

in Chief thought fit. In later times it hath been
us'd all to Impose such a Number of Horse and Foot
on every Count y proportionable to the Valued Rents of
the Fleitors.

What may be Lawfully done in War,
Both against those concerned therein, and
against Neuters or Allies.

The open force and terror be the proper Nature & ge-
nius of War. Yet it is lawfull to piece sometimes the
forces fail to the Lyons Skin, to Make use of Stratagemes
fraud against an Enemy; provided there be no breachery
or violation of Compact or Faith in it. Grotius (lib. 2.
cap. 5.) holds that fraud in its negative Act, viz. Disi-
mulation, is not unlawfull, nor yet fraud in its positive
Act consisting in things, viz when things are done wth
design to make others have a wrong Opinion of what
the Actor intends. Such was the feigned flight of Jo-
shua before Ai, Josh. 8. And that Act of the Romans
who being besieged in their city, threw great Quantities
of Bread from the Capitol into the Enemies Camp
(when truly they had little to spare) to the end that the
Enemy despairing to take the city by famine might
give over the Siege. We find other Instances of this
kind of fraud in History: as the making use of our
Enemies Arms, Colours, Garments Sails and the like
which is allowed, because the very Custom of using or
wearing such a colour or fashion, is in every ones par-
ticular Choice, and not appropriated to this or that
Nation by Common Consent: and if the Enemy be deceived
through making a wrong Construction of our Actions,
they deceive themselves. As to positive fraud Consisting in
Wids, commonly called a lie. That learned Author
(lib. 2.) doth clear up the matter thereof at large, and dis-
tinguishes an Overtory from a promisory lie, allowing
the former and not the latter to be made to an Enemy.
It is also his opinion, that it is unlawfull for an Enemy
to compell or persuade another to do that which he can-
not lawfully do; as to persuade one of the opposit^e party
to kill his Prince, or to deliver up a fort without Con-
sent of a Council of War, tho' it was lawfull in the per-
suader to have done such an Act himself. But that it
is not unlawfull for us to make use of one freely offering
himself (as a Renegade or deserter) to effect that which
we may lawfully do. It is lawfull for one Enemy to
kill Robb or Spoil another. And all that are found among
enemies are lyable to the effects of War without Distinc-
tion of age or Sex: which licence that a just War gives
to one enemy against another is sometimes extended
to Captives and Hostages. But it is not lawfull to take
away an enemies life by poison, least Dangers which
are too frequent and vile in war should be multiplied
beyond measure, and the Lives of Princes too much
exposed

exposed to clandestine Villany. Nor yet doth the Law of Na-
tions justify the sending to kill an Enemy secretly in his
own Quarters, if the Assassin owes any Faith to him he was
sent to Murder: As if a Subject be hired to kill his Sovereign,
a Vassal his Lord, or a Soldier his General &c. But it is lawfull
to slay one under no Obligation to an Enemy to kill him in
the private Manner aforesaid. Ravishing of Women is some-
times permitted and sometimes forbidden in War. But it is
reasonable that among Christians he who forces a Captives
Chastity should not go unpunished by the Law of Nations,
because such an unblinded Act of Lust conduced the Enemy
to the security of the Conqueror or to weaken the Enemy.
Grot. lib. 3. cap. 4. Even in the sharpest War, if regulated
according to Christian Discipline, there ought to be some
Grains of mildness or Clemency shewed upon personal
Consideration, so as to distinguish in punishing the prin-
cipal Author in a War from those who have been seduced
or forced into it. Yea oft times it is more agreeable to a ge-
nerous conqueror to forgive than to revenge: particularly
to spare Women and Infants who could not make hostile
resistance, and all whose Manner of Life is altogether
repugnant from Deeds of Arms, as Priests, Students
of Arts, Merchants and other Men. Against the strict
Law permits us to do what we please with Captives, equity
and Conscience, for Gods sake take away their Lives. Therefor
we find in History large commendation given to those
Commanders who chose rather to Desmiss than to kill
a Multitude of their Captives whom they could not keep
without Danger and Charge. Those also who in Battle or
for quarter in a Siege offer to yield upon Condition to
save their lives, or surrender themselves to the Will of the
Conqueror without any Condition at all, ought to be spare.
It being the Honour of a General without the least effusion
of Blood that may be, as Salust obferves, Grot. lib. 3. cap.
4. By Queen Annes Articles of War (Art. 19) for her Ma-
jesty's forces beyond Sea, the killing a prisoner in cold
Blood after Quarters fairly given, was punishable by Death.
Some Soldiers belonging to the Army of West Country Sub-
jects that fought with and were defeated by the Kings Forces
at Penlandhills, having surrendered upon Quarters grant-
ed them by some of the Kings Officers and Soldiers, were
notwithstanding pannelled before the Justice Court con-
vened and executed as Traitors 15 Decem ber 1666 Ma-
jor John Mellocke Gavin Hamilton and others because no
Quarter could be given but in Justo Bello, in let pages; and a
publick insurrection of Subjects against their lawful Prince
is not Bellum but Seditio, and Treason which the King can
only remit; consequently the Quarters given in this Case by
his Majesty's officers & Soldiers could not be equivalent to a
secure their Lives upon laying down their Arms, but was
effectual only to secure those who got it from present Death.
Albeit it was pleaded for the Pannelled, that they being taken
fighting as Soldiers in a Modelled Army, ought to have
been Judged by the Military Law, which Secures such as
obtained Quarter in the field from being afterwards put
to death, who are not to dispute, if the officers or Soldiers
who gave them Quarter had sufficient Power to do it, or if
the War was just or unjust. For 10. The power of giving
Quarter is Naturally inherent in all Soldiers; and Quarter
given