although difficult, it may happen that hope or fear make a sufficient impression to prevent evil thoughts leading to another's harm, but these motives alone will never lead people to doing good. Thus

22. Our author himself cites a passage from this philosopher, to this effect. Other references have been added in the notes on *Droit de la Nature et des Gens*, Book VII, ch. ix, §.4.

*an ill-disposed man will sin not least by failing to do what he should do. So it is dangerous, or at best [403] unrealistic, for our author to imagine a corrupt heart, the external actions of which are entirely innocent.*²³

This is called singing the same song, *eadem oberrare chorda*. One has only to look at what our author says in this abridgment (Book II, chap. iii, §.2 and chap. xi, §.4), not to mention his major work, where he expands considerably on this topic. Then one will be amazed to find so many wasted words in so slight a piece as is this letter by Anonymous.

*XI. I admit that some scholars—and they deserve our admiration for this—have rectified this harsh and reprehensible opinion [sententiam durio rem & reprehensionibus obnoxiam &c.], although in other respects they follow our author's doctrine. Thus they have attributed to moral philosophy or to natural theology that which they exclude, as he does, from the sphere of natural law, namely the consideration of internal actions. But it cannot be denied that law and obligations, sins committed against God and good deeds in His sight alone, by their nature involve internal actions.*²⁴ *Where, I ask you, should we treat of these things, which are unquestionably elements of law and natural justice, if not in the science of natural law? Unless one wishes to imagine another universal jurisprudence that embraces the rules of natural law both in relation to men and in relation to God, though this is manifestly vain and redundant.*

[404] There is nothing more arbitrary than the division of the sciences. Provided that everything belonging in those sciences which have some common relationship finds a place in one or another of them, and provided that in treating a particular science whose boundaries have been specified nothing essential has been omitted from the scope as prescribed, no one can ask more. Now here is our author's own

23. *Ut adeo etiam parum tuta aut facilis sit hypothesis, animi intus pravi, foris innoxii.*

24. *Sed quum in internis quoque jus & obligationem, peccataque in Deum, & rectas actiones, natura constitui, nemo negare possit &c.*

response, one that he gave long ago. From this it will be clear that, in what Anonymous calls a “rectification” of Pufendorf’s opinion, the latter’s partisans have simply followed his ideas: “Whosoever has read my book *De Jure Naturae et Gentium* with a fair mind,” he says in *Specimen controversarium* (chap. v, §.25), “and not with an intent to quibble or to defame me, will easily recognize that the principal task I set myself was to explain the mutual duties men have to one another and the law that exists among them. On this matter, it is clear, no more fitting principle could be found than sociability. And therefore, in this work, there is no chapter on natural religion, which belongs to the natural science that concerns divinity, a science that some attach to the first philosophy, others to natural theology, since it is the part of the natural sciences that concerns divinity. Later, however, when I had to offer for the young an abridgment of *De Jure Naturae et Gentium*, I borrowed from natural theology or, if you will, from first philosophy, a chapter on natural religion for inclusion in this short work.” Given such a declaration, which was not made yesterday, our author should be well protected against the arrows of a less than temperate critique. [405]

XII. In the science of law, moreover, if the wish is to give a complete idea of human justice, this must be derived from divine justice, as from its source. The idea of the just, like that of the true and the good, pertains unquestionably to God, and more to Him than to men, since He is the measure of all that is just, true and good [tamquam mensuram ceterorum &c.]. Divine justice and human justice have common rules, which can doubtless be reduced to a system [communesque regulae utique in scientiam cadunt &c.]; and these rules must be taught in universal jurisprudence, the precepts of which also pertain to natural theology. Thus we could not approve those who wrongly restrict the scope of natural law, even though this error is not dangerous as long as one transfers to another area of philosophy consideration of internal probity, and does not treat the latter as belonging solely to divinely revealed knowledge.

Divine justice and human justice indeed have something in common, and never stand in opposition one to the other. But there is

nonetheless so great a difference between them, in respect both of their origin and also of their reach, that one cannot say—to put it precisely—that divine justice is the source and measure of human justice. God is by His nature just; He can neither act, nor wish to act, other than justly. It is in Him a happy impossibility, and a glorious necessity, that comes purely from His infinite perfection. Men, by contrast, are far from being naturally just. Justice is a quality that they have to acquire, and this [406] obligation is imposed on them by some external principle, that is to say, by the will of God Himself, and not by His justice, as we shall see shortly. It is human justice that is recognized, rather than divine justice, as I have said, echoing our author, in *Droit de la Nature et des Gens* (Book II, chap. iii, §.5, note 5). Concerning the question of reach, the sheer excellence of God's nature entails that there are certain acts of human justice which absolutely could not relate to Him, a point that our author also makes in his polemical works at the places to which I refer in my note as cited. Anonymous, who should have read and refuted all this, will be obliged according to what he recognizes at the end of this paragraph at least to find our author not guilty of the charge he laid against him, namely of advancing a “dangerous error.” The passage I have cited in relation to the previous paragraph makes it clear that our author in no way excluded the “consideration of internal probity” from the philosophical sciences.

