

tie as this to oppose a Dominion of the Sea, should be turned over to the Philosophers; especially ¹ *Heraclitus*, and *Epicarmus*, whose Doctrine was, that every thing is lo changed, altered, and renewed every moment, that nothing in the world continue's at this instant, the same, that it was in the instant immediately going before. No man (saith ^k *Seneca*, in imitation of *Heraclitus*) is the same in the Morning, that hee was the day before. Our Bodies are hurried like Rivers. Whatsoever thou see'st, runs with time. Not one of all those things that are visible, continue's. I, even whilst I speak of these Changes, am changed my self.

It was seriously affirmed also by *Heraclitus*, that not onely the same River could not receiv a man twice, but also that the same man could not enter twice into the same stream. So that to cast all into *Heraclitus* his River, became an usual Proverb, to express a continued and perpetual change of every thing from it self. But let such as dream, that the fluid inconstant nature of the Sea disprove's the private Dominion of it; entertain the same opinion (if they pleas) with these men, of things that fall under a Civil consideration, and then they must of necessity grant also, that themselves are not Owners or Possessors, either of Land, Houses, Clothes, Money, or any other thing whatsoever.

An

An Answer to the Objections touching the defect of Bounds and Limits in the Sea; as also concerning its magnitude and inexhaustible abundance.

CHAP. XXII.

THE Objection, touching the defect of Limits and Bounds, follow's next. And truly, where Dominions are distinguished, nothing can be more desirable then known and certain Bounds in every place: Nor was it without cause, that ^a *Terminus*, the God of Bounds, was received heretofore among the *Romanes* for the God of Justice. But the nature of Bounds is to be consider'd either upon the Shores, or in the open Sea. And why Shores should not be called and reputed lawful Bounds, whereon to ground a distinction of Dominion in the Sea, as well as Ditches, Hedges, Meers, rows of Trees, Mounds, and other things used by Surveyors in the bounding of Lands, I cannot fully understand. Nor is ^b *Sylvanus* any whit more a Guardian of Bounds, then *Neptune*. But yet a very learned man saith, ^c there is a Reason in nature, why the Sea under the aforesaid consideration cannot be possessed or made appropriate; because possession is of no force, unless it be in a thing that is bounded; so that *Thucydides* call's a Land wipossessed, ^d *ἀόριστον* unbounded; and *Uocrates* the Land possessed by the Athenians, a Land bounded with Limits. But liquid things, because of themselves they are not bounded, cannot be possessed, save onely as they are contained in som other thing; after which manner Lakes and Ponds are possessed,

^a *Pharac* in *Numa*.

^b *Sylvanus*, made by *Heathens* the God of the woods, and *Neptune* of the Sea.
^c *Engo* *Grat* *de Jure Belli ac Pacis*, lib. 2. cap. 11.
^d 3.

and

and Rivers also, because they are contained within Banks. But the Sea is not contained by the Earth, it being of equal bigness, or bigger then the Earth; so that the Antients have affirmed the Earth to bee contained by the Sea. And then hee brings divers Testimonies of the Antients, whereby it is affirmed more then once, that the Sea is the girdle or Bond of this Globe of Earth, and that fetching a compass, it incloseth all the Parts thereof together; and it is very often said by the Antients, that the Land is contained and bounded by the water or Sea; as if the whole Earth made as it were one Island, being^d surrounded by the Sea. But admit it were to be granted (which, I suppose, neither that learned man nor any other will grant;) yet I do not well see, why the thing concerning should not in truth be bounded by the thing contained, as well as this by that. May not a lesser bodie that is spherical, or of any other form, being contained by a greater which is every way contiguous to it, bee said to bound and limit the Concave of the greater Bodie, as well as this to limit the Convex of the lesser? But Julius^e Scaliger saith very well of the Sea and Land; *That the one is not so contained by the other, but that it may also contain. Nor are they so disjunct from each other, but that they may both encroach upon each other and retire by Turns.* The Sea and Land mutually imbrace one another with crooked windings and turnings; this with Peninsulas, and Promontories butting forth, and Creeks bending inward, that working up its waves about all the Passages of its vast Bodie. Thus it is evident that the one indifferently sets Bounds to the other, no otherwise than Banks, and Lakes, or Rivers; which also appears more evident in the^f Caspian Sea

^a Cicero in Somn. Scrip-
ois. & vide
Jo. Philopon.
de Mund.
Creatiōe,
lib. 4. cap. 5.

