

PRELIMINARY CHAPTER.

ROMAN LAW—DEFINITIONS—DIVISIONS—INTEREST OF ITS STUDY—PLAN.

Law (*jus*) is, taking the word in its most positive and most technical meaning, the totality of the rules imposed by external compulsion to regulate the relations of men among themselves(*a*). The Romans were earlier than many other people in arriving at the point of distinguishing between it and religious rules, which have reference to the relations of men with their gods (*fas*)(*b*), and they saw just as clearly the line of demarcation which separates it from morality, the rules of which, considered as not affecting the public interest, are obligatory only in the realm of conscience, and may be violated without penal consequences(*c*). However, the distinction between

(*a*) This would seem to be the etymological meaning of the word *jus*, if one recognizes in it the expression of an idea of bond, with an etymology suggested by Pott and acquiesced in by Ihering, *Espr. du Dr. rom.*, 1, p. 119. But see for a different view Bréal, *N. R. hist.*, 1883, p. 605, and Schmidt, quoted by Mommsen, *Dr. publ.*, 6, 1, p. 352, n. 4. Cf. on the meaning of the associated word *lex*, the last named author, 6, 1, p. 351, n. 2. and for a contrary view, Bréal, p. 610.

(*b*) Not only is *fas* opposed to *jus* regarded theoretically, but, as matter of practice, the infractions of *fas* are not as a rule repressed by public authority. See on religious offences, Mommsen, *Dr. publ.*, 3, p. 56 *et seq.*; *Strafrecht*, p. 36 *et seq.*

(*c*) Paul, *D.*, 50, 17, *De r. j.*, 144: *Non omne quod licet honestum est.*