

law and morality, at all times a delicate one to make in theory, must have been marked in practice so much the less precisely during early days at Rome, because the law was then more exclusively customary, and there must, even among the Romans, of necessity have been an intermixture of law and religion, as long as political and religious powers remained united in the same hands.

Beyond doubt, the traditional influence of the past is largely the explanation of the almost constant confusion of the three domains shewn in the definitions and general precepts which the later jurists habitually made the preamble of their expositions of judicial science:—their enumeration of the precepts of the law, beginning with the duty of living honestly; their definition of the law itself as the art of the good and the equitable; and their definition of the science of the law as embracing at the same time things divine and human(*d*). We cannot afford to remain ignorant of these formulas, which have become proverbial; but perhaps their principal merit is that they remind us how gradually the Romans

(*d*) Precepts of the law, Ulpian, *D.*, 1, 1, *De j. et j.*, 10, 1=*Inst.*, 1, 1, *De j. et j.*, 3: *Juris praecepta sunt haec; honeste vivere, alterum non laedere, suum cuique tribuere.* Definition of law, Celsus cited by Ulpian, *D.*, *h.t.*, 1, *pr.*: *Jus est ars aequi et boni.* Definition of the science of law, Ulpian, *D.*, *h.t.*, 10, 2=*Inst.*, *h.t.*, 1: *Juris prudentia est divinarum atque humanarum rerum notitia, justi atque injusti scientia.* The definition of justice, Ulpian, *D.*, *h.t.*, 10, *pr.*=*Inst.*, *h.t.*, *pr.*: *Justitia est constans et perpetua voluntas jus suum cuique tribuendi* is the only one quite free from these alloys.