XIII. So much for the end and the object of natural law. Let us now demonstrate that the author has failed to establish the efficient cause of this law. He looks for this, not in the very nature of things or in the maxims of right reason that conform to it and emanate from the divine understanding, but—this is surprising and would appear contradictory—in the will of a superior. He defines duty (in Book I, chapter i, §.1) as “human action conforming exactly to the laws that impose the obligation.” He then defines the law (Book I, chapter ii, §.2) as “a will of a superior by [407] which he imposes on those who depend on him the obligation to act in the manner that he prescribes to them.” This being granted, no one will freely do what he must, or rather, there will be no duty when there is no superior to compel its exercise. Nor will there be any duty for those who have no

superior. And since, according to the author, the idea of duty and the idea of acts prescribed by justice are coterminous, his natural jurisprudence being wholly contained within his system of duties, it follows that all law is the prescription of a superior. These are paradoxes proposed and sustained by Hobbes in particular, who seemed to destroy the possibility of any obligatory justice in the state of nature (as he terms it), that is, among those who have no superior. Yet is it not an act committed against justice when a sovereign behaves as a tyrant toward his subjects, robbing them, abusing them, making them suffer torment and even death, for no reason other than his passions or his whim, or when for no good reason he declares war on another power?

What Anonymous here terms, in scholastic style, the “efficient cause” of natural law is nothing other than the reason why one is obliged to conform to the maxims of the natural law. Our author recognizes (and we must not fail to say this) that these maxims, considered in themselves, are grounded in the very nature of things, such that God could prescribe nothing to the contrary without contradicting Himself. [408] (See *Droit de la Nature et des Gens*, Book I, chap. ii, §§.5 and 6, and what I have cited from his other works in chap I, §.4, note 4.) But, he maintains, it is not consideration of the nature of things that properly and directly imposes the necessity of acting in one particular manner rather than another. It is here that Anonymous believes he is criticizing our author most tellingly. However, if the reflections we shall offer on what he says above are carefully considered, I hope there will be agreement that he is perhaps nowhere more ill-founded than here.

First, let me observe that the whole paragraph is beside the point since, as Anonymous himself recognizes (section XV), according to our author all men, no matter what their state, have a superior in common, namely God. Why create monsters for oneself, just in order to fight them? Why draw an odious parallel with Hobbes’s principles, which are so diametrically opposed to those of our author?

XIV. Similarly, persuaded by our author, certain scholars deny the possibility of any voluntary law of nations, on this ground among others, that

peoples as such cannot establish a law on the basis of reciprocal pacts, there being no superior to validate the obligation. Too much is proved by such reasoning, since, were it valid, it would follow that men cannot establish a superior by their pacts (which in fact is something they can do, as even Hobbes allows).

Those who reject, correctly, the voluntary law of nations that Anonymous along with the [409] run of scholastic jurists accepts, do not base their argument on the fact that nations, having no superior in common, cannot make a valid reciprocal pact. Rather, they say, as is the case, these pacts are not laws properly speaking, since they are made between equals, whereas every law is imposed by a superior. They maintain, moreover, (and no one has proved or will prove the contrary) that there is no general pact among all peoples with respect to purely voluntary things over which this supposed law of nations should have jurisdiction. The whole extent of obligation that there can possibly be with respect to the matters brought before it, and it is indeed truly voluntary (for some of the articles attributed to the law of nations are found to be based in natural law and thus are not contingent on the agreement of peoples) [see *Droit de la Nature et des Gens*, Book II, chap. iii, §.23], the whole extent of obligation, I say, that there can be with respect to truly voluntary things derives, to my mind, from the fact that custom having established these things little by little among the majority of peoples, without there being any general agreement between them, one is and can be assumed to want to conform to them, as long as in any such matter, one gives no clear sign that one does not wish to follow the custom, as anyone is free to do. This remark, whose application will be seen in my notes on Grotius, serves to dispel even the most specious claims of the partisans of a voluntary law of nations.

XV. It appears possible, in truth, to redress somewhat the dangerous consequences of this doctrine by considering God as the superior of all [410] men, and this our author does from time to time. On this basis, someone will say that the doctrine in question only appears bad, since it is self-correcting and provides its own remedy, there being no state in which men are independent of every superior, though in an abstract system one can

hypothesize such a condition. All men are by nature under God's empire; thus they can, through their pacts, establish a master for themselves; and, likewise, by their reciprocal agreement peoples can establish a law common among themselves, there being a God who gives these pacts all necessary power. The whole truth is that God is by nature superior to all. Yet this notion, that all law derives from the will of a superior, remains shocking and no less fallacious, no matter what is done to moderate it. For without repeating here what Grotius judiciously observed,²⁵ namely that there would still be a natural obligation even were one to allow—as one cannot—that there is no God or that one momentarily denied His existence, since the concern of each for his survival and advantage [propria conservationis commoditatisque cura, &c.] would undeniably involve a considerable concern for others (as Hobbes half notes, and as becomes clear in the example of a group of bandits who, while sworn enemies of others, are obliged to observe among themselves [4II] certain obligations; although, as I said above, a law derived from this alone would be far from perfect); to put all this aside, I insist, we need to recognize that God is praised because He is just, and thus there is justice in God, or rather a supreme justice, no matter that He recognizes no superior, and that by propensity of His excellent nature [sponte naturae excellentis] He acts always as He must, such that none can with reason object. And the rule of His actions, like the very nature of justice, depends not on a free decision of His will, but rather on the eternal truths which are the objects of the divine mind and which are established, so to speak, by His divine essence. As a result, the theologians are right who have criticized our author for having maintained the contrary, since he appears to have failed to recognize the harmful consequences of his doctrine. For justice will not be an essential attribute of God, if He created law and justice by an act of His own free will [arbitrio suo]. Justice follows certain rules of equality and proportion, rules which are founded in the immutable nature of things and in the ideas of the divine mind no less than are the principles of arithmetic and geometry. Thus one can no

