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# GREAT JURISTS OF THE WORLD

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## HUGO GROTIUS

It was in the declining years of the second epoch into which the history of Jurisprudence is usually divided—namely, from the Fall of the Western Empire in A.D. 476 to the Peace of Westphalia in A.D. 1648—that the great Dutch jurist whose name stands at the head of this paper lived and flourished. It was an epoch which embraced the Middle Ages and reached the threshold of modern times—a period marked by much stress and storm, but gradually chastened towards its close by a new spirit of humanitarianism, which, however dimly at first, began to create fresh ideals and to establish new principles of statecraft. And among the jurists whose names are associated with this new movement there is none in whom it finds a more precise and abiding expression than the scholar, the philosopher, the statesman, the poet, the historian, and the eminent jurist whose surname, first given to his grandfather, was Groot, or Greut, afterwards latinized into Grotius. Judged from every standpoint of human greatness, no surname could have been more appropriate or more worthily borne; and his portrait, painted by his contemporary Rubens, now in the Dresden Gallery, shows him to have been a man of noble bearing, handsome features, and benevolent expression, while all accounts agree in bearing testimony to his piety, probity, and profound learning. Dr. Johnson, referring to him in a letter he wrote to Dr. Vyse on behalf of a nephew of Grotius, speaks of him as one “of whom every learned man has perhaps learned something.”

**Family Origin.**—Born at Delft on Easter Sunday, April 10th, 1583, four years after the seven northern provinces had constituted themselves into a separate political union known as the Utrecht Union, Hugo Grotius was descended on the paternal side from an aristocratic French family named Carnet. His great-grandfather was Cornelius Carnet, who married Ermingarde, the daughter and sole heiress of Diederick de Groot, Burgomaster of

Delft, who stipulated that the issue of the marriage should assume his own surname, which had been conferred upon one of his ancestors for eminent services to the State. It was in accordance with this stipulation that the son Hugo took the name of Groot, which thereafter became the family surname, and descended through John (or Jan), his father, to the subject of the present article. Learning appears to have been hereditary in the family, and John himself was a Doctor of Laws and Rector of the Leyden High School, and was distinguished as an eminent scholar and a lawyer of considerable repute. But Hugo, his son, soon eclipsed all the other members of the family by the extraordinary precocity of his intellect.

**Early Precocity.**—At the early age of nine he was an accomplished versifier of Latin elegiacs, and at twelve he had entered the University of Leyden, where he became the pupil of the celebrated scholar Joseph Scaliger, having already had his praises sung by Douza, who was said to be one of the princes of the republic of letters, and who announced that “Grotius would soon excel all his contemporaries and bear a comparison with the most learned of the ancients.” Two years later the youthful prodigy produced an annotated edition of the abstruse work of Martianus Minus Felix Capella on *The Marriage of Mercury and Philology, or of Speech and Learning*, in which he displayed such learning and critical acumen as to astonish the literary world of his day. His own account of the preparation required for the production of this work shows the extent and varied character of his reading. “We have collated,” he says, “Capella with the several authors who have investigated the same subjects. In the two first books, we have consulted those whose writings contain the sentiments of the ancient philosophers, as Apuleius, Albericus, and others too tedious to name; on grammar, we have compared Capella with the ancient grammarians; in what he has said on rhetoric, with Cicero and Aquila; on logic, with Porphyry, Aristotle, Cassiodorus, and Apuleius; on geography, with Strabo, Mela, Solinus, and Ptolemy, but chiefly Pliny; on arithmetic, with Euclid; on astronomy, with Hyginus, and others who have treated on this subject; on music, with Cleonides, Vitruvius, and Boëthius.” Nor is this a mere vain or boastful enumeration by a boy of fourteen of the authorities he professed to have consulted, for his notes contain internal evidence of his close acquaintance with these ancient writers. In the same year

