

THE WHOLE DUTY OF MAN

NATURAL LAW AND  
ENLIGHTENMENT CLASSICS

Knud Haakonssen

*General Editor*



Samuel Pufendorf

NATURAL LAW AND  
ENLIGHTENMENT CLASSICS

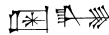
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*The Whole Duty of Man,  
According to  
the Law of Nature*  
Samuel Pufendorf

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Translated by Andrew Tooke, 1691  
Edited and with an Introduction by  
Ian Hunter and David Saunders  
*The Works of Samuel Pufendorf*  
Two Discourses and a Commentary by Jean Barbeyrac  
Translated by David Saunders

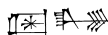
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Frontispiece: The portrait of Samuel Pufendorf is to be found at the Law Faculty of the University of Lund, Sweden, and is based on a photoreproduction by Leopoldo Iorizzo. Reprinted by permission.

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## CONTENTS

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Introduction	ix
THE WHOLE DUTY OF MAN, ACCORDING TO THE LAW OF NATURE	I
Two Discourses and a Commentary by Jean Barbeyrac	263
Note on the Translation	265
The Judgment of an Anonymous Writer on the Original of This Abridgment	267
Discourse on What Is Permitted by the Laws	307
Discourse on the Benefits Conferred by the Laws	331
Index	361

## INTRODUCTION

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In 1691, eighteen years after its original publication, Samuel Pufendorf's *De officio hominis et civis* appeared in English translation in London, bearing the title *The Whole Duty of Man, According to the Law of Nature*. This translation, by Andrew Tooke (1673–1732), professor of geometry at Gresham College, passed largely unaltered through two subsequent editions, in 1698 and 1705, before significant revision and augmentation in the fourth edition of 1716. Unchanged, this text was then reissued as the fifth and final edition of 1735, which is here republished for the first time since.<sup>1</sup> Five editions, spanning almost half a century, bear testimony to the English appetite for Pufendorf's ideas.

There are important regards, however, in which *The Whole Duty of Man* differs from Pufendorf's *De officio*.<sup>2</sup> In the first place, Tooke's translation is the product and instrument of a shift in political milieu—from German absolutism to English parliamentarianism—reflected in the translator's avoidance of Pufendorf's key political terms, in particular “state” (*civitas*) and “sovereignty” (*summum imperium*). Second,

1. *The Whole Duty of Man, According to the Law of Nature*, by that famous civilian Samuel Pufendorf . . . now made English by Andrew Tooke. The fifth edition with the notes of Mr. Barbeyrac, and many other additions and amendments (London: R. Gosling, J. Pemberton, and B. Motte, 1735).

2. The original form of the work may be compared in the new critical edition of the first Latin and German editions. See Samuel Pufendorf, *Samuel Pufendorf: De officio*, ed. Gerald Hartung, vol. 2, *Samuel Pufendorf: Gesammelte Werke* (Berlin: Akademie Verlag, 1997). The reader should also consult the most recent and most accurate English translation: Samuel Pufendorf, *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge: Cambridge University Press, 1991).

the anonymous editors of the 1716/35 edition intensified Tooke's anglicization of Pufendorf through the inclusion of material—a series of important footnotes, revised translations of key passages—taken from the first edition of Jean Barbeyrac's 1707 French translation of the *De officio*.<sup>3</sup> Especially in his footnotes, Barbeyrac had moderated the secular and statist dimensions of Pufendorf's thought in order to retain some continuity between civil duties and religious morality—enough at least to remind citizens of a law higher than the civil law and to remind the sovereign power of its responsibility to protect the natural rights of citizens. Those reminders, though suited to the “polite” post-Hobbesian world of early-eighteenth-century London, had not been at all germane to Pufendorf's original intention and text.

In the 1735 edition of *The Whole Duty of Man*, Pufendorf's thought has thus been successively reshaped in the course of its reception into a series of specific cultural and political milieux. To approach this text from the right angle we must follow a similar path. We thus begin with Pufendorf himself, and then discuss Barbeyrac's engagement with Pufendorf, before entering the English world of Andrew Tooke and the anonymous editors who, in 1716, introduced the fruits of Barbeyrac's engagement into Tooke's translation.

