

nature as a Civill Warre, which willingly or by compact to undertake all men would account for a madnesse.

5. *A. 5.* In a Duell, every man is his own Iudge in his proper cause, & that too being distempered by anger, rage, and desire of revenge, and subjects to himselfe to the same danger with his adversary, in either slight or waighty cause.

CHAP. XXXIII.

Of Warre.

Quest. 1. **V** *Hether or no Warre bee lawfull for Christians.*

1. *A.* It is called a Warre, when there is a strife by force, which is either privately undertaken of which wee spoke before, or publikely, which is now the Question.

2. *A. 1.* Warre by it selfe, nakedly and entirely considered is a kind of evill.

For first, On one side at the least, there is the evill of guilt or sin: because there can be no War just on both sides.

Secondly, On both parts there is the evill of punishment, for the many inconveniences, which it alwayes bringeth with it. Whence in the Scriptures it is reckoned among the heaviest of Gods judgements.

3. *A. 2.* Hence it is a signe of a barbarous and cruell man, if any one bee given to warre simply desiring it and delighting in it, *Psal. 120. 7.*

4. *A. 3.* Neverthelesse by it selfe and intrinsically considered it is not alwayes unlawfull, but it may bee warranted upon some conditions: for had it beene so unlawfull then certainly it had never beene allowed by God in the old Testament, which no body can deny.

5. *A. 4.* *Iohn* the Baptist the Forerunner of CHRIST in his Sermon of the Kingdome of God, or the Baptisme of repentance to the forgivenesse of sinne, (*idest,*) Of the new Testament, *Luc. 3. 14.* being asked about the duty of Souldiers, perswadeth them not to cast away their armes, but to use them rightly. And the like is the reason of
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the Centurions and Souldiers, which were converted to CHRIST; *Luc. 7. Act. 10. Act. 13. 12.*

6. *A. 5.* CHRIST the Lord, *Matt. 22.* teacheth us to give unto *Cesar* the things that are *Cesars*, among which were payments for souldiers wages and costs of Warre, which it were unlawfull to supply, if Warre simply were unlawfull.

7. *A. 6.* The Apostle, *Rom. 13.* doth openly witness, that a supereminent power doth beare the sword, as the Minister of God, and therefore that the publike power of the sword is to such committed.

8. *A. 7.* In the Apocalypse are many Prophecies of Warres, which the Children of God should wage, and that with evident allowance.

9. *A. 8.* That highest power hath authority by the Law of nature (the Apostle in the 12. to the *Rom.* approving it) to repell injuries and vindicate the subject from them: But it often falleth out, that that cannot bee done without open Warre.

10. *A. 9.* Those things which are contrarily objected out of *Matth. 5.* and the like places doe not shew, that all Warre is simply unlawfull.

For first, There is no new thing there enjoined, which cannot be shewed as a Precept in the old Testament, where Warre is allowed.

Secondly, Those things which are there said, are said to private men, in that they give any way to their affections and perturbations; Not to publike authority, which by God is constituted, a *Revenger to execute wrath upon him that doth evil*; *Rom. 13. 4.*

Thirdly, There the hatred of enmity and meere revenge, not the care of Justice is forbidden.

Fourthly, Some Hyperbolicall speeches are there used, that wee might bee instructed how wee should bee prepared in our minds with the greatest patience where need requireth, and that wee ought to strive that way, to which by our nature wee are most averse.

Quest. 2. What conditions are requisite to make a War lawfull?