^e Exercit.
37.

^f A Sea near
Hircania,
like a huge
Lake, being
incircled
with Land,
and hath no
passage into
any other
Sea.

Sea that is encompassed with Land, And in like manner in the Mediterranean; before that Hercules, or (as the^g Arabians say) Alexander the great did, by cutting the Mountains, let in the Atlantick Ocean through the streights of Cadix; And thereby it is made up one single Globe, wherein divers Seas are bounded, as well as the Isles for main Land: as it is more clearly proved out of holy Scripture. There the waters are gathered together, and limited by their Places and^h Bounds. And saith the Lord himself of the Sea, *I encompassed it with my Bounds, and set Bars and Doors; and said, hitherto shalt thou come, but no farther.* And in another place, *Hee gave unto the Sea his Bounds, his Decree unto the waters that they should not pass their Bounds: So that it cannot be doubted every Sea hath its Bounds on the Shore, as the Land it self. Nor had I made mention of this Particular, had I not found it impugned by so eminent a person. And truly there is but a very little more difficultie, to finde out Limits and Bounds in the main Sea, for distinguishing of private Dominions. Wee have high Rocks, Shelves, Promontories opposite to each other, and Islands dispersed up and down, from whence as well direct Lines, as crooked windings and turnings, and angles, may be made use of, for the bounding of a Territorie in the Sea.*

*Mille jacent media, diffusa per aquora, terræ;
Innumeri surgunt Scopuli, montesque per altum.*

**A thousand Lands within the main do lie;
Rocks numberless, and Mountains rise on
high
Throughout the deep.**

T

The

^g Geograph.
Nubienf. Cli-
mat. 4. part. 1.

^h Damascen.
de Orbibus &
sit. lib. 2.
cap. 9.
ⁱ Job 38. 10.
^k Pro. 8. 19.

The antient Cosmographers also reckon up the Seas of the world, no otherwise then Towns, Rivers, Islands, and Mountains, as being no less distinguished from each other by their respective Bounds.

¹ *Ethicus* saith, *Every Globe of Land hath XXX Seas, CCCLXX Towns, LXXXII Islands, LVII Rivers, and XL Mountains, &c.* After this also, hee reckon's the Seas of the Eastern, Western, Northern, and Southern Ocean one after another, after the same manner as hee doth the Provinces and their Isles. How truly, I dispute not; but in the mean time hee made no question, but that the Seas are sufficiently distinguished by their Names and Bounds. Add hereunto that useful invention of the *sea-man's Compass*, and the help of Celestiall degrees either of Longitude or Latitude, together with the doctrine of Triangles arising therefrom. Also in those Plantations that in our time have been carried out of *Europe* into *America*, the degrees of Latitude and Longitude do serv the Proprietors in stead of Bounds; which with as little difficulty are found in the Sea. In like manner ^m form would have had the Tropick of *Cancer* and the *Equinoctial Line* to have been the Bounds in the Sea, for the limiting of that Agreement, which was to have been made in the year MDCVIII, between the States of the *United Provinces*, and the House of *Austria*. And in the late Agreement betwixt the Kings of *Great Britain* and *Spain*, ⁿ the *Equinoctial Line* is the Bound appointed in the Sea. Other Instances there are of the same nature: For, *Sarpedon* and *Calycadnus*, two Promontories of *Cilicia*, were designed as Bounds for distinguishing the Dominion of the Sea, in that League made betwixt the ^o *Romanes* and *Antiochus* King of *Syria*. Also, by Decree of the Emperour

Leo,

Leo, of which wee have already spoken, the ^p *Fishing Epoches* or Fish-pens that were by men placed in the Sea lying over against their Lands, were limited to certain number of Cubits. The case was the same likewise touching the *Cyanean* and *Chelidonian* Islands, in the League made by the ^q *Athenians* with the King of *Persia*; which hath been mentioned also before.