25. *De Jure Belli ac Pacis*, Prolegom., §.II.

more argue that justice or goodness depend on the divine will than that truth depends on it likewise. This would be an astonishing paradox, one that escaped Descartes; as if the reason why a triangle has three sides, or why two contradictory propositions are incompatible, or, finally, why God Himself [412] exists, was that God had willed it so! A remarkable example, which shows that great men can make great errors. From this it would also follow that God can without injustice condemn the innocent, since, given this supposition, He could by His will render such a thing just. Those who have happened to advance such propositions have failed to distinguish between justice and independence. By virtue of His supreme power over all things, God is independent; for this reason He can be neither constrained nor punished, nor can He be required to account for His conduct; but, by virtue of His justice, He acts in such a way that every wise being can only approve His conduct, in such a way that—the highest point of perfection—He is Himself content.

Anonymous begins very weakly here, representing as the effect of a favorable judgment an apparent softening of view, whereby he insinuates that our author, out-of-step with himself, now foresaw the danger of certain consequences. One would think it was almost only by chance, and certainly not planned, that our author speaks of God as the supreme sovereign of all men [*quod etiam subinde fit ab Auctore &c.*]. Yet isn't this precisely a principle that provides the great foundation of his whole system?²⁶ It angers me to say this but, finally, nothing is truer, and it would be useless to hide what I am obliged to point out: Anonymous has undertaken to criticize our author [413] without sufficiently understanding his principles, and this explains why he does not really grasp the question as it now stands.

Our author does not claim that all we call law or justice derives from will, still less from the free will of a superior. He speaks of law and justice as these apply to dependent subjects; he seeks the rule of human

26. See chap. iii of this Abridgment, §§.10, 11.

actions. He has said again and again that God is supremely just;²⁷ that He follows inviolably the rules of justice that conform to His infinite perfections, such that He neither wills nor could will to act otherwise. Likewise, because of His independence, no one has the right to require Him to act in such and such a manner, nor to call Him to account for His conduct. Regarding men, our author has also recognized that, though they are subjects in the empire of the Creator, it is not God's free will that makes law and justice; and that God could not, without shattering His perfections and contradicting Himself, prescribe for men rules other than the rules of justice, which are founded in their nature. But, this withal, he maintains that the proper and direct reason why men are obliged to follow the rules of justice, and which imposes on them the moral necessity to conform to those rules, is the will of God who, as their sovereign lord, has complete right to curb their natural liberty, as He judges fit.

In this way we dispose of the "dangerous consequences" that Anonymous, over-eager to second the prejudices and passions of certain [414] scholastic theologians who attacked our author during his lifetime, wants to draw from an innocent opinion, concerning which we had sufficiently rebuffed sinister interpretations. So the question reduces to this: whether it is the will of God itself, or some other thing, that constitutes the near and immediate ground of that indispensable necessity whereby men are to do that which God surely wants them to do?

Anonymous is inconsistent in his principles: he says too much, or he does not say enough. He grounds the obligation to observe natural law in the "very nature of things, and in the maxims of right reason that conform to it" (section XIII), maxims which consist in "certain rules of equality and proportion" (section XV). Indeed, he posits that "there would still be a natural obligation even were one to allow that there is no God." However, his view requires that "a law derived from

27. See *Droit de la Nature et des Gens*, Book II, chap. i, §.3, and chap. iii, §§.5, 20; and in *Eris Scandica*, Apolog., §§.7, 8; *Specimen controver.*, chap. iv, §§.3 et seq., and chap. V, tot., etc.

this alone would be far from perfect” and limited to what “the concern of each for his survival and advantage” demands. Now these “rules of equality and proportion, these maxims of reason conforming to the nature of things,” surely occur in all duties, no matter what? Anonymous makes and can make no exceptions. He must therefore recognize that, with the exception of those duties that directly concern God, all others will retain their full force, even were it granted that there was no divinity. For when all is said and done, the nature of things remains the same, and while the writer speaks of “the ideas of the divine mind,” it is not in these ideas that we contemplate the nature of things and the relations deriving from them, just as it is not in a rarified metaphysics that we [415] must seek sound principles of natural law and morality. But here too, Anonymous (as he already did above, in section VI) patently confuses the honest with the useful, something which is also evident in the example he proposes of a “group of bandits.” For is it a principle of honesty that sees these rogues divide up the booty in equal shares? Does anyone believe that, occasion permitting, they would conscientiously not make off with more, or that we should grant them this scruple, as if it was a duty they had fulfilled?