The son of a Lutheran pastor, Samuel Pufendorf was born in the Saxon village of Dorfchemnitz in 1632, moving to the neighboring town of Flöha the following year.<sup>4</sup> This was the middle of the Thirty Years' War, whose horrors and fears Pufendorf experienced as a child, with killings in nearby villages and the family forced to flee its home briefly

3. Jean Barbeyrac, trans., *Les devoirs de l'homme et du citoyen, tels qu'ils lui sont prescrits par la loi naturelle* (Amsterdam: H. Schelte, 1707).

4. For helpful overviews of Pufendorf's life and work, see James Tully, “Editor's Introduction,” in Tully, ed., *Man & Citizen*, xiv–xl; and Michael J. Seidler, “Samuel Pufendorf,” in the *Encyclopedia of the Enlightenment*, ed. Alan Charles Kors (New York: Oxford University Press, 2002). There is no standard biography of Pufendorf, but important contributions toward one can be found in Detlef Döring, *Pufendorf-Studien. Beiträge zur Biographie Samuel von Pufendorfs und zu seiner Entwicklung als Historiker und theologischer Schriftsteller* (Berlin: Duncker & Humblot, 1992). Also useful is Wolfgang Hunger, *Samuel von Pufendorf: Aus dem Leben und Werk eines deutschen Frühaufklärers* (Flöha: Druck & Design, 1991).



when he was seven. The Peace of Westphalia came about only in 1648, when Pufendorf was approaching maturity. The experience of religious civil war and the achievement of social peace remained a driving factor in Pufendorf's lifelong concern with the governance of multiconfessional societies, and hence with the critical relation between state and church.<sup>5</sup>

Pufendorf began to acquire the intellectual and linguistic equipment with which he would address these issues as a scholarship boy at the Prince's School (*Fürstenschule*) in Grimma (1645–50). The Saxon Prince's Schools were Protestant grammar schools in which boys, destined to become clergy and officials, learned Latin and Greek, thereby gaining access to the classical texts so crucial to the development of early modern civil philosophy. Pufendorf continued his education at the universities of Leipzig and Jena (1650–58). At Leipzig his thoughts of a clerical career soon evaporated, the result of his exposure to Lutheran orthodoxy in its uncompromising Protestant-scholastic form. Fueled by hostility to the mixing of philosophy and theology in university metaphysics, he turned to law and politics at Jena, aided by the teachings of Erhard Weigel, through whom Pufendorf encountered the “moderns”—Descartes, Grotius, and Hobbes. When Pufendorf began to formulate his moral and political philosophy, it was Grotius and Hobbes who provided his initial orientation toward a postscholastic form of natural law.

After a brief period as house-tutor to the Swedish ambassador to Denmark (1658–59)—during which he was imprisoned as a result of the war between the Scandinavian neighbors—Pufendorf spent a short interlude in Holland before gaining appointment as professor of natural and international law at the University of Heidelberg (1661–68). From there he moved to a similar professorship at the University of Lund in Sweden, where he remained from 1668 to 1676. During this time, he wrote his monumental treatise on natural law—the *De jure naturae et gentium*, or *Law of Nature and Nations* (1672)—followed a year later by

5. See Michael J. Seidler, “Pufendorf and the Politics of Recognition,” in *Natural Law and Civil Sovereignty: Moral Right and State Authority in Early Modern Political Thought*, eds. Ian Hunter and David Saunders (Basingstoke: Palgrave, 2002).

the abridgment that he made for university students, the *De officio hominis et civis*, which in 1691 English readers would come to know as *The Whole Duty of Man*. Pufendorf completed his career with posts as court historian at the Swedish (1677–88) and then the Brandenburg courts (1688–94). In those years, he wrote major works on the European state system, on the Swedish and Brandenburg crowns, and on the place of religion in civil life.