Moreover, Pope *Alexander VI* and his Cardinals, or the King of *Spain's* Agents made no scruple touching Bounds of this nature, when the King obtained that famous Bull, whereby hee had a Grant of the Western world; but so to be limited, that the thing given should, in the hither part of it, be bounded by an imaginarie Line drawn from the Arctick to the *Antarctick Pole*, ^r which should be distant from each of those Islands called de *Los*, *Azores* y *caboverde*, one hundred Leagues towards the West and South (which are the verie words of the Bull.) Whereupon ^s *Hieronymus de Monte*, saith, *Bounds were set in Heaven and in the Air, in the time of Pope Alexander VI between the Portugals and Castilians, in dividing the Indian Isles then newly discover'd by the degrees of Heaven; and so all that was found Eastward, was allotted to the Portugals, and that which lay Westward to the Castilians.* Certainly, in this place, no more regard was had to the portions of Land, whether Islands or continent, in the measuring of Bounds, then to the spaces of the Sea. Moreover, it is ordinarie among the Lawyers, even those who are most earnest for a Communitie of everie Sea, to limit an hundred miles ^t jurisdiction to the Lord of the adjacent Coast. Sometimes wee finde sixtie. It is in a manner received (saith ^u *Bolin*) by the common custom of all

T 2

Princes

^r An Epoché was a device to keep store of Fish, made of Nets that were lighted between Stakes driven into the Sea.
^s *Plutarch*, in *vida Cimoni*.

^t *Leitr. Cherrubini Bullar.* Tom. 1. pag. 393.

^u *Traicté de finibus regundis*, cap. 7. 8.

^v *Bartholus Traicté de Tribuade* & D. D. in l. *Insule Italia* §. *de Jurisdictione*.

^w *De Republica*, lib. 1. cap. 10.

¹ In *Cosmographia*.

^m *Apul. Emanuel. Metzer. Rec. Belgic lib.* 28.

ⁿ *Anno 1630.*

^o *Art. 2.*
^p *Polib. in Belgic. de Legationibus*, cap. 15.
^q *Levins. de cad.* 4. lib. 8.

Princes bordering upon the Sea, that for sixtie miles from the shore, any Prince may give Law to those that sail near their Coast; and it was so adjudged in the Case of the Duke of Savoy. Which hee observeth out of *Cachervanus* his decisions of Piemont. Yea, and it is maintained by very eminent Professors of the Civil Law, that an Action at Law may be allowed for regulating of Bounds in the Borders of the Sea. Therefore they sufficiently acknowledg the Custom of measuring and setting Bounds, even in the Sea.

But as to what concern's that saying of *Ambrose*; *Geometram audivimus*, *Thalassometram nunquam audivimus*, Wee have heard of a Geometrician, one that measureth land, but never of a Thalassometrician, or one that could measure and lay out Bounds in the Sea; This truly is rather a quibbling of words, then any Argument against the point in hand. And the holy man speak's in that place, of the various lurking-holes, or holds of divers Fishes, which God hath appointed for them in the Sea, not touching a civil distribution of the Sea. Nor was there any reason why hee should speak thus of a *Thalassometrician*; as a thing never heard of before. For, wee know that even *Thalassometricians* were ordinarie among the *Grecians*, who had Dominions by Sea, with very frequent and various distinctions of those Dominions; And that the Sea was measured according to the Rules of Geometrie, no less then the Land. *Proclus* a famous Mathematician, treating about the excellencie of Geometrie, saith, *It hath discover'd the Situations of places, the measures also of Voyages by Sea, as well as journeys by Land.* Moreover, they had Instruments to measure the Sea, which the *Grecians*,

Grecians, or at least the modern *Greeks*, called *ἰνδαροσδομέτρεις*, *measures of Sea-voies*; and have written that *Elo*, *Anthemius*, and other ancient Mathematicians, learn't the Art from *Archimedes*, and transmitted it to Posterity. Yea, it is said by *Joannes Tzetzes*, that those men discover'd both water and winde-instruments out of the Books of *Archimedes*, and Engines to move things of weight, and instruments called *Thalassodometra*, for measuring of Sea-voies: so that as concerning the bulnels of measuring the sea, there is nothing to hinder, but that both matter and instruments may bee had for the distinguishing of its Dominions.