he published a translation of a work upon navigation by Simon Steven in 1586, in which he displayed a vast knowledge of mathematics ; and in the following year he completed the translation of the *Phenomena of Aratus*, a poetical treatise upon astronomy, which Cicero had previously translated, but which had come down to modern times in an incomplete form. In the opinion of a competent critic, the Abbé d'Olivet, the editor of Cicero's works, "the Muse of Cicero did not throw the Muse of Grotius into the shade," and Grotius was complimented on his elegant latinity by some of the greatest scholars of the time. So great was the reputation he had already acquired that in A.D. 1598 he was asked by the Dutch Ambassador to France, the illustrious but unfortunate Barneveldt, to accompany him, and on his arrival at the court of Henri IV. he was received by that monarch with many marks of personal favour. It was during this visit that he took the degree of Doctor of Laws at Orleans. On his return to his native country he devoted himself to the practice of the Bar, and conducted his first case before he had reached the age of seventeen. He succeeded at the Bar beyond all expectation, and was appointed Advocate-General of Holland, Zealand, and West Friesland when he was only twenty-four. He was indeed well described as an *adolescens sine exemplo ; juvenem portentosi ingenii* ; and he was gifted with an extraordinary memory, of which many striking instances are recorded.

**His Marriage.**—In July, 1608, Grotius married a lady of Veere, in Zealand, of good family, named Mary Reigersberg, with whom he lived for the rest of his life in perfect harmony. She proved a devoted wife, and is said to have been an ornament to him in prosperity, and his comfort and aid in adversity. By her he had three sons and a daughter who survived him. It is asserted by some that George Grote, the historian of Greece, was connected with the family of Hugo Grotius, though the evidence is wanting to prove this. But the distinguished Netherlands statesman, Count Van Zuzlen van Nierseld, a former Ambassador of his country at Vienna, was certainly descended in direct line from the daughter of the celebrated jurist, who was married to a Frenchman named Mombas. His eldest and youngest son died without being married ; but his second son, named Peter de Groot, became Pensionary of Amsterdam, and died at the age of seventy.

**His Religious Tendencies.**—The son of parents who were both imbued with a deep sense of piety, it was only natural that a youth of such marvellous talents and cosmopolitan sympathies as Grotius should have imbibed at an early age the religious tendencies of the period, under the guidance of a tutor such as Uitenbogaard, who was destined to play an important rôle in the subsequent religious controversies which distracted the Dutch Church. There were about this time two schools of religious thought in the Netherlands, which were violently divided on the dogmas of Free Will and Predestination, represented by two professors of the University of Leyden—namely, Jacob Arminius, Rector of the University, and Franciscus Gomarus, one of the professors. The former taught a modified form of Pelagianism, which sought to modify the extreme harshness of the doctrine of Predestination which had been adopted by Luther, Calvin, and Beza, and of which Gomarus, on the other hand, was an ardent and uncompromising supporter. The latter school being the more orthodox, as its followers were then considered, had the largest number of adherents, and its bitter hatred towards the Arminians subjected the latter to many cruel persecutions, which led to a formal Remonstrance, which was drawn up by the old tutor of Grotius, Uitenbogaard, and submitted to the States-General. Although it is probable that the sympathies of Grotius were all along on the side of the Remonstrants, it was not until the death of Arminius, in 1608, that he really showed his own religious tendencies. He then published a poem entitled *In mortem Arminii*, which at once identified him with the school of which Arminius had been the guiding spirit.

His mission to England as Ambassador to the Court of James I. in 1613 removed him for a time from the sphere of religious controversies, and in the same year he was made Pensionary of Rotterdam, which he only accepted on condition that he should not be deprived of it against his will. That he was able to impose such a condition shows the respect in which he was still held by his countrymen, and it would seem that he abstained at first from openly participating in the religious quarrels which were then becoming more acute. His natural desire was for peace, and he strove to bring about conciliation and a larger spirit of toleration. With this view he allowed himself to be nominated head of a mission to the city of Amsterdam, and he addressed the assembled burgomasters in a speech in the Dutch language, in