11. *A. 1.* There is required a just cause, that wee fall not into that fault which is so often with detestation recorded in the Psalmes; *They persecute mee without a cause.* Now every light and small injury is not a just cause of Warre, because Warre being such a thing which punisheth men with the most grievous punishments, it is not to bee undertaken, but upon some injury, which is great or heynous, either in it selfe, or in the consequences. Nor doth a great and heynous injury warrant a Warre, unlesse after the triall of all meanes of peace, *Deut. 20. Jud. 20. 11.*

12. *A. 2.* In the second place is required just authority. Now such an authority though in respect of a defensive Warre it is to bee found in every Common-wealth although imperfect; because all men have authority by the Law of nature, to defend themselves and to repell force by force, yet in respect of an assaulting Warre, it is not, but in the power of a perfect Common-wealth, which doth not depend nor hath any recourse to a superiour, but is in all things sufficient it selfe and entire in every point, which is requisite to a due Government. For an aggressive or assaulting Warre, is the supreme act of vindicative Justice; *Ier. 39. 5. and 52. 9.* which kind of act can belong to none, but to a supreme Judge, such a one as hath not any superiour, to whom hee is to have recourse, or by whom hee may demand fit satisfaction.

13. *A. 3.* Thirdly, A right intention is requisite: Not onely such a right intention in generall as aymeth at the glory of God, (which is the common condition of every good worke) but such a speciall one as immediatly concerneth the Justice of Warre, (*id est,*) that the Warre bee not waged out of passion, or hatred, but out of zeale for Justice, that Warre may alwayes tend to a fit peace and tranquillity as to its proper end.

14. *A. 4.* Lastly, There is requisite a just manner of waging. In which that generall rule of doing nothing contrary to the Law of God is as well to bee observed, as that speciall rule that wee doe no hurt to others, which is not

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convenient and necessary for the compassing the end of the Warre : Nor may the received Law of Nations bee violated.

Quest. 3. *It is here a Question about the first condition, how farre those that wage Warre are to bee acquainted with the Iustice of their cause.*

15. A. 1. The Prince or Authour of the Warre, and those Souldiers of the higher ranke, who are admitted to Councils of Warre, are bound most diligently to weigh with themselves, and enquire of other prudent and religious men, whether or no they have just cause to make Warre. For, hee who maketh Warre, beares the place of a Iudge in the highest matter. Now a Iudge is bound to use all diligence in the examination of causes, that so hee may give sentence out of right judgement. It doth not therefore suffice to the Iustice of a Warre, that a Prince doe beleve hee hath a just cause, but hee must bee very certaine upon triall of knowledge. And hence, the adverse parties reasons, are alwayes to bee heard, if they will discuss about, what is fit and good.

16. A. 2. If after sufficient examination and deliberation, the Iustice of the warre doe still remaine doubtfull, whether the one part bee in possession or not, there ought to bee no Warre made, because, hee who wagemeth Warre in a doubtfull cause,

First, Sinneth in that, what hee doth, hee doth it not out of faith.

Secondly, Hee doth rashly expose himselfe and others to most grievous dangers, as well of sinning, as of enduring the miseries,

Thirdly, Hee giveth and executeth the sentence of vindicative Iustice, without any manifest cause.

17. A. 3. Souldiers of the lower ranke, which are subjects to the Prince, making Warre, although in a cause manifestly unjust, they ought not to assist him, yet if after such triall as they may conveniently make, the cause doe not appeare unjust, they may fight for their Prince.

For first, Such are not bound, neither are they able exactly to ponder the causes of Warre; but are onely the

Executours of another sentence and instruments, which are not so much moved by their owne Councell or deliberation, as by the Counsell and deliberation of the principall cause.

Secondly, Because in a doubtfull cause, the safer part is to bee chosen. Now it is safer (where no injustice appears) to follow the command of the Prince, and provide for his owne and his friends safety, then for anothers.

18. *A. 4.* Neverthelesse, such Souldiers as are not subject to the Prince making Warre, ought not to assist him in the Warre, if they doubt the Iustice thereof, because in doubtfull cases, the safer side is to bee chosen; but Souldiers being, they are free men, if in such a case, they abstaine from Warre doe no man any wrong: and if they undertake such a Warre, they offer violence to their owne consciences, and expose themselves to a great hazzard of doing the greatest wrong that may bee unto other men. And hence is it manifest, that those Souldiers who have saleable soules, and are ready to undertake any warre where 'tis probable they may have more wages, doe lead a most wicked life, and are in no wise excusable.

