

subjects and ends of law as are common to all systems; and of those resemblances between different systems which are bottomed in the common nature of man, or correspond to the resembling points in their several positions.¹

But this is still so vague and general that it leaves us yet in the dark as to what is the scope of our science. We want to know the nature of these principles, notions, and distinctions, subjects and ends of law, with which Jurisprudence is concerned, and how it deals with them. Austin gives us a partial answer, saying—

‘Of the principles, notions, and distinctions, which are the subjects of general jurisprudence, some may be esteemed necessary. For we cannot imagine coherently a system of law (or a system of law as evolved in a refined community) without conceiving them as constituent parts of it. Of these necessary principles, notions, and distinctions I will suggest briefly a few examples: first the notions of Duty, Right, Liberty, Injury, Punishment, Redress; with their various relations to one another, and to law, sovereignty, and independent political society; secondly, the distinction between . . . law proceeding from a sovereign or supreme maker, and law proceeding immediately from a subject or subordinate maker with the authority of a sovereign or supreme-maker; thirdly, the distinction of rights, into rights availing against the world at large (as, for example, property or dominion) and rights availing against persons specifically determined (as, for example, rights from contracts); fourthly, the distinction of rights availing against the world at large, into property or dominion, and the various restricted rights carved out of property or dominion; fifthly, the distinction of obligations . . . into obligations which arise from contracts, obligations which arise from injuries, and obligations which arise from incidents that are neither contracts nor injuries. . . But it will be impossible or useless to attempt an exposition of these principles, notions and distinctions, until by careful analysis we have accurately determined the meaning of certain leading terms which we must necessarily employ; terms which recur incessantly in every department of the science; which whithersoever we turn ourselves, we are sure to encounter. Such, for instance, are the following:—Law, Right, Obligation, Injury, Sanction; Person, Thing, Act, Forbearance.’²

In what sense, indeed, Austin used the words ‘principles’ in this passage is not so clear. He certainly does not mean principles of law in the sense in which ordinary lawyers use that expression.

¹ Lectures, 5th ed., vol. ii, pp. 1073, 1077.

² Ibid., pp. 1074-5.