Lastly, that which is objected, touching the vast magnitude of the Sea, and its inexhaustible abundance, is of very little weight here. Suppose it bee inexhaustible, so that hee which shall appropriate it to himself, can receive no damage by other men's using it, what more prejudice is this to the right of Ownership or Dominion, then it is to the Owner of a Fire or Candle, that another man's should bee lighted by his? Is hee therefore less Master of his own Fire or Candle? But truly wee often see, that the Sea it self, by reason of other men's Fishing, Navigation, and Commerce, becom's the worf for him that own's it, and others that enioie it in his right; So that less profit ariseth, then might otherwise bee received thereby. Which more evidently appear's in the use of those Seas, which produce Pearls, Coral, and other things of that kinde. Yea, the plenty of such seas is lessned every hour, no otherwise then that of Mines of Metal, Quarries of stone, or of Gardens, when their Treasures and Fruits are taken away. And it is a custom of the *Mahometans* (who

* Hieronymus de Monte, Tract. de Finibus regnandi, cap. 39. Baldus, et alii ibi citant.

* Chilian. 13. cap. 457.

† In Euclidis lib. 1. lib. 2. cap. 3. in *Grecis*, pag. 18.

(who are very great and Potent Nations) to estimate their seas no less upon this accompt, then by the Revenue either of Fishing or Navigation; as wee may see in that their *sall Prophet*, when speaking of the most holy God hee saith, ^a *It is hee that hath prepared the Sea for your use, that therein yee may take fresh Food (and ule Fishing) and also that out of it yee may draw ornaments to adorn you. Mahomet Ben Achmed, the best Expofitor of the Alcoran, interpret's those ornaments by Coral and Pearls; which words also are used in another ^b place of the *Alcoran*, for the chief Commodity of the Sea. From whence also it is, that a special Licence to search for Coral, hath sometimes been granted in Leagues made by the grand Seignieur, as is observed before. Yea, and ^c *Pliny* speaking, especially of the more Easternly Seas, saith, *It had been counted a small matter, that men swallowed whole Seas into their throats, if both men and women also did not wear them up and down upon their hands, ears, heads, and all parts of the Body.* But it is well known to us, that precious Stones and Pearls, are very often found also in the Western Seas, and hee tells us, they were frequently found in ancient time. Moreover (saith hee) *It is certain that in Britain they are produced, though small and ill colored (as wee all see at this day) forasmuch as Julius Cæsar would have it understood, that the breast-plate which hee consecrated to Venus in her Temple, was made of British Pearl.* Yea, it is written by many, and testified by ^d *Suetonius*, that *Cæsar* went to Britain in hope of Pearls. It is obvious therefore to every man, that the gain of such a Voyage into Britain, may be lessned, and that the abundance either of Pearls themselves, or of those shell-fishes, which produce them, may through a promif-*

^a In *Alcoran*, Azoraz, 16. in *Cod. Arab.* 26 in *Latin.*

^b *Azcor.* 55. *Sed in Cod. Latin.* 65.

^c *Hist. Nat.* lib. 9. cap. 35.

^d In *Julio*, ca. 47. & vide *lib. G. Camden.* in *Britannia*, pag. 630. & 721.

promiscuous and common use of the Sea, bee diminished in any Sea whatsoever. Where then is that inexhaustible abundance of Commodities in the sea, which cannot bee impaired? There is truly the same reason also, touching every kinde of Fishing. But what need many words about this Matter? Do wee not at this day finde it pressed home to the utmost every where by Lawyers, especially those of the Empire? and was it not a thousand times said of old when the *Romane* Empire was in its prime, ^e *that Cæsar is Lord of the whole world?* Thus *Ovid*, according to the *romane* custom, saith;

^f *Gentibus est aliis tellus data limite certo :
romane spatium est urbis & orbis idem.*

^e *L. 9. ff. iii. ad Legem Rhodiam.* &c.