There is thus no middle point: either obligation to the rules of justice among men is absolutely independent of the divinity, and grounded solely in the very nature of things, like the “principles of arithmetic and geometry”; or it is no way grounded in the nature of things. Now, of itself, the nature of things could not impose an obligation upon us, properly speaking. That there is such and such a relation of equality or proportion, of propriety or impropriety, in the nature of things, of itself commits us only to recognizing that relation. Something more is required in order to constrain our liberty of action, in order to command us to govern our conduct in a certain manner. Nor can reason, considered in itself and independently of the Creator who granted it to us, absolutely compel us to follow these ideas, although endorsed by them, as founded in the nature of things. For:

1. The passions counter these abstract and speculative ideas with ideas that are sensuous and palpable. In many actions where there is some relation of impropriety, the passions reveal to us [416] a much

more vital relation, a sense of pleasure that comes with these actions at the point where we commit to them. If the intelligence of our mind diverts us from actions of this sort, the inclination of our heart draws us all the more strongly on. Why then would we follow the former rather than the latter, if there is no external principle, no superior being that compels us? In this supposition, is not the inclination of the heart as natural as the ideas of the mind? Reason, you will say, clearly shows us that by observing rules of propriety founded in the nature of things we shall be acting in a way more fitting to our interests than if we allow ourselves to be led by our passions. But, without speaking of what the passions could say to counter this advantage, it is not a question here of utility, it is a question of duty and obligation. I agree, as I have already indicated, that if we weigh the matter as we should, we shall convince ourselves that, everything considered, our interest requires that we follow what reason dictates. Yet is not each of us free to renounce our advantage, as long as nothing prevents us from doing so, as long as there is no other person with an interest in our doing nothing contrary to their interests, and who has a right to require that those interests be met? Thus in not conforming to the ideas of propriety, founded on the nature of things, one would merely be acting imprudently, and imprudence is not here opposed to a duty, properly speaking, because we are still asking whether duty as such exists.

2. But what must be addressed above all, [417] and what is enough to destroy the thought I am fighting, is the fact that our reason, considered aside from any dependence upon the Creator from whom we receive it, is finally nothing other than ourselves. Now no one can impose on himself an unavoidable necessity to act or not to act in such or such a manner. For if necessity is truly to apply, there must be absolutely no possibility of it being suspended at the wish of him who is subjected to it. Otherwise it reduces to nothing. If, then, he upon whom necessity is imposed is the same as he who imposes it, he will be able to avoid it each and every time he chooses; in other words, there will be no true obligation, just as when a debtor comes into the property and rights of his creditor, there is no longer a debt. In a word, as Seneca long ago put it, no one owes something to oneself, strictly

speaking. The verb “to owe” can only apply between two different persons: *Nemo sibi debet . . . hoc verbum debere non habet nisi inter duos locum* (*De Benefic.*, Book V, chap. viii).

I conclude, then, that even the maxims of reason impose no obligation, no matter how conformable they are to the nature of things, until this same reason has revealed to us the Author of the existence and the nature of all things. The question now is to see from where obligation therefore derives, whether from the will of God, or from some other thing that is in Him.

It seems to me that here there is little ground for hesitation. For from the moment that one has [418] a just idea of God, one cannot but recognize His right to set whatever limits He pleases to the faculties He has granted us. Nor could one prevent oneself thinking that He surely wishes men to follow the light of their reason, as that which is best in them, and which alone can lead them to the destiny of their nature. Moreover, in His will is found all that is required as the ground of obligation, since it is the will of the master of all men, a will always in harmony with the every perfection of the divine nature. Why then go in search of some principle other than this, which lies within reach of everyone, and which follows so naturally from the relation between Creator and creature?

Take whatever other attribute of the Divinity you please, detach it from His will, and you will not find a more solid foundation for obligation than in the very nature of things. If, to do the impossible, one could conceive in the manner of the Epicureans a God quite unconcerned with whether or not men acted in a manner that accorded with the nature of things and with their own nature, the vision of such a Divinity, even granted all its infinite perfections, would at the most constitute only an example. And the example alone cannot impose an absolute necessity to imitate it. Or again, if you do not suppose that God wishes men, and all intelligent creatures, to observe among themselves the rules of justice, what then becomes of justice? Towards whom will justice be exercised? What use will be made of it? Will it be holy and just, if it [419] is indifferent to Him whether or not men observe the rules of justice, or if He does not absolutely oblige them to do so?

To say that He obliges them, although they were already obliged

before He willed them, would be to say that this will is here reduced to a sort of accessory which, at the most, serves only to strengthen the obligation. It would be to diminish the reach of His supreme authority, to reduce it to directing things indifferent in themselves. It would be to attribute to the will of God, in respect of the rules of justice, no greater force than that of a prince, a father, a master or any other superior here below, who wishes his subordinates to be good people. Finally, is there anything more basic in Holy Scripture than to express the practice of duty, of attachment to virtue, by “doing the will of God”? If sometimes God proposes His example to be followed, it is to show that He asks of men nothing that he does not do Himself, insofar as His supreme perfections require or allow it [Matt. V, 48; Luke VI, 36], and that He is not a cruel master [Matt. XXV, 24].