which he pleaded eloquently for the necessity and advantage of religious toleration, especially upon points of theoretical doctrine, which he maintained would restore tranquillity and peace to the Church. But his eloquence produced no effect, and he was so affected by the bad success of his mission, that he was seized with a fever, which nearly proved fatal to him. By degrees his alienation from the Lutheran Reformed Church became more and more evident, and involved him in the persecution which overtook his old friend Barneveldt. Finally he was arrested on August 29th, 1618, with the latter and another fellow-thinker named Hogerbrechts, the Pensionary of Leyden, at the instance of Prince Maurice of Nassau, and brought to trial upon charges of high treason and of disturbing the established religion of the United Provinces, and also of being the authors of the Insurrection of Utrecht. The arrest was surreptitiously effected, and a special tribunal of twenty-four (some authorities say twenty-six) commissioners was appointed to conduct the trial. The prisoners objected to the constitution of the tribunal, urging that the States of Holland were their only competent judges, and they also pointed out that many of the commissioners were their accusers and notoriously prejudiced against the Arminians. But these objections were all overruled; the prisoners were condemned. The aged Barneveldt, then in his seventy-second year, was sentenced to death, which was duly carried out, and Hogerbrechts and Grotius to perpetual imprisonment, the former in his own house, and the latter in the Castle of Louvestein, in South Holland, at the point of the island formed by the Vaal and the Meuse. Grotius reached the castle on June 6th, 1619, and for a time his imprisonment was of a very rigid character; but by degrees this severity was to some extent relaxed, and his wife was allowed to see him twice a week, and he was also permitted to receive books from his friends and to correspond with them except on politics. This indulgence furnished an opportunity for escape, which was quickly seized and carried out by his resolute and devoted wife.

It had become customary for Grotius to receive a chest of books and linen for his use at regular intervals, and although this chest was at first rigorously examined by his guards, their vigilance was gradually relaxed, and the chest was allowed to enter his apartment without suspicion. His wife had observed this laxity, and accordingly devised a plan by which Grotius was to escape in one of these chests. As a preliminary move she represented that

Grotius was becoming ill through over-study, and expressed her intention of taking all his books away from him and restoring them to their owners. The next step was to introduce a sufficiently large chest, ostensibly for the purpose of removing the books, but really with the object of secreting her husband inside of it, and thus effecting his escape. Holes were bored into the box to let in air, and when everything was ready, Grotius was placed in the box, while his wife got into his bed, having previously informed his guards that her husband was ill and was not to be disturbed. The device was well carried out, and the box, with Grotius inside, was safely conveyed to Gorcum, where an Arminian friend received it and released Grotius from his peril. The wife remained behind and fearlessly informed the guards, when a sufficient time had elapsed to insure her husband's safety, that their prisoner had escaped. The governor of the prison at once ordered her into close confinement ; but to the honour of the States-General be it added that she was released after a few days, and allowed to take with her everything that belonged to her in the Castle. Thus after twenty months of unjust incarceration, during which he produced the treatise in Dutch verse on the *Truth of the Christian Religion*, which he afterwards translated into Latin prose, and which was much admired for its terseness, just reasoning, accuracy, and power, Grotius became an exile from his native country, which he did not cease to love with the devotion of the true patriot he was. It cannot be denied, however, that his Protestantism was of a very mild character, and his epistles contain very strong evidence of a decided leaning towards the Roman Catholic Church, which appealed to him (apart from all questions of dogmatic theology, which had little influence with him) on the ground of a venerable and unbroken authority. At the same time many other sects claimed him as an adherent, and this circumstance furnished Ménage with the matter for the following epigram :

“ Smyrna, Rhodos, Colophon, Salamis, Chios, Argos, Athenæ,  
 Siderei certant vatis de patriâ Homeri ;  
 Grotiadæ certant de religione, Socinus,  
 Arrius, Arminius, Calvinus, Roma, Lutherus.”

**His Exile and Residence in France.**—With his exile Grotius may be said to have entered upon the second stage of his public life, which was destined to be even more distinguished and more fruitful in literary labours than his earlier years, and it was during

