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Compacts
publick between Enemies are made either by, Supreme or Subordinate powers. Those made by Supreme powers are of two sorts. 1st Such as don't put an End to the War, but only in some respects qualify, and confine it; or suspend the Effects thereof. 2^d Such as put an End to it.

1st Some publick Agreements (out of particular respect to military Breach) are allowed only to abate the Heat of War, and give the parties engaged Liberty to take Breach, as Truces, Safe conduct passes, Ransoming of prisoners.

Truces
A Truce is an Agreement to forbear Hostilities for a certain Time, sometimes longer and sometimes shorter than the war still continuing, usually made, the Parties on both sides are in the Field, and in Motion. It is called in Latin Inducia, not as Gellius would have it, pro Indu uli jom, but rather from those words, quid indu, that there should be rest from such a Time, or from in dies dnum, a Rest for some Days. H. Grot. Lib. 3. cap. 21. § 1. 2. During

a Truce all hostile Acts should cease, whether done against persons or against Things. It is unlawful to surprise places of Strength, by corrupting the Garrison, but not to make up Breaches, or to buy Soldiers, unless the contrary be expressly practiced. H. Grot. ibid. § 6. 7. 8. Guffendorff (Lib. 2. cap. 17) thinks, that Acts barely done, are lawful in Truces of any sort, tho' perhaps desired or obtained upon some other pretext. For instance a Truce granted only to bury the slain, may be made use of to retreat to a place of better defence, or to repair or raise a Fortification, or to take in fresh provisions of Motion and Victuals. Notwithstanding Grotius Reason to the contrary, viz that since the Truce makes for the Advantage of the one party, the other who granted it, ought not to be prejudiced by it. Because, seeing men cannot by any pacton surrender their Right of self defence, the Grantor of such a Truce, may blame his own Enemies and all conduct for not taking sufficient care, that the Enemy should have no opportunity to reinforce himself. When either party breaks the pacton injured is at Liberty to renew the war, without making new proclamation of it. H. Grot. ibid. § 11. Hugo

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Grotius (ibid. § 11) will have the Day from which the Measure of Time in Truces is to count, to be included therein. But Guffendorff (Lib. 2. cap. 17) does not conclude. A Truce is the word from which not always the force to divide what is joined, with it from what follows it, as when we say from Head to Foot, from the Beginning to the End. A Truce begins more particularly to oblige the Subjects of both sides, when it receives the form of a Law by proclamation. H. Grot. ibid. § 5. After the Truce expires, Hostilities begin a fresh, without necessity of proclaiming the War. Grot. ibid. § 13. Hugo post

7 Hugo post
Compacts relating to safe conduct and passes thro' places in an Enemies power, are to be favourably interpreted: so that a pass given to Soldiers comprehends commanders in Chief, Captains, Mariners, employed in a Ship, Grot. ibid. § 15. No person, even an Enemy, under the safe conduct of a prince can be incarcerated, or any way molested, whether for a civil or criminal cause, post. Grot. de Con. c. 1. § 1. quæst. 20. n. 1. 6. 20. A Prisoner implies also a safe Return: But a License to depart does not infer a License to Return, Grot. ibid. § 16. post. For. ibid. n. 53. A License granted to persons

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comprehends also since we have Goods as no respect to Subjects to carry with them. H. Grot. ibid. § 18. A safe pass granted by the Supreme power, is not in Dabio voided by the Grantors Death. Grot. ibid. § 20.

Agreement for a Ransom stands good, tho' the prisoner be found richer than he was brought to. H. Grot. Lib. 3. cap. 21. § 27. It hath been questioned whether an agreed Ransom might be recovered from the Host of the person ransomed, if not paid in his own Time: To which it is answered, That if the Captive die in prison, his Ransom will not be due, the condition thereof viz, That he should be set at Liberty, not having existed. But if a Ransomed person die at Liberty, before payment of his Ransom, it may be recovered from his Host. H. Grot. ibid. § 29. A prisoner being released on condition, that he should receive another, is not bound to return into captivity, tho' that other die before he be released; but he ought to pay the value of that others Ransom which he could not perform. Grot. ibid. § 30. By the ordinance of Lewis 14 King of France 1681 concerning the Marins (Art 14) Minors may with the Advice of their Relations, contract obligations for ransoming their Fathers from captivity, without any possibility of Revocation. A Woman may lawfully engage herself and alienate her patrimonial Estates for the Redemption of her Husband. Ibid. Art. 12. and any who upon the report of a Ransom, by the Authority of the Prince, send for the Ransom of the Husband, is obliged to the wife upon the Husbands Estate, except for the Restitution of her patrimonial. Ibid. Art. 13.

2^d The ordinary contract which puts an End to war, is peace, which is the End of it. Seeing no Body takes Arms merely for the satisfaction of the Quarrel, but that they may live in peace. They that refuse to begin a war, have power by treaties of Agreement to end it or make peace, tho' those entrusted with the Supreme Authority. H. Grot. Lib. 3. cap. 20. § 2. Guffendorff Assens and Grotius (Lib. 2. cap. 17. § 19. Lib. 3. cap. 19. § 11) Demos, that the Exception of their unjustly giving, is sufficient to disannul contracts that restore peace.

It hath been a Question hardly disputed, whether the Commonwealth or Government is obliged to observe a Treaty of peace made with rebellious Subjects? H. Grotius (Lib. 3. cap. 19. § 6 & 8. 9. 10) is very large in his Animadversions. G. Guffendorff (Lib. 3. cap. 8. § 2) delivers his opinion thus: A prince who hath suppressed his rebellious Subjects, may deal with them, as he sees best; but if he recover them by compact, the very nature of such a Negotiation is an Evidence, that he pardons the crime. So that the Treaty is not to be dissolved void, upon pretences of the Rebellion; but the Rebels are by that Accommodation restored and reunited to the commonwealth, to which they are to promise obedience.

Now as the Interest of the adverse party flagrant Bells to treat them Rebels as Enemies, because they use them, so they must expect to be used from others. The pretences of Right, where there is no supposition to Judge between the contending parties, in whose determination both sides will acquiesce, is to no purpose. If one side calls the others taking up Arms Rebellion, they on the other hand term it a just war in defence of their Rights and privileges, and will be sure upon all occasions to return like for like: so that the mutual Good of both parties to treat one another as Enemies. So they did in the civil wars of England and of France and of the Romans. In the beginning of the civil wars in the Low Countries, the haughty Spaniards at first treated the Hollanders as Rebels, but they quickly grew weary of that sport, and condescended to a Charol. For the same Reason the British Government during the war with the late King James 2. in Ireland treated those rebellious Subjects there after the same manner. Vid. Supra pag. 45 & 46. Appendix pag. 60.

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