It is Pufendorf's natural law works that concern us here. The object of natural law theory is a moral law that is natural in two senses—in being inscribed in man's nature and in being accessible via natural reason as distinct from divine revelation.<sup>6</sup> Furthermore, this moral law is regarded as the normative foundation and universal standard for “positive” law and politics. Building on the Aristotelian conception of man as a “rational and sociable being,” Thomas Aquinas (1224–74) had grounded natural law in a reason shared with God and permitting access to a domain of transcendent values derived from the need to complete or perfect man as a moral being. In subordinating “positive” civil laws to a transcendent moral order, Thomist natural law doctrine armed the Catholic Church against the civil state. In the hands of sixteenth-century scholastics such as Francisco Suárez (1548–1627), this weapon would be used to delegitimize Protestant rulers as heretics, thereby ensuring that their positive laws would not accord with the law of nature in this its scholastic mode.<sup>7</sup>

In the dark shadows of the religious wars, Protestant thinkers of the sixteenth and seventeenth centuries sought a natural law that would defend the civil state against religious and moral delegitimation.<sup>8</sup> Hugo Grotius (1583–1645) thus viewed the laws derived from sociability as

6. For a general overview, see Ian Hunter, “Natural Law,” in Kors, *Encyclopedia of Enlightenment*. For more detailed treatments, see Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), and T. J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge: Cambridge University Press, 2000).

7. Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150–1625* (Atlanta: Scholars Press, 1997), 314–15.

8. See Richard Tuck, “The ‘Modern’ Theory of Natural Law,” in *The Languages of Political Theory in Early-Modern Europe*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 1987), 99–122; Ian Hunter, *Rival Enlightenments: Civil and*

social conventions rather than transcendent values, while the English political philosopher Thomas Hobbes (1588–1679) made social peace, not moral perfection, the goal of natural law, such that the sovereign state became the final arbiter of morality, not vice versa.<sup>9</sup> Following Grotius and Hobbes, Pufendorf too viewed natural law as a set of rules for cultivating the sociability needed to preserve social peace.<sup>10</sup> Though he differed from Hobbes by arguing that natural moral law exists in the state of nature—which Hobbes regarded as a state of moral anarchy—Pufendorf agreed with his English counterpart that only a civil government possessing supreme power could provide the security that was the goal of natural law.<sup>11</sup> In his *Law of Nature and Nations* and his *De officio (Whole Duty)*, Pufendorf thus furnished the sovereign state with its own secular legitimacy as an institution created by men to achieve social peace but possessing the absolute right to determine and enforce the measures best suited to this end.

Jean Barbeyrac (1674–1744) was Pufendorf's most important publicist and commentator. Born into a family of French Calvinists (Huguenots), he too had experienced the dangers of religious civil war, his family having been driven from Catholic France by the renewed religious persecution that followed Louis XIV's revocation in 1685 of the Edict of Nantes, settling in Berlin in 1697 after some years of refuge mainly in Protestant Lausanne, Switzerland. Whereas the French state had solved the problem of governing a multiconfessional society by imposing reli-

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*Metaphysical Philosophy in Early Modern Germany* (Cambridge: Cambridge University Press, 2001); and Knud Haakonssen, "The Significance of Protestant Natural Law," in *Reading Autonomy*, eds. Natalie Brender and Larry Krasnoff (Cambridge: Cambridge University Press, 2002).

9. See Conal Condren, "Natural Law and the Sovereign in the Writings of Thomas Hobbes," in Hunter and Saunders, *Natural Law and Civil Sovereignty*.

10. For a treatment of Pufendorf as Hobbes's "disciple," see Fiammetta Palladini, *Samuel Pufendorf discepolo di Hobbes: Per una reinterpretazione del giusnaturalismo moderno* (Bologna: Il Mulino, 1990). For a different view, see Kari Saastamoinen, *The Morality of Fallen Man: Samuel Pufendorf on Natural Law* (Helsinki: Finnish Historical Society, 1995).