this period that he produced the monumental work *De Jure Belli et Pacis*, which alone was sufficient to immortalize his name. He found an asylum in France, where he had many admirers, and where he was graciously received by the king (Louis XIII.), who settled a pension of 3,000 livres upon him. But this pension was very irregularly paid, as Cardinal Richelieu, who was then all-powerful, required such absolute and unqualified devotion as a *quid pro quo*, that Grotius was unwilling to barter his independence, and incurred the displeasure of the Cardinal, who made him soon feel that he was master of the situation. Grotius now applied himself to the writing of his *Apology*, which he dedicated to the people of Holland and West Friesland, and in which he ably defended himself against the charges upon which he had been unjustly condemned. This work, which he originally composed in the Dutch language, but afterwards translated into Latin, caused a great sensation in his own country, but it incensed the States-General more than ever against him, and they issued an edict, in which they proscribed it, and forbade all persons to have it in their possession under the penalty of death. This ungenerous edict shattered the lingering hopes he may have entertained of returning to the land of his birth, and made him even anxious for his personal safety. Acting upon the advice of his friends, he applied for and obtained, on February 26th, 1623, letters of naturalization from the French king, who professed to take him under his special protection. Some years later, in 1631, Grotius was induced by some protestations of friendship from Prince Frederick of Orange, and relying on the general good effect his *Apology* had created in Holland, to return there, and once more claim the hospitality of his countrymen. But he was doomed to disappointment. Bigotry still prevailed, and he was banished a second time. Grotius now quitted Holland, never to see it again. He first went to Hamburgh, and two years later (in 1634) he entered the diplomatic service of Sweden, and in the following year was appointed Swedish Ambassador at the French Court, a position which was held with honour and distinction for ten years, and proved himself in more than one difficult diplomatic negotiation more than a match for the crafty Richelieu. It was during this eventful period that he completed his *History of the Netherlands* and translated the *History of the Goths and Vandals*, by Procopius. He also wrote a work on *The Origin of the American Nations*.



**His Death.**—The conduct of the Swedish Embassy by Grotius won the warm approval of his staunch friend the Chancellor Oxenstiern, and Queen Christina, the only child of the great Gustavus, was also very favourable to him. But Grotius took umbrage at the Queen sending a favourite of hers in an ambiguous character to Paris, and, urging his age and increasing infirmities as an excuse, he applied for his recall, which was reluctantly granted, accompanied with most appreciative acknowledgments of his eminent services, which the Queen declared she would never forget. Grotius accordingly left Paris, and arrived at Hamburgh on May 16th, 1645, and from thence he travelled to Lübec and Wismar, receiving everywhere the most honourable reception. At Wismar the Admiral of the Swedish fleet placed a man-of-war at his disposal to transport him to Colmar, from whence he proceeded by land to Stockholm. The Queen was then at Upsal, but on being told that Grotius had arrived at the capital, she at once returned to meet him, and gave him a long audience on the following day, when she again assured him of her royal favour, and begged him to continue in her service as a Councillor of State. For some reason which is not known to his biographers Grotius had resolved to leave Sweden, and when the Queen discovered that he was determined to go, she presented him with a handsome present in money and appointed a vessel to convey him to Lübec. Grotius embarked on August 12th, 1645, but was overtaken by a violent storm, was shipwrecked, and was obliged to take shelter in a port fourteen miles distant from Dantzic. Thence he travelled by land in an open waggon; but his health had been fast failing, and when he reached Rostock (on August 26th, 1645) he was too ill to proceed farther. A physician was called in to attend him, but it was soon evident that recovery was hopeless. Grotius, conscious that his end was near, asked to see a clergyman, and John Quistorpius, a Professor of Divinity at Rostock, attended him in his last earthly moments. Quistorpius found him at the point of death, but still conscious and able to speak, and it is from the hands of the professor that we have a pathetic account of the dying words of the phoenix of Literature, as he calls Grotius. "I found him," he says, "almost at the point of death. . . . I went on and told him that he must have recourse to Jesus Christ, without Whom there is no salvation. He replied: 'I place all my hope in Jesus Christ.' I began to repeat aloud, in German, the prayer which begins 'Herr Jesu'; he followed me in a very

low voice, with his hands clasped. When I had done, I asked him if he understood me. He answered, 'I understand you very well.' I continued to repeat to him those passages of the word of God which are commonly offered to the remembrance of dying persons, and asking him if he understood me, he answered : 'I heard your voice, but did not understand what you said.' " These were the last words of a fleeting spirit whose earthly course had been run, and which then ceased to animate the body of the great Dutchman, just as midnight tolled the close of one and the beginning of a new day. His body received temporary sepulture in the principal church of the city, but was afterwards exhumed and finally deposited in the mausoleum of his ancestors at Delft. His epitaph, written by himself, is mournfully reminiscent in its allusion to his exile, and runs with characteristic brevity as follows :—

GROTIUS HIC HUGO EST, BATAVUM  
CAPTIVUS ET EXSUL,  
LEGATUS REGNI, SUECIA MAGNI, TUI.