XVI. What we said before has great utility for the practice of true piety. For it is not enough that we submit to God as one would obey a tyrant; nor should we simply fear Him because of His greatness, but also love Him for His goodness. These are sound maxims of right reason, as well as precepts of Scripture. Universal jurisprudence and its sound principles lead to this same point, confirming the wisdom of sound theology and guiding us to true [420] virtue. It is not the case that those who act well, not from hope or fear of a superior but purely from the inclination of their own heart, fail to act justly. To the contrary, these are they who act most justly of all, since in a certain manner they imitate divine justice. For when one does good for the love of God or one's neighbor, one finds pleasure in the act itself (such being the nature of love); one needs no other stimulant, nor the command of a superior. Of such a person it is said that “the law is not made for the just” [I Timothy, I, 9]. To this extent it is contrary to reason to say that law alone, or constraint alone, constitutes justice. Yet it must be admitted that those who have not advanced to this point of perfection respond to the demands of duty only through hope or fear, since it is above all in the prospect of divine retribution that one finds a complete and ineluctable necessity, backed by the requisite force, for all men to observe the rules of justice and equity.²⁸

28. *Non nisi spe metuque obligari, & in divina maxima vindictae exspectatione,*

These reflections, some of which miss the present point, in no way contradict our author's principles. Although one grounds the obligation (properly so-called) to practice the rules of justice in the will of God, who, as our sovereign lord, imposes this unavoidable necessity upon us, it in no way follows that one must obey God only [421] as one obeys a tyrant, or from a pure motive of fear. Frankly, Anonymous is too liberal in drawing odious consequences from those principles that have the misfortune to displease him. Whoever has a true idea of God knows that He is good, as well as great, and that His will necessarily conforms with His perfections; wise and holy, He can will nothing that is not just and which, moreover, is not for our good. It follows, then, that even when God wishes us to do things indifferent in themselves, one must obey Him as one obeys a good father, not as one obeys a tyrant. To conform to this wholly good and sacred will, on which we recognize that we depend, is to act according to duty; this is what imposes moral necessity on all men, regardless of any other consideration. Hope or fear are only motives to encourage us to practice duty, to overcome the resistance we may find within us, and to sustain us in the midst of strong temptations.

It does not advance matters to pose the question of which is acting more justly, whether it is the man who commits himself to his duty from motives of hope or fear, or the man who practices duty from the inclination of his heart. This happy inclination, to be worthy of praise, must surely have to be informed and, in this respect, produced by a precise idea both of duty itself and of God, in whom one can reasonably [422] distinguish the relation of Creator and master of humankind from His will that men observe the rules of justice, in keeping with their nature.

In order to say something substantial against our author's principles, it would require asking which of the two is the more just, whether it is the man who commits himself to virtue because he believes that the holy will of God imposes this obligation on him, or the man who,

quam nec morte effugere detur, necessitatem plenam, & in omnes valituram, servandi juris & aequi, posse inveniri.

without knowing or thinking that he depends on God, and that God wishes him to follow the maxims of virtue, would observe these as simple rules of propriety, founded in the nature of things, or, if you will, in the “eternal truths which are the objects of the divine mind”? It is for Anonymous to answer the question.

I shall comment *à propos* of what he says concerning the impulse to good conduct, that in God it is truly a great perfection not to be able to act otherwise than in keeping with His nature; when it comes to men, however, essentially imperfect as they are and subject to a certain law, it is good fortune rather than merit to have whether by birth or education the happy disposition that makes us commit ourselves easily to duty.²⁹ In this way, it is the man who, encountering great obstacles, whether in his temperament or in the bad habits he has been allowed to acquire since childhood, works to overcome them and in the end succeeds, is without contradiction more just and praiseworthy than another, for whom being a man of virtue has cost almost nothing.

What I have just said wholly cancels the advantage that Anonymous claims for his own doctrine, at the expense of our author's, in respect of the “practice of true piety.” We, on the contrary, in arguing against him, can claim a very real advantage that lies manifestly with us. It is that we equally avoid the two vicious extremes to which men have been drawn on this question: one is the false thinking of the philosophers and theologians, who have maintained that justice depends on an entirely free divine will whereby God could, were He so to wish, render the unjust just; the other is the opinion of those who, conceiving justice to be independent of the will of God, and founding it purely in the nature of things, have also depicted virtue as independent of religion, and atheism as a doctrine that retains morality and natural law in all their force. Monsieur Bayle, as we know, in pleading for atheists, has made great efforts to show that “they can believe themselves obliged

29. *Itaque ego illum feliciorum dixerim, qui nihil negotii secum habuit: hunc quidem de se melius meruisse, qui malignitatem naturae suae vicit, & ad sapientiam se non perduxit, sed extraxit.* Seneca, *Epistolae* LII. And see preceding.

to conform to the ideas of reason as a rule of the moral good, as distinct from the useful" (*Continuation des Pensées sur la Comète*, art. clii).