11. Thomas Behme, "Pufendorf's Doctrine of Sovereignty and Its Natural Law Foundations," in Hunter and Saunders, *Natural Law and Civil Sovereignty*.

gious conformity—in other words, by persecuting and expelling its Protestant population—the Calvinist rulers of Brandenburg-Prussia addressed this problem by permitting limited religious toleration. Berlin thus became a magnet for Protestant refugees, with the result that the exiled Huguenots formed a quarter of the city's population at the beginning of the eighteenth century. As if echoing Pufendorf's career, Barbeyrac turned from a clerical future to the study of natural law and moral philosophy. Appointed to a teaching position in Berlin's French Collège, Barbeyrac commenced what would become his celebrated French translations and commentaries on Pufendorf, aiming to make the latter's model of a deconfessionalized political order more widely available to a Francophone Huguenot diaspora still fearful for its survival.<sup>12</sup> In this context, Barbeyrac translated the *De jure* in 1706<sup>13</sup> and the *De officio* in 1707,<sup>14</sup> adding important notes—an apparatus that grew in subsequent editions into a running commentary—and later appending three of his own works to the *De officio*. These were his famous commentary on Gottfried Wilhelm Leibniz's attack on Pufendorf, the *Judgment of an Anonymous Writer*, and his twin discourses on the relation of positive and natural law—the *Discourse on What Is Permitted by the Laws* and the *Discourse on the Benefits Conferred by the Laws*—composed while he was professor of law in the Academy of Lausanne (1711–17).<sup>15</sup> In translating these into English for the first time, and appending them to Tooke's translation, our aim is to provide Anglophone

12. Sieglinde C. Othmer, *Berlin und die Verbreitung des Naturrechts in Europa. Kultur- und sozialgeschichtliche Studien zu Jean Barbeyracs Pufendorf-Übersetzung und eine Analyse seiner Leserschaft* (Berlin: Walter de Gruyter, 1970).

13. Jean Barbeyrac, trans., *Le droit de la nature et des gens, ou système général des principes les plus importants de la morale, de la jurisprudence, et de la politique* (Amsterdam, 1706).

14. Barbeyrac, *Les devoirs*.

15. These appendices appeared first in the fourth edition of Barbeyrac's translation: *Les devoirs de l'homme et du citoyen, tels qu'ils lui sont prescrits par la loi naturelle*, quatrième édition, augmentée d'un grand nombre de notes du traducteur, de ses deux discours sur la permission et le bénéfice des loix, et du jugement de M. de Leibniz sur cet ouvrage, avec des reflexions du traducteur (Amsterdam: Pierre de Coup, 1718).

readers with a simulacrum of the most important of the early modern Pufendorf “reception texts.”

In fact Barbeyrac walks a fine line, defending Pufendorf’s model of a deconfessionalized and pacified legal-political order against its theological and metaphysical critics, yet resiling from the secular and statist dimensions of this model.<sup>16</sup> Having suffered at first hand from a religiously unified state, Barbeyrac has little sympathy with a political metaphysics that justified such unity—even a metaphysics as esoteric as Leibniz’s Platonism. Counterattacking Leibniz’s political rationalism, Barbeyrac draws on his translator’s knowledge of the works to defend Pufendorf’s elevation of imposed law over transcendent reason and his insistence that the law apply only to man’s external conduct, leaving his inner morality free—thereby opening the space of religious toleration so crucial to the stateless Huguenots’ survival. On the other hand, given his commitment to the Reformed faith and his Huguenot fear of a religiously hostile absolute state, Barbeyrac grants individual conscience a far greater role in his construction of political authority than does Pufendorf. While claiming to make only minor rectifications to the *De officio*, Barbeyrac thus introduces major changes to Pufendorf’s foundation of natural law in the need for civil security. In treating natural law as an expression of the divine will to which individuals accede via conscience, Barbeyrac undermines Pufendorf’s argument that only the civil sovereign may give efficacious interpretation to natural law. He thus readmitted Lockean natural rights to a system from which they had been deliberately excluded.