His wife survived him, and is said to have died at The Hague in the communion of the Remonstrants.

**His Character.**—There is no better means of judging the character of this great man and of forming a correct estimate of the manysidedness of his richly endowed genius than by studying his collection of letters published in Amsterdam in the year 1687. His large sympathies, his freedom from all bigotry yet deep religious sentiment, his abiding interest in all current topics, his profound and almost universal knowledge, and above all his earnest desire to promote peace and union amongst the Christian Churches, are here all brought before us in the familiar style of confidential correspondence with his intimate friends. A spirit of candour and truthfulness pervades all his letters: not a trace of bitterness or ungenerous criticism is anywhere to be found in them. They are essentially the letters of a pious, learned, and thoughtful man who is keenly interested in the political, literary, and religious questions of the day, which he approaches from the standpoint of a cultured intellect, devoid of bias or prejudice, and with no other aim or desire than to reach a just conclusion. Even his enemies recognized his worth, and Salmasius declared that he had "rather resemble Grotius than enjoy the wealth, the purple, and grandeur of the Sacred College." As an instance of his impartiality as an historian, it is pointed out

that in his *History of the Netherlands* he does full justice to the merits of Prince Maurice of Nassau, although he had much ground for personal resentment for the injustice he suffered at the hands of that prince. It thus appears that unmerited exile did not warp his judgment or stifle his patriotism, just as religious controversies did not affect his charity, or the contests of a political career cause him to deviate a hair's breadth from the path of honour and rectitude. His name has been carried down the stream of time untarnished, while his fame as a scholar and jurist seems to increase rather than diminish.

**His Magnum Opus.**—Of all his numerous works, the one upon which his reputation most solidly rests is his celebrated treatise *De Jure Belli et Pacis*, which has secured for him the lasting reverence of posterity. In an age which produced as his contemporaries a Scaliger, a Bellarmin, a Mariana, a Sarpi, a Bacon, a Pascal, and a Hobbes it is an epoch-making work of this kind which, as Calvo justly says, distinguishes the true man of genius from the ordinary publicist. No work, according to general testimony, has ever received more universal approbation or has maintained its reputation to so high a degree as this treatise of Grotius. He began it in the country house of Balagni, near Senlis, placed at the author's disposal by his friend Jean Jacques de Mesmes, in the month of June, 1623, and practically completed it in June of the following year; a remarkable performance even when we bear in mind that the discovery of a manuscript in 1868 entitled *De Jure Prædæ*, shows that the subject of the treatise had already occupied his attention so early as 1604, and that he was led to its investigation in the active pursuit of his professional vocation, as advocate for the Dutch East India Company, which was formed, it is true, for the peaceful purposes of commerce, but had been compelled, like the English company, to repel force by force. The question submitted to Grotius was as to the legality of a capture made by one of the Company's captains named Heemskirk, a claim which was contested in Holland on the ground that a private company had no right to make prize captures. Grotius undertook to prove that the capture was lawful, and the manuscript treatise discovered by Professor Fruin was the outcome of this effort. It is probable that Grotius was induced by his friend Peiresc to recast the work with the light of his additional experience during the first years of his exile as a mental diversion, calculated to engross his thoughts and lighten the sorrow and