XVII. *From what we have said, it will be clear how important it is for the young, and even for the state, to establish better principles of legal science than those proposed by the author. He is also wrong when he says (Book I, chapter ii, §.4) that "if a man recognizes no superior, no one has the right to impose on him the necessity to act in a certain [424] manner." As if the very nature of things and the concern for our own happiness and security did not require certain things of us! Reason too prescribes many things, in respect of which we have obligations, if we are to act in accordance with the highest principle of our nature and avoid evil,³⁰ or if we are not to deprive ourselves of some good. All these maxims of reason pertain to justice, given that they involve our relations with others, and others' interest in our observing these maxims.³¹ I am aware that certain authors take the word "duty" [officium] in a broader sense to refer to any act of virtue, without excluding those acts which do not involve another person or in which the interests of others do not figure; and in this sense one may say that strength and temperance have a place in our duty, and that our duty extends, for example, to caring for our own health, since one is right to blame those who neglect it. Yet I do not reject our author's way of using the word "duty," restricting it to what the law requires [ad eaque a jure desiderantur].*

Having thwarted the attempt to draw false consequences from my author's principles, and having shown that these are, instead, the soundest of principles, I may—so it seems to me—regard the conclusion of Anonymous as null and void. On the contrary, I declare that, without detriment either to the state or to youth, [425] this abridgment, *Les Devoirs de l'Homme et du Citoien*, may be placed in hands of all who wish to study natural law. If it is not free from all shortcomings,

30. *Et multa nobis imperat ipsa ratio, ut naturae melioris ductum sequamur, ne nobis vel malum accersamus, etc.*

31. *Hoc rationis praeceptum omne quum simul alios spectat, quorum id refert, ad Justitiam pertinet.*

it nonetheless poses no dangers. Its principles are in general excellent, and it would be easy for me to show that one may correct that which is not wholly exact by changing a handful of lines here and there. Let us be fairer, and more reserved, when it comes to criticizing the works of others because of a few faults that we detect in them. Whoever undertakes to write for the public has an interest in this.

But I am weary with having to repeat that Anonymous still confuses propriety with obligation, and interest with duty. Let us see if the comment on the different usage of the Latin word *officium* has led to some great discovery, as we are promised in the following paragraph.

XVIII. But in justification of this usage, I have a reason that is unknown to our author, namely that in the whole society of men under the government of God [in generali societate sub rectore Deo &c.], every virtue, as we have already said more than once, is contained within the duties of universal justice. Thus it is not only external actions, but also all our sentiments [sed etiam omnes adfectus nostri &c.], that are directed by the infallible rule of the law. A sound philosophy of law considers not only peace between men, but also friendship with God, possession of which promises us [426] enduring happiness. We are not born for ourselves alone; for others have some claim on us, while God's claim on us is total. [Sed partem nostri alii sibi vindicant, Deus totum.]

What Anonymous proffers here as a thought original to himself, and consequently unknown to our author, is nothing but an idea of the ancient Stoic philosophers.³² And our author was so far from not knowing this idea, that he speaks of it explicitly as an idea that he does not reject, but rather treats as *popular*: "If it was fitting," he says, "to employ popular ideas, one could say that this world is like a great state, of which God is the sovereign."³³ So it is with the doctrine of Anonymous,

32. *Duas Respublicas animo complectamur: alteram magnam, et vere publicam, quâ Dii atque Homines continentur; in quâ non ad hunc angulam respicimus, aut ad illum, sed terminos civitatis nostrae cum sole metimur: alteram, cui nos adscripsit conditio nascendi.* Seneca, *De otio Sapientis*, chap. xxxi.

33. *Si popularia ad rem quid facerent, dici quoque posset, hunc Mundum magnam esse civitatem, cuius supremus Rector Deus est.* *Specimen Controvers.* chap. iv, §.7.

as with those of many other moderns who, seeking to say something new, have done little more than change the language, with the result that they end up coming back essentially to our author's doctrine. Indeed, this "universal justice" in "the whole society of men," under the empire of God, what is it other than the laws that God prescribes to men as their master? Consequently, natural law draws all its force from the authority and the will of this supreme legislator. As for the regulation of our internal "sentiments" and the need to gain for oneself the "friendship with God," it suffices to refer back to what was said above, on sections VI–XI and XVI.

XIX. Perceptive though he was, the author [427] fell into a contradiction for which I do not see how he could easily be excused. For he bases all legal obligation on the will of a superior, as appears from the passages I have cited. Yet, shortly afterwards, he then says that a superior must have not only power sufficient to oblige us to obey him, but also just cause for claiming a certain power over us (Book I, chapter ii, part 5). Therefore the justice of the cause precedes the establishment of the superior. If to discover the source of the law a superior must be identified, and if, on the other hand, the authority of the superior must be founded in causes drawn from the law, then we have fallen into the most blatant circularity ever. For from where will one learn if the reasons are just, if there is as yet no superior from whom, it is supposed, the law can emanate? We could well be surprised that an acute mind could so manifestly contradict itself, if we did not know that it comes easily to those who love paradoxes to forget their own opinion when ordinary sense prevails. It is appropriate to record the author's exact words, so that no one will think we are imputing something to him: "He who imposes obligation, and who imprints this sentiment into a man's heart, is properly a superior, that is to say, a being who not only has sufficient power to inflict some ill on those who contravene, but who also has good reasons [428] for claiming to constrain, as he sees fit, the liberty of those who depend on him. When these two things are brought together in the person of someone, he no sooner makes his will known than in the mind of a reasonable creature there arises a feeling of fear, accompanied by a sense of respect. . . . Whoever cites no reason other than the power he