^f *Fastorum*, lib. 2.

**All other States have Limits to their
Ground:
Rome and the world, have but one common
Bound.**

The Sea (I suppose) is not more inexhaustible then the whole world. That is very much inferior to this, as a part is to the whole, in greatness and plenty. And therefore a Dominion of the Sea is not to bee opposed upon this accompt, unless also wee in like manner affirm, that not onely that saying of the Emperor's Dominion over the world is manifestly false, (as it must bee) but also contrary to natural reason it self, becaus of the worlds extraordinary greatness and abundance. Therefore they are more justifiable in their Opinion, who, as they say, that the *Roman* Emperor, according to the ancient Law, is Lord of the World or Land, (that is to say, a large part of it) so also ^g they would have him to bee Lord of the Sea.

Not

^g *J. G. Gribander Jusrii illiense Infulæ cap. 14. § 65. & v.*

Nor is there any difficulty in that expression of the Emperor *Antoninus*, wherein hee calls himself Lord of the World, but the Law (as 'tis commonly understood) Lady of the Sea; which (if it were granted that his Answer ought^h to be understood) doth signifie no other thing, then that the *Rhodian* Laws, where they did not thwart the *Romane*, were so far in force about Sea-affairs, that (however hee were Moderator and Lord of both) hee would by no means determin ought contrary to those Laws, by any Rescript of his own. ¹ *Acialus*, and other very Learned men also, make almost the same interpretation: But concerning that Answer of *Antoninus*, I shall add more^k by and by. So that it seem's the Antients, in that so often repeated speech, concerning universal Dominion, conceived the *Romane* Empire to bee no less or narrower, then it is represented by *Petroneius Arbitr*, who set's forth the matter in these words;

*Orbem jam totum victor Romanus habebat,
Quà Mare, quà Terra, quà Sidus currit utrumque.*

*The Romane Conquer then the World,
Both Sea and Land did sway,
Wherefore the Moon travel's by night,
Or the bright Sun by day.*

And^l the Ancient Inscription in honor of *Augustus* *Cæsar* was, *ORBE MARI ET TERRA PACATO, IANO CLUSO, &c.* Peace being restored to the world by Sea and Land, hee shut up the^m Temple of *Janus*; according to which sense it is recorded also byⁿ *Historians*, that hee shut *Janus* his Temple three times, having settled Peace by Sea and Land; whereby they would have

have us to understand (the verie same thing which wee have proved more fully before) that the Seas were comprehended as well as the Land, within the huge Bodie of the *Romane* Empire.

An Answer to such Testimonies as have fallen from Writers treating of other subjects, and which are usually alleged against Dominion of the Sea.

CHAP. XXIII.

IT remain's in the next place, that wee consider of what validitie the contrarie Opinions of Writers are whereof wee formerly made mention. As to what concern's those Passages of the Poëts, *Plautus* and *Phenicides*; it is clear in *Plautus*, that the lewd slave *Trachalis* was but in jest with *Grippus* the Fisherman: Hee saith in general, that the Sea is common to all, which signifieth a Sea that never was possessed, as well as that which is necessarily and naturally common; and in that place, that, rather then this: Wherefore it may be understood, that Fishing was common or not yet appropriated; that, is, that the people either of *Rome* or *Greece*, had such a Dominion over any kinde of Sea (for, by what hath been already mentioned, it appear's both of them had a Dominion over som Sea before *Plautus* his time) that either of them might use their respective Seas, at their own pleasure, in hindring others from sailing through them, and removing such impediments of Trade and Commerce as should happen therein: And yet that hitherto they had

V pro:

^h L. Dreyer-
catio 9. ff. ad
legem Rhodi-
an.

¹ *Dissuntio-
num lib. 2. c. 5.*

^k In the 25
Chapter.

^l *Emerite 3
apud Græ-
rum, pag. 149*

^m This tem-
ple stood o-
pen in time
of war, but
was shut in
time of
peace.
ⁿ *Suetonius
in Octavia,
c. 21.*