burden of banishment. The circumstances of the time also supplied an additional motive for such a literary undertaking. The Thirty Years' War, in the midst of which he wrote, had been waged with such relentless fury, and the miseries of such a protracted and unregulated war had pressed so heavily upon a sensitive nature like his, that he sought to discover some rules by which its horrors and atrocities should be mitigated in the future. ("I saw prevailing," he tells us in his *Prolegomena* (Art. 28), "throughout the Christian world a licence in making war of which even barbarous nations would have been ashamed; recourse being had to arms for slight reasons or no reason; and when arms were once taken up, all reverence for divine and human law was thrown away, just as if men were thenceforth authorized to commit all crimes without restraint." The sight of these atrocities, as he tells us, had led many estimable men to declare arms forbidden to Christians; but for his own part he took the more practical and moderate view to provide a remedy for both disorders, "both for thinking that nothing [relating to war] is allowable, and that everything is." He felt to some extent prepared for such a task as he conceived by having previously practised jurisprudence in his own country, from which he had been "unworthily ejected"; and he hoped now in exile to promote the same science by further diligent effort. He claims that none of his precursors had treated the subject scientifically, and contends that the only way to do so successfully is by separating Instituted Law from Natural Law. "For Natural Law," he observes, "as being always the same, can be easily collected into an Art; but that which depends upon institution, since it is often changed, and is different in different places, is out of the domain of Art." Special books had indeed been previously written concerning the laws of war, but their authors, he complains, had mingled and confounded natural law, divine law, law of nations, civil law, and canon law. He acknowledges, however, his indebtedness to Balthazar Ayala (who wrote a treatise, *De Jure et Officiis*, which was printed in Amsterdam in 1597), and Albericus Gentilis, who also wrote a treatise, *De Jure Belli*. The titles of the chapters of the latter work run almost parallel to those of the first and third books of Grotius, and some of the historical examples cited in the work of Gentilis are also mentioned by Grotius.

But here the extent of borrowing by the Dutch jurist from the

earlier author seems to end, for, as Hallam points out, Grotius deals with the subject of each chapter with much greater fulness, and is throughout a philosopher, while Gentilis is a mere compiler. What dominates the treatise of Gentilis is the absolute authority of the texts and precedents which he quotes, and to which he slavishly adheres. Grotius, on the other hand, though he ransacks the whole of ancient and later literature, only cites texts and precedents to support his own independent judgment, for which he gives his own reasons. No one, in fact, as Pradier-Fodéré observes, prior to Grotius knew how to unite to the same extent the authority of reason combined with that of experience ; his is the fruitful alliance of philosophy and history, which has so profoundly impressed the modern political world. The method which our author adopts is the inductive one. The individual man and his social instinct is the factor producing law and the State ; but this *appetitus socialis* is not the mere need for a life spent somehow (*non qualiscunque*) in community with his fellow-men, but tranquilly and as a reasonable being (*sed tranquillæ, et pro sui intellectus modo ordinatæ*), for the welfare of others in contrast to mere utility irrespective of all ethical motives. It is this tendency to the conservation of society, which is in agreement with the nature of the human intellect, that forms the source of Jus or Natural Law, properly so called. To this Jus belongs the rule of abstaining from that which belongs to other persons ; and if we have in our possession anything of another's, the restitution of it, or of any gain which we have made from it ; the fulfilling of promises, and the reparation of damage done by fault. In short, the special office of Jus properly so called is "to leave to another what is his, to give to him what we owe." In a general sense Jus is divided into Natural Law and Voluntary or Positive or Instituted Law. The former is the dictate of right reason, indicating what is in agreement or disagreement with the rational and social nature of man, and therefore either commanded or forbidden by the Author of Nature ; the latter is subdivided into *divinum* or *humanum*, according as it is ordained by God or prescribed by man, either as a rule of the Jus Civile or of the Jus Gentium. In this way he leads up to the humane principle which pervades his whole treatise, that between individuals, as between nations, it is not Utility but a common law of Rights which is of force in governing their mutual relations. To have established this principle and to have extended its operation to the conduct of