holds in compelling me to do his will, may well get me in this way to prefer to obey him for a time, rather than expose myself to a greater harm that my resistance would incur. But when that fear is removed, nothing will prevent me from following my own wishes, rather than his. Conversely, if he has good reasons for requiring my compliance, but lacks the power necessary to make me suffer some ill should I refuse to obey him with good grace, I can then disregard his authority with impunity, unless some other, more powerful than him, is willing to support his authority and take revenge on my disregard.” Now the reasons for which one may rightly require me to submit my will to theirs are “that he has afforded me some considerable benefit, that he is manifestly well-disposed toward me and better able to serve my interests than I can myself, and that he presently wishes to take responsibility for my conduct; and finally, that I have willingly submitted to his direction.” These are the author’s words. But if we examine this well, we easily see both that he is not consistent with himself, and that he fails to resolve the difficulty. If force without reasons does not suffice, nor reasons without force, why is that—I ask you—when force ceases, and [429] reasons alone remain, I do not regain the liberty and the rights I was said to have before, when there were reasons but as yet no force? For according to the author, “when that fear is removed, nothing will prevent me from following my own wishes, rather than his.” This would apply even if reasons existed. Or if reasons alone had sufficient power to compel obedience, why did they not have it before fear was provoked? What virtue does fear add to reasons, other than the effect of fear itself, if in the absence of reasons, fear cannot claim to impose obedience of its own accord?³⁴ Or can such a passion, though short lived, impress a permanent trace on our unwilling spirit? Suppose that a man, owing obedience to another solely by virtue of reasons that this other has to require obedience from him, ends by being constrained by the power that the other possesses, yet he remains committed to the resolution to obey the other only insofar as he is constrained to do so. I do not see why, because he was once so

34. *Et quam, quaeso, vim rationibus ultra se ipsum metus dabit, quam sine rationibus non praestat sibi?*

constrained, he should remain perpetually in submission to the other. Suppose a sick Christian is taken prisoner by a Turkish doctor whose remedies the invalid had long known to be effective. With the remedies now imposed coercively, would the prisoner, if he has [430] a chance to escape, be obliged to follow the regime more faithfully than before he was made prisoner? We have to say one of two things: either reasons establish obligation prior to force, or they no longer impose obligation once force is removed.

The vicious circle imputed to our author disappears, I have no doubt, in the sight of those who have read what I said above regarding section XV. Every superior, below God, bears an authority founded on reasons, the justice of which derives from some law of nature, being related to the rules of that justice whose obligation truly emanates from the will of a superior, or from the will of the king of kings and the lord of lords. But this supreme being's right of command is founded in reasons whose justice is immanent, such that they do not need to draw their force from elsewhere. Before knowing God, or when taking no account of His existence, we perceive nothing so great as to merit the homage of our submission of our will, nothing so just as to be a rule that we believe we cannot dispense with. Our liberty of action, that noble faculty at the root of our nature, cannot find in the nature of things anything with sufficient force to constrain that liberty: the relations of propriety, order, beauty, honesty, relations to which justice reduces, remain so many speculative notions until we understand that He who is the author of the nature of things and of the reason that reveals them to us, approvingly, wants [431] us to conform our external and internal acts to these relations. At this point duty begins: the will of the supremely perfect being is the rule of our will, and, beyond doubt, He who made us in all that we are can require that we do not do all that we might wish to do. Once we have recognized in His will the ground of obligation, we then find in His goodness and His Strength the greatest practical motives to encourage us and to enable us to fulfill our duty. I leave it to the reader to judge whether this doctrine contains anything that is not dependable and consistent.

As to what our author says concerning force linked to reasons, note should have been taken of the words "with impunity" that appear in

the passages cited, because this is the key to his thinking. If the superior, he writes, “has good reasons for requiring my compliance, but lacks the force necessary to make me suffer some ill should I refuse to obey him with good grace, I can then with impunity disregard his authority, unless, etc.” He does not say: “I can then with reason disregard his authority.” He does not claim that duty ceases at this point, and that “just reasons” here lose their force; he speaks of the impression that these reasons could then have on the disposition that characterizes most men. This is enough to discredit all the arguments that Anonymous advances on this matter.

I nonetheless admit that our author’s thinking is not sufficiently clear at this point, since he should have drawn a sharper distinction between that which correctly gives the superior the *right* to command and, on the other hand, that which enables him to *command effectively*. I indicated this in a short note, [432] the first note on the paragraph in question. I am not one to be dazzled by authority, or to find justifications for someone at any price; as will be clear from the longer note that follows in the same place, I picked out other shortcomings that Anonymous either did not notice or for which he excused our author. But all these little faults do not mean he has not shown the right way or that his doctrine, overall, is not well founded. Though I may, it seems, have developed some points a little better than did our author and rectified some details, I am concerned not to claim the glory that is due to him, and not to attribute to him my own thoughts, for which I remain in his debt.

I will offer just one further remark, with respect to the example that Anonymous proposes of the Christian invalid who falls under the power of a Turkish doctor. Just as it is not as an invalid that this prisoner is a prisoner, so it is not as a doctor that the doctor has command over the other’s body. The relations are different. Thus I do not see what is the point of comparing the remedies of this doctor, as doctor (or, rather, the content of these remedies, for one can scarcely suppose, as we would have to, that he composed these remedies before the invalid was taken prisoner, but only that the invalid knew beforehand the utility of the things prescribed), what is the point—I ask—of com-

paring these remedies as to whether they were made before or after the invalid's captivity? Both before and after, in prescribing [433] things beneficial for the sick man's health, the doctor always acts as a doctor, not as a master. Or if he wishes to use force to oblige the invalid to take the remedy, he no longer acts as doctor. But whether the doctor orders the remedy as doctor or as master, the obligation to follow the remedy comes from elsewhere, or from that natural law whereby each works to conserve the life that God has granted, and consequently adopts to this end all legitimate means, no matter who brought them to his knowledge. What Anonymous has to say about the "chance to escape," like the example as a whole, is irrelevant. So let us come to the conclusion.