Little is known about the circumstances of Andrew Tooke’s English translation of the *De officio* or of the anonymous editors of 1716/35, who borrowed footnotes from Barbeyrac’s first edition and used his translation to modify Tooke’s. The obscurity arises from the fact that, unlike

16. See T. J. Hochstrasser, “Conscience and Reason: The Natural Law Theory of Jean Barbeyrac,” *Historical Journal* 36 (1993): 289–308; and “The Claims of Conscience: Natural Law Theory, Obligation, and Resistance in the Huguenot Diaspora,” in *New Essays on the Political Thought of the Huguenots of the Refuge*, ed. John Christian Laursen (Leiden: E. J. Brill, 1995), 15–51.

other editions and translations of the *De officio*—for example, the edition prepared by Gershom Carmichael (1672–1729) for his students at Glasgow University<sup>17</sup>—Tooke’s was not produced in the regulated world of academic publishing but in the altogether more freewheeling milieu of the London commercial book trade. The marks of that milieu are evident in Tooke’s title, which departs significantly from Pufendorf’s original in order to cash in on one of the most popular devotional manuals of the time, Richard Allestree’s *The Whole Duty of Man*, published in 1658 and rapidly acquiring best-seller status.<sup>18</sup> Although exploiting Allestree’s success by borrowing his title, Tooke’s translation was nonetheless a riposte, confronting Allestree’s focus on the religious duties of a Christian subject with Pufendorf’s radical separation of the civil obligations of the citizen from the religious obligations of the Christian.<sup>19</sup> We can surmise that Tooke’s 1691 translation of the *De officio* was undertaken for an audience of London Whigs—including broad-church Anglicans, moderate Puritans, and members of the Inns of Court—as a weapon against persisting high-church aspirations for an Anglican confessional state.<sup>20</sup> The future preservation of parliamentary rule and a Protestant peace were not yet guaranteed, nor were the relations of church and state securely settled, so soon after the revolution of 1688–89.

This context also helps explain Tooke’s lexical choices for some of Pufendorf’s key terms. While *civitas* and *summum imperium* were capable of several translations in the seventeenth century, depending on

17. *De officio hominis et civis, juxta legem naturalem, libri duo. Supplementis & observationibus in academicae juventutis usum auxit & illustravit Gerschomus Carmichael* (Edinburgh: 1718; 2d ed., 1724). For Carmichael’s editorial material, see also *Natural Rights on the Threshold of the Scottish Enlightenment: The Writings of Gershom Carmichael*, eds. James Moore and Michael Silverthorne, trans. Michael Silverthorne (Indianapolis, Ind: Liberty Fund, 2001).

18. [Richard Allestree], *The Whole Duty of Man* (London: John Baskett, 1726 [1st ed. 1658]).

19. David Burchell, “On Office: Pre-modern Ethics and the Modern Moral Imagination,” unpublished research monograph, 2001.

20. For the general context, see Mark Goldie, “Priestcraft and the Birth of Whiggism,” in *Political Discourse in Early Modern Britain*, eds. Nicholas Phillipson and Quentin Skinner (Cambridge: Cambridge University Press, 1993), 209–31.

the ideological commitments of particular authors, a recent translator shows that in Pufendorf's case these are most accurately rendered as "state" and "sovereignty," respectively.<sup>21</sup> Indeed, it is central to Pufendorf's argument that these terms refer to the notion of a supreme political authority irreducible either to those who occupy the office of sovereign or to those over whom such authority is exercised—characteristics definitive of the modern notion of state.<sup>22</sup> Given that Hobbes had explicitly introduced both "commonwealth" and "state" as translations of *civitas*, it is significant that Tooke attempted to avoid both "state" and "sovereignty" as much as possible, preferring circumlocutions such as "community" and "society" for the former and "supreme authority" and "supreme governor" for the latter.<sup>23</sup> With his references to the exercise of sovereignty by the state routinely rendered in terms of the exercise of authority in the community, Pufendorf's absolutist statism thus undergoes a lexical and ideological softening, appearing in Tooke's English in a form better fitting the Whig view of sovereignty as shared with Parliament and embedded in society.

In borrowing certain of Barbeyrac's footnotes, and in altering Tooke's translation at certain points, the anonymous editors of 1716/35 furthered this anglicizing tendency to see sovereignty as inherent in society. At key points, Barbeyrac's notes qualify or reinterpret Pufendorf's core doctrines, arguing that it is necessary to retain some sort of continuity between natural law and divine providence, that pragmatic deductions of the rules of social peace should be supplemented with Christian conscience, that obedience to civil law and the sovereign are not enough to satisfy the demands of morality, and that natural

21. Michael J. Silverthorne, "Civil Society and State, Law and Rights: Some Latin Terms and Their Translation in the Natural Jurisprudence Tradition," in *Acta Conventus Neo-Latini Torontonensis: Proceedings of the Seventh International Congress of Neo-Latin Studies*, eds. Alexander Dalzell, Charles Fantazzi, and Richard J. Schoeck (New York: Medieval & Renaissance Texts & Studies, 1991), 677–88.