war was to have justified his claim to be regarded as the founder, or, as Marten calls him, the father, of the science of International Law, and to be called, as Vico suggests, "the juristconsult of the human race." That his work is not perfect, that he does not conceive as clearly as some later jurists—like Christian Thomasius, for instance—have done the distinction between religion on the one hand, and law and morality on the other, and that he has not completely succeeded in disentangling himself from the bewildering maze of incoherent and arbitrary notions of ethical philosophy which prevailed in his time, may be conceded without detracting from his general merits, as one who, in the midst of a cruel and desolating war, was the first to discover a principle of right and a basis of society which was not derived from the Church or the Bible, nor in the insulated existence of the individual, but in the social relations of men, and to make it thus easy for those who followed him to broaden the pathway he had broken, and to elaborate his science. Thus it was through the treatise of Grotius that the idea of a law of nature came to influence the ethical and political speculations of Locke, Rousseau, and a host of later writers. So that, whatever defects and confusion there may be in the theory of Grotius, his great work still commands respect throughout Europe, and the opinion of Mackintosh no doubt expresses the prevailing view of the learned world of the present day. "It is perhaps," he says, "the most complete [work] that the world has yet owed, at so early a stage in the progress of any science, to the genius and learning of one man." Hallam has also vigorously defended Grotius against the criticisms of Dugald Stewart, which were not characterized by much acumen or sobriety of judgment, and every sentence of which, it is no exaggeration, in the opinion of Hallam to say, would lie open to counter and destructive criticism. Stahl again,<sup>1</sup> is another severe critic, who sees in the doctrine of Grotius an attempt to make the whole scheme of Natural Law in its final analysis rest on the obligation of compacts,<sup>2</sup> which is likewise the Mother of Civil Rights, and which only needed the further development it received at the hands of Kant and Rousseau to lead directly to the French Revolution. Grotius, in fact, makes *obligation* the dividing-line between a rule of moral right *obligans ad id quod rectum est* and *consilia honesta*, a sort of counsel of perfection

<sup>1</sup> *Philosophie des Rechtes*, vol. i., pp. 158-170.

<sup>2</sup> See *Prolegomena*, s. 15, 16.

which is not included in *Jus* or Law (*legis aut juris nomine non Veniunt*, l. 1. 9). It was Grotius, Stahl contends, who first gave expression to the notion that the State has no authority in itself over men otherwise than by virtue of a compact, and it has no other purpose to serve but that of individual men. It is thus the germ of that theory which a century later was to overwhelm the political order of Europe; like a mere snowflake, it is true, at first, but which, set loose from the crest of a mountain, gains increasing volume in its whirling descent, until it falls at length with the accumulated force of an avalanche into the depths of the valley below. But despite all adverse criticism, we cannot forget that it was Grotius who gave, by this treatise, the death-blow to the Machiavellian policy *des Lugs und Trugs*, as Ahrens calls it,<sup>2</sup> and rendered possible the Peace of Westphalia, which marked the commencement of a new era proclaiming the legitimacy of reform, and consecrated the complete equality before the law of all religions. So large was the demand for this work that it passed through no less than forty-five editions up to A.D. 1758, and became a textbook in all European universities. But the author himself derived little pecuniary profit from it, his honorarium consisting of two hundred free copies, of which he had to give away a large number to friends, to the French King, and to the principal courtiers at the court of France, the remaining copies being sold at a crown apiece, which did not even recoup him his actual outlay. The great Gustavus Adolphus of Sweden so highly prized the work that he carried it with him in his wars, and a copy was found under his pillow after the battle of Lützen. On the other hand, it was condemned by the Papacy and entered in the *Index Expurgatorius*, a condemnation which Barbeyrac quietly observes, was really the highest honour, for otherwise one might have erroneously believed that the author favoured the principles and interests of a monarchy destructive of all the laws of nature and of nations.<sup>3</sup>

**His Remaining Works.**—Besides those already mentioned, Grotius was also the author of the following works :

(1) *The Comparative Merits of the Athenian, Roman, and Batavian Nations* (1602).

(2) *Mare Liberum* (*de Jure quod Batavis competit ad Indica*

<sup>1</sup> *Philosophie des Rechtes*, p. 169, 2nd edition.

<sup>2</sup> *Naturrecht*, s. 16, p. 93.

<sup>3</sup> P. 7, Preface to Translation.