XX. Enough has been said to show that the author lacks secure principles on which to found the true reasons of law, because he preferred to contrive, as he saw fit, principles that are unsustainable [quoniam principia pro arbitrio ipse effinxit, quae sibi sufficere non possunt]. For the rest, I have treated elsewhere both the foundations common to every sort of law, without neglecting the law which derives from equity [etiam quod ex aequo & bono tantum descendit], and the proper foundations of strict law, which is also the law that establishes a superior. To summarize in brief all that I have said, this is what must be generally thought: the end of natural law is the good of those who observe it; the object of this law is everything that others would wish us to do and which is within our power; and the efficient cause is the light of eternal reason that God has kindled in our spirit.³⁵ In my opinion, these [434] principles, so clear and simple, seemed too obvious to certain subtle minds who, because of this, have turned the principles into paradoxes, the novelty of which flattered them,³⁶ and prevented them from seeing either the imperfection of the paradoxes or the fruitfulness of the principles. And so, Monsieur, this is what I believed I should write to you,

35. *Finem Juris Naturalis esse bonum servantium: Objectum, quidquid aliorum interest & in nostra est potestate: Causam denique efficientem in nobis esse Rationis aeterna lumen divinitus in mentibus accensum.*

36. *Viris quibusdam acutis nimis obvia visa esse, atque inde paradoxotera quaedam excogitata, quae novitatis specie blandirentur &c.*

to prove that the work of Mr Pufendorf, though not to be despised, nonetheless requires many corrections as to its principles. For the present, I do not have time to go into particulars.

The reader will draw for me the opposite conclusion, one that follows from what I have said. Suffice it for me to add a word on the principles that Anonymous wishes to substitute for those of our author.

For my part, I admit that I find only great vagueness here. What Anonymous proffers as the “efficient cause” of natural law and with which we should begin is the general principle of all the natural sciences. For is there any of the true natural sciences that does not emanate from this “light of eternal reason that God has kindled in our spirit”? The object (or, to speak more precisely, the matter of natural law, for the object is more correctly those who must observe this law), the object as Anonymous establishes it, given his preference for remaining at the level of generality, is reduced to the principle of sociability; for I cannot think that Anonymous, in the words *quidquid aliorum interest*, seeks [435] to include God himself, and thus to imply, or give us reason to believe, that it is the concern of God that we should pay Him our homage, or that He who is sufficient to Himself has need of His creatures and can find some utility in what they do. Finally, the end of natural law—which Anonymous would have lie in “the good of those who observe it”—offers us nothing that is not common to the practical sciences, all of which propose a certain good, a certain advantage. It remains to be seen which good is particular to natural law. Are these really the “rich and illuminating definitions” for which we have been waiting?

At Lausanne, this 1st of October, 1716.

Livros Grátis

(<http://www.livrosgratis.com.br>)

Milhares de Livros para Download:

[Baixar livros de Administração](#)

[Baixar livros de Agronomia](#)

[Baixar livros de Arquitetura](#)

[Baixar livros de Artes](#)

[Baixar livros de Astronomia](#)

[Baixar livros de Biologia Geral](#)

[Baixar livros de Ciência da Computação](#)

[Baixar livros de Ciência da Informação](#)

[Baixar livros de Ciência Política](#)

[Baixar livros de Ciências da Saúde](#)

[Baixar livros de Comunicação](#)

[Baixar livros do Conselho Nacional de Educação - CNE](#)

[Baixar livros de Defesa civil](#)

[Baixar livros de Direito](#)

[Baixar livros de Direitos humanos](#)

[Baixar livros de Economia](#)

[Baixar livros de Economia Doméstica](#)

[Baixar livros de Educação](#)

[Baixar livros de Educação - Trânsito](#)

[Baixar livros de Educação Física](#)

[Baixar livros de Engenharia Aeroespacial](#)

[Baixar livros de Farmácia](#)

[Baixar livros de Filosofia](#)

[Baixar livros de Física](#)

[Baixar livros de Geociências](#)

[Baixar livros de Geografia](#)

[Baixar livros de História](#)

[Baixar livros de Línguas](#)

[Baixar livros de Literatura](#)
[Baixar livros de Literatura de Cordel](#)
[Baixar livros de Literatura Infantil](#)
[Baixar livros de Matemática](#)
[Baixar livros de Medicina](#)
[Baixar livros de Medicina Veterinária](#)
[Baixar livros de Meio Ambiente](#)
[Baixar livros de Meteorologia](#)
[Baixar Monografias e TCC](#)
[Baixar livros Multidisciplinar](#)
[Baixar livros de Música](#)
[Baixar livros de Psicologia](#)
[Baixar livros de Química](#)
[Baixar livros de Saúde Coletiva](#)
[Baixar livros de Serviço Social](#)
[Baixar livros de Sociologia](#)
[Baixar livros de Teologia](#)
[Baixar livros de Trabalho](#)
[Baixar livros de Turismo](#)