

vate and public conduct of men; to discover those "fountains of justice," without pursuing the "streams through the endless variety of their course. But another part of the subject is treated with greater fullness and minuteness of application; namely, that important branch of it which professes to regulate the relations and intercourse of states, and more especially, both on account of their greater perfection and their more immediate reference to use, the regulations of that intercourse as they are modified by the usages of the civilized nations of Christendom. Here this science no longer rests in general principles. That province of it which we now call the law of nations, has, in many of its parts, acquired among our European nations much of the precision and certainty of positive law, and the particulars of that law are chiefly to be found in the works of those writers who have treated the science of which I now speak. It is because they have classed (in a manner which seems peculiar to modern times) the duties of individuals with those of Nations, and established their obligation on similar grounds, that the whole science has been called, "The Law of Nature and Nations."

Whether this appellation be the happiest that could have been chosen for the science, and by what steps it came to be adopted among our modern moralists and lawyers *, are inquiries, perhaps of more curiosity than

* The learned reader is aware that the "*jus naturæ*" and "*jus gentium*" of the Roman lawyers are phrases of very different import from the modern phrases, "law of nature and law of nations." "*Jus naturale*," says Ulpian, "*est quod natura omnia animalia docuit.*" D. 1. 1. 1. 3. *Quod naturalis ratio inter omnes homines constituit, idque apud omnes peræque custoditur vocaturque jus gentium.*" D. 1. 1. 9. But they sometimes neglect this subtle distinction—" *Jure naturali, quod appellatur jus gentium.*" I. 2. 1. 11. *Jus feciale*
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