*commercias*), a notable treatise in which he maintained, against the pretensions of the Portuguese that the Eastern Seas were their private property, that all oceans are free and cannot be appropriated by any one nation. This essay, which is really a chapter of the *De Jure Prædæ*, was printed separately in 1609, without, as Grotius tells us, his permission, and appears to have aroused little attention at first. But in 1632 the doctrine laid down by Grotius was vigorously assailed by Selden in his *Mare Clausum*, in which the right of England to exclude the fishermen of Holland from seas which she then claimed as her own was sustained with a profusion of learning which Grotius was the first to acknowledge. But while Selden was fitly honoured by his own king and country for his patriotic effort to maintain a doctrine which coincided with the insular position as well as with the national pride in the maritime supremacy of England, the countrymen of Grotius reserved nothing better for him than imprisonment and exile. The lapse of three centuries has, however, vindicated the freedom of navigation on the open seas claimed by Grotius. And modern international jurisprudence has since adopted the theory propounded by Bynkershoek in his *De Dominio Maris* of the cannon-shot limit. Russia indeed endeavoured in the last century to revive the old controversy in connection with Behring's Sea and Alaska, and still more recently the United States claimed, as successors to Russian dominion over Alaska, beyond the Bynkershoek limit, but ineffectually.<sup>1</sup>

(3) *Hugonis Grotii Poemata Omnia*, first published in 1616, containing a collection of his patriotic poems, epigrammata, elegies, marriage songs, silvæ, and three dramas, which, if they do not entitle him to be ranked as a poet of genius, are at all events compositions of considerable merit in point of scholarship and elegance of diction.

(4) *Excerpta ex Tragediis et Comediis Græcis, emendata ex Manuscriptis et latinis Versibus reddita* (1626).

(5) *Euripidis Traged. Phenissæ, emendata ex Manuscriptis, et Latina Facta ab Hugone Grotio* (1630).

(6) *Lucani Pharsalia, sive de Bello Civili inter Cæsarem et Pompejum, libri X.* (1609), a valuable edition with a carefully revised text and critical notes.

(7) *Florilegium Stobæi* (1622), the Greek text with the Latin translation of the poetical passages from the ancient poets; and

<sup>1</sup> Trendelenburg, *Naturrecht*, s. 220, p. 573.



it was in the spirit of the collection of Stobæus, which embraced several hundred excerpts, that Grotius a few years afterwards (1626) published a continuation of the same in his own excerpts from the Greek tragedians and comedians referred to above under (4).

Finally, at the age of sixty, we still find the indefatigable scholar preparing a learned and metrical Latin translation of the Greek Anthology, according to a Greek manuscript text which Salmasius had discovered in the year 1606 in the celebrated *Bibliotheca Palatina* at Heidelberg, which he did not live to see published, but which was afterwards edited by a countryman of his own and printed with the Greek text in the year 1795. In this, as in all his works, he displays the same desire after thoroughness, elegance, and accuracy, looking, as he tells us in his own graceful verse, merely for the gratification of his peaceful desires and expecting his reward from a grateful posterity :

“ Accipo, sed placidè, quæ, si non optima, cortè  
Expressit nobis non mala pacis amor.  
Et tibi dic, nostro labor hic si displicet ævo,  
A gratâ pretium posteritate feret.”

Such, briefly told, was the life and work of one of the most remarkable prodigies of the human intellect which the world perhaps has ever produced—a veritable giant among intellectual giants, as to whom posterity has long confirmed the prophetic words of Henri IV. of France, pronounced when Grotius was still in his early teens—*Voilà, le miracle de la Hollande !*

The following are the principal authorities consulted : Jean Barbeyrac's French translation of the *De Jure Belli et Pacis* (Amsterdam, 1724) ; M. P. Pradier-Fodéré's French translation of same (3 vols., Paris, 1867) ; Whewell's edition of same work (3 vols., Cambridge University Press) ; same work done into English by several hands, with Life of author (London, 1715) ; *Life of Grotius*, by Charles Butler (London, 1826) ; *Hugo Grotius*, by L. Neumann (Berlin, 1884) ; *Opinions of Grotius*, by D. P. de Bruyn (London, 1894) ; Hallam's *Introduction to the Literature of Europe* (4 vols., 1864) ; *Geschichte der Rechtsphilosophie*, by Friedrich Julius Stahl (Heidelberg, 1847) ; Calvo, *Le Droit International* (vol. i., Paris, 1887) ; Ahron's *Naturrecht oder Philosophie des Rechtes* (Wien, 1870) ; *Elements du Droit International*, par Henry Wheaton (Leipzig, 1858) ; *Encyclopædia Britannica*, tit. Grotius.