

*l. d. C. de legib. for suppressing corrupt Manners.*  
 A civil Law (so called because it is *lex civium* the law of the citizens of such a commonwealth State or Kingdom) is either general or particular.

A general civil Law is that which obligeth a whole free people. This is divided w<sup>th</sup> respect to the efficient Cause, into that which hath the express Sanction of the legislative Authority for obliging people to observe it; and Custom, which is introduced and deriveth its force from the presumed consent of the Lawgiver. The first is called a written Law, and the latter bears the Name of unwritten Law. Not as if Write, or the want of it, were essential to either; but because ex accidenti the one useth to be set down in writing for the better promulgation and fixing the sense thereof; and the other to be preserved in the Memory and transmitted by Tradition. as was done among the Cadmonians. So also it often happens that customary Laws are, for convenience, written down. In France they give the name of the written Law particularly to the Laws that are written in the body of the Roman Law.

A particular civil Law (otherwise called a Statute) is the proper Law of some conquered Province or Nation, as the Statutes of Ireland; or the Law of any free City, Colledge or other lawfull Incorporation.

Having spoke of Law as it is the Command or Precept of some Sovereign Power; I shall in the next place consider it as a Science, or Collection of these Precepts.

*Chap. 2.*  
 of Law considered as a Science or Collection of the Principles of Sovereign Power.

1<sup>o</sup> Law in this Sense, is a Science directing us to know, and do Justice, for the well ordering of Society.

It hath been long a question whether Law may or should be handled as a Science or rational Discipline. Lawyers not a few hold that Law, especially the proper civil Law of any Nation, cannot be digested into common Principles, from whence particular Conclusions may be deduced in the artificial Method of rational Disciplines.

2<sup>o</sup> Justice, which is the End of Law, is a constant and perpetual Desire of giving to every one his Due: *l. 10. ff. de just. & iur.* that is, of rendering to God the things that are God's due to God; the things that are Caesar's *Matth. 19. 21.* and to all Men what they are entitled to and deserve. It is true, that in the humane State of Imperfection, no Man is just in this Sense: but Justice is defined according to its true Essence abstractly considered, not as it is in this or that Man, but as it ought to be.

The Doctors of Law divide Justice into Commutative or Expletory Justice, and Distributive or Attributive Justice. Commutative Justice, is when in common Dealing private Parties give to every one what belongs to him, according to particular Agreement or the Laws of Society, observing an Arithmetical or Simple Proportion, without any Regard to the different Conditions of Men. v. g. in buying or other ways of Commerce, all Parties ought to perform, to one another the Terms of the Bargain. But even in this Case of Commutative Justice, a Geometrical Proportion is sometimes observed, as in a Contract of Copartnership. Distributive Justice, is that which is employed in rewarding and punishing Persons, according to their Merit Condition Station and Quality, and commonly, tho' not always, by a Geometrical or Comparative Proportion. This Kind of Justice is now wholly exercised by Persons in publick Authority, except what Parents may do to their Children, Husbands to their Wives, and Masters to their Servants Scholars or Apprentices, viz: moderate castigare. Other private Persons have no further part to act therein, than to esteem and commend the Virtuous, to shun Irregard and look down upon the vicious.