Quest. 4. In the second condition, it is a Question whether it bee lawfull for a Christian Prince in a just Warre to accept the aid of Infidels, or to give them aid in such a Warre.

19. *A. 1.* This thing considered absolutely, and by it selfe is not unlawfull for even as it is lawfull in a just Warre to use the helpe of beasts, as of Elephants, Horses, &c. So also is it lawfull to use the aid of beastlike men. Wee have a warrantable example hereof in *Abraham*, who joyned his forces with the forces of the King of *Sedome*; *Gen. 14.*

20. *A. 2.* Neverthelesse, by accident this fals out so often to bee unlawfull, that it ought not indeed to bee tried without speciall heed.

First, Because it beares a kind of show of diffidence, and inclination to compasse our ends either by right or wrong, and also of an unlawfull union with the wicked.

Secondly,

Secõdly, Because hence usually, doe arise the greatest scandals both betweene Christians and Infidels.

Thirdly, Because Infidels usually keepe not faith, and so their ayd proves a losse.

21. *A.* 3. The *Israelites* did not onely sinne for those reasons, when they used the ayd of Infidels, but also, because they had a singular protection from God promised to them, nor could they bee vanquished, as long as they relied upon God, 2 *Chron.* 16. 8. 9. and 19. 2. 20. 36.

22. *A.* 4. Such a League of friendship as binds to a mutuall assistance to any Warre, whatsoever absolutely and without exception of cause is scarcely, or rather not scarcely fit to bee entred with any faithfull Prince, much lesse Infidell. For this were to expose ones selfe to the hazzard of a most heynous sin, and to suffer ones conscience to depend upon anothers pleasure.

Quest. 5. *In the third condition, it is a Question what what kind of sinne is the Minister intention of him, that makes Warre, as for hatred, envy, desire of honour, or riches?*

23. *A.* 1. A bad intention alwayes vitiateth any moral action whatsoever, because the end which is intended and moveth the Will, hath the greatest power in producing the act. Now in waging of Warre, the sinne of a bad intention is so much the more heynous, by how much the more unwillingly any Warre should bee undertaken, for the cruelty of its nature, though with a good intention and not without a just and necessary cause.

24. *A.* 2. Neverthelesse, the worke it selfe (as it is a thing different from the action) is not changed either by a good or bad intention, for the intention is the cause onely of the working, not of the thing wrought, it appertaineth to the manner of doing, not to the manner of the thing done, which ought alwayes to bee esteemed by it its owne internall nature.

25. *A.* 3. Hence in a Warre undertaken upon just cause and good authority it is not unlawfull to use the helpe of those, who fight out of a bad intention, either out of hatred, violence, or ambition, or desire of prey.

26. *A.* 4. And

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26. *A. 4.* And hence also a bad intention in a Warre otherwise just, although it bee a sinne, yet it doth not inferre any obligation of restitution, because in it selfe, it is not a sinne against Iustice, for even as a Iudge, who punisheth a man out of hatred though deservedly, although hee commit a sinne thereby, yet hee is not bound to restitution, even so nor hee, who out of hatred makes a just Warre.

27. *A. 5.* In an unjust Warre, the bad intention doth augment and aggravate the injustice thereof. For seeing the injustice of the cause, is sometimes qualified and excused by an invincible ignorance; a bad intention maketh, that such an ignorance cannot beare the force of an excuse.

28. *A. 6.* Besides, not onely that intention which is in it selfe bad, but also any vaine or frivolous intention, (as the ostentation of forces,) is not a fit cause for any man to make a Warre: because it is against right reason, to choose a dangerous and dreadfull meanes to compasse a vaine end.

29. *A. 7.* Moreover such a lawfull intention, as the exercise of Military forces and the gaining of experience, or the expectation of reward, though it bee in a just Warre, if they are principall motives to it, and not the right it selfe, cannot choose but viciate the whole action.

Quest. 6. It is a Question in the fourth condition. First, What persons are they that wee may lawfully damage by Warre, and how farre may wee damage them.