22. Quentin Skinner, "The State," in *Political Innovation and Conceptual Change*, eds. T. Ball, J. Farr, and R. L. Hanson (Cambridge: Cambridge University Press, 1989), 90–131.

23. See notes for details.

rights—including the right to punish a tyrannical sovereign—remain valid in the civil state. Perhaps in the England of 1716, with the memory of religious civil war fading, Pufendorf's Hobbesian subordination of religious morality to the needs of civil order had begun to seem less necessary, allowing the editors to readmit conscience and morality, now that they had been rendered less dangerous for the Protestant state.

Ian Hunter

David Saunders



PUFENDORF'S  
WHOLE DUTY OF MAN

THE WHOLE  
DUTY of MAN,  
According to the  
LAW  
OF  
NATURE.

By that famous Civilian

*SAMUEL PUFENDORF,*

Professor of *The Law of Nature and Nations*, in the  
University of *Heidelberg*, and in the *Caroline University*,  
afterwards Counsellor and Historiographer to the King of  
*Sweden*, and to his Electoral Highness of *Brandenburgh*.  
*Now made ENGLISH.*

The Fifth EDITION with the Notes of Mr. *Barbeyrac*, and  
many other Additions and Amendments; And also an  
INDEX of the Matters.

By ANDREW TOOKE, M.A. late Professor of  
*Geometry* in *Gresham-College*.

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*Nunquam aliud Natura, aliud Sapientia dicit.*<sup>1</sup>

Juv. Sat. XIV. 321.

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LONDON:

Printed for R. GOSLING, at the *Mitre and Crown*; J. PEMBERTON,  
at the *Golden Buck*; and B. MOTTE, at the *Middle-Temple-Gate*,  
*Fleet-Street*. 1735.

1. Never does nature say one thing, and wisdom another.

To his Honoured Friend  
Mr. *GEORGE WHITE*,  
Of *London*, MERCHANT;

This TRACTATE  
Concerning the  
*LAW* of *NATURE*,

IS

Offered, Dedicated, Presented,

BY

His humblest  
and most obliged Servant,

*The Translator.*

## TO THE READER

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*The Translator having observed, in most of the Disputes wherewith the present Age is disquieted, frequent Appeals made, and that very properly, from Laws and Ordinances of a meaner Rank to the everlasting Law of Nature, gave himself the Pains to turn over several Writers on that Subject. He chanced, he thinks with great Reason, to entertain an Opinion, that this Author was the clearest, the fullest, and the most unprejudiced of any he met with: And hereupon, that he might the better possess himself of his Reasonings, he attempted to render the Work into Mother-Tongue, after he had first endeavoured to set several better Hands upon the Undertaking, who all for one Reason or other declined the Toil. He thought when 'twas done, it might be as acceptable to one or other to read it, as it had been to himself to translate it.*

*Concerning the Author, 'tis enough to say, that he has surely had as great Regard paid him from Personages of the highest degree, as perhaps ever was given to the most learned of Men; having been invited from his Native Country, first by the Elector Palatine, to be Professor of the Law of Nature and Nations in the University of Heidelberg; then by the King of Sweden to honour his new rais'd Academy, by accepting the same Charge therein, and afterwards being admitted of the Council, and made Historiographer, both to the same King, and to his Electoral Highness of Brandenburg, afterwards King of Prussia.*

*Concerning this his Work, it is indeed only as it were an Epitome of the Author's large Volume of The Law of Nature and Nations: But as this Epitome was made and published by himself, the Reader cannot be under any doubt, but that he has here the Quintessence of what is there deliver'd; what is par'd off being mostly Cases in the Civil Law, Refutations of other*