30. *A. 1.* Every just Warre is waged properly and directly against the Offendours and those that are guilty, that is against those, whose cause and fault it is, that the Warre was begunne. Therefore those onely in true vindicative Iustice ought directly and of purpose bee punished. For without some preceeding crime, no punishment can bee justly inflicted upon any man. So that the *Israelites* seeme to have sinned grievously, by slaying the Sonnes of *Benjamin* without choyce, *Iud. 20.*

31. *A. 2.* Among the guilty, neither Children nor ordinarily Women, nor indeed any other quiet men, who disagreeing are forced to stay with the enemies, ought to bee numbred.

32. *A. 3.* Those that are guilty, are not to bee hurt
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any further then the compassing the just end of the Warre doth require, that is so farre, that they make a faire restitution of the thing taken away, or that the injury bee sufficiently revenged, or a peace established.

33. *A. 4.* Those that are innocent may bee hurt, besides the intention of him that hurteth them, or by accident: as it falls out in any lawfull assault of a City or Ship, in which perhaps, there are sundry persons that are innocent; so in the spoile of goods, by which the enemy was some way more encouraged to a Warre: Because by such a conjunction, these innocents are reckoned with the guilty; and all the injury which is offered them, is indeed caused by those guilty men; who detaine them in their power, and from them restitution is due: Neverthelesse Charity and Æquity doth require, that the Warre bee so managed as the innocent may bee as little damnified as is possible.

34. *A. 5.* And hence the leave given to Souldiers to spoile any City, as they shall please themselves cannot lawfully bee maintained, because among many other horrid things, which thence follow in such a pillage, there is no distinction set betweene the guilty and the innocent.

35. *A. 6.* Hence too it is rather to bee thought robbery then a just Warre, where the oppression of innocent husbandmen is intended, and such a kind of Warre is that, which *Ferdinand* the Emperour now wageth in *Germany*.

Quest. 7. *In what things may wee damnifie Enemies?*

36. *Ans.* In those things, which belong either to their just punishment or our necessary security, as in depriving them of life, outward, goods, and liberty. In which things too, such a moderation is to bee observed as the rule of Justice and the necessity of the security doe perswade. But there can bee no violence offered to chastity, or bee permitted without the guilt of a grievous sinne. For such things doe neither belong to Justice, nor security, nor indeed can the sinne of the agent bee here seperated from

from the punishment of the patient.

Quest. 8. *Whether or no it bee Lawfull to use deceits and stratagems in a just Warre.*

37. *A.* 1. God himselfe the Authour of Iustice, did by his owne mandate approve of deceits and Military stratagems in his people, *Ios.* 8. 2. as it is in many other examples; *Jud.* 7. 16. &c. and 20. 29.

38. *A.* 2. But now wee must not reckon lies among lawfull stratagems, because either to give an unlawfull promise, or breake a lawfull one, is alwayes unjust.

39. *A.* 3. Neverthelesse, in stratagems 'tis lawfull, not onely to conceale your Councels and intents, but also by some deeds and other signes to make a shew of somewhat you do not intend. For although directly in words to expresse any thing that is false, is an unjustifiable ly, nevertheless, to expresse either by gestures or deeds some such thing, (*id est,*) to doe that, which probably may induce the adversary to guesse wrong, is no ly at all: Because those deeds which doe not of their owne nature, nor by any institution or mutuall agreement, signifie this or that businesse, are not of the same nature or speech, and so have not any proportion to a ly, although they bee in a wrong sense taken by the Spectatours, and wee did foresee and desire, they would be so interepreted.

CHAP. XXXIV.

*Of the Equity of some certaine Mosaicall Lawes,
which belong to the 6. Commandement.*

Quest. 1. **VV** *Hat right was there in that, hee which presumed to kill his Neighbour, should suffer death himselfe? Exod. 21. 14.*

1. *Ans.* 1. The sense is, and that most just, that the intent of killing a man, or the plotting anothers death, should bee punished with death.

2. *A.* 2. But this is to bee understood, not of every kind of desire to kill another, though in words expressed, but