The State which takes up arms in a just cause has a twofold right against its enemy: (1) The right to obtain possession of its property withheld by the enemy, to which property must be added the expenditures incurred in obtaining it, the cost of the war, and indemnity for damages; for if the State were obliged to bear such expenses and losses it would not obtain the full amount of its property or of debt due it. (2) It has the right to weaken the enemy, and to take from him the means of resistance, in order to disable him from maintaining his unjust position (§ 138). From this twofold source are derived all the rights which war gives us over the property of the enemy. I refer to ordinary cases where the property of the enemy is the chief object in view. On certain occasions the right of punishing an enemy gives rise to new rights over his property, as over his person; of these we shall speak presently.[…]

If it is lawful to take away the property of an unjust enemy, either in order to weaken him (§ 161) or to punish him (§ 162), the same reasons authorize a belligerent in destroying what he can not conveniently carry off. Thus it is that a belligerent lays waste to a country and destroys food and provender, in order that the enemy may not be able to subsist there; he sinks the enemy's ships when he can not capture them or carry them off. Such measures are taken in order to attain the object of the war; but they should be used with moderation and only when necessary. Those who tear up vines and cut down fruit trees, unless their object be to punish the enemy for some offense against the Law of Nations, are to be regarded as savages; they render a country desolate for many years and go far beyond the needs of their own safety. Such conduct is dictated not by prudence, but by hatred and passion.[…]

For whatever cause a country be devastated, those buildings should be spared which are an honor to the human race and which do not add to the strength of the enemy, such as temples, tombs, public buildings, and all edifices of remarkable beauty. What is gained by destroying them? It is the act of a declared enemy of the human race thus wantonly to derive men of these monuments of art and models of architecture; so Belisarius told Totila, King of the Goths. We still abhor the acts of those barbarians who, in overrunning the Roman Empire, destroyed so many wonders of art. However justly

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*See his letter to Procopius. It is cited by Grotius, Lib. III, Cap. XII, § 2, not. 11.*
indignant the great Gustavus was against Maximilian, Duke of Bavaria, he rejected with scorn the advice of those who wished to destroy the magnificent palace of Munich, and he took particular care to preserve that building.

However, if in order to carry on the operations of the war, or to push forward the plans of a siege, it is necessary to destroy buildings of that character, we have an undoubted right to do so. The sovereign of the country, or his general, does not scruple to destroy them when the needs or the policy of war call for such a step. The governor of a besieged town burns the suburbs to prevent the besiegers from encamping in them. No one thinks of blaming a general for devastating gardens, vineyards, and orchards, in order to locate his camp on the spot and throw up an entrenchment. If he thereby destroys some work of art it is an accident, an unfortunate consequence of the war; and he will not be blamed except on those occasions when he could have camped elsewhere without any inconvenience.

It is difficult to spare the finest buildings when a town is bombarded. At the present day the besieger ordinarily limits himself to battering the ramparts and defenses of the town, and he does not proceed without urgent reasons to the extremity of destroying the town by the use of bombs and hot shot. But he is nevertheless warranted by the laws of war in taking such extreme measures when he is unable otherwise to reduce an important stronghold, on which depends the success of the war, or which enables the enemy to make dangerous attacks upon us. Finally, such measures are taken when we have no other means of forcing an enemy to carry on war more humanely, or of punishing him for some other excesses. But it is only with reluctance, and as a last resort, that good princes make use of a right of so stern a nature. In the year 1694 the English bombarded several maritime towns of France, whose privateers had done serious injury to the commerce of Great Britain. But the virtuous and worthy consort of William III was little pleased with the news of what her fleet had done; she expressed regret that war should have rendered such measures necessary, adding that she hoped that operations of that kind would be regarded with such abhorrence that for the future both sides would abandon them.a

Fortresses, ramparts, and fortifications of every kind are built solely for use in war; consequently nothing could be more natural or more lawful for a belligerent than to raze those which he does not propose to hold. He thereby weakens his enemy to that extent, and yet does not involve innocent persons in the enemy's losses. This was the great advantage which France drew from her victories in war in which she did not aim at making conquests.[…]

What we have said is sufficient to give a general idea of the moderation with which, in the most just war, a belligerent should use the right to pillage and devastate the enemy's country. Apart from the case in which there is question of punishing an enemy, the whole may be summed up in this general rule: All acts of hostility which injure the enemy without necessity, or which do not tend to procure victory and bring about the end of the war, are unjustifiable, and as such condemned by the natural law.

But as between Nations such acts are necessarily tolerated to a certain point and suffered to go unpunished. How could it be determined accurately just how far it was

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necessary on a given occasion to carry hostilities, in order to bring about the successful termination of the war? And even though this could be determined, Nations recognize no common judge, and each decides as to what conduct its duties require of it. Open the door to continual accusations of excesses in the conduct of war, and you will only multiply complaints and embitter more and more the minds of the belligerents; fresh injuries will be continually arising, and the war will not cease until one or the other of the parties be destroyed. Hence, as between Nation and Nation, we must lay down general rules, independent of circumstances and of certain and easy application. Now, we can only arrive at such rules by considering acts of hostility in the abstract and in their essential character. Hence, just as with respect to hostilities against the person of the enemy the voluntary Law of Nations limits itself to forbidding acts that are essentially unlawful and obnoxious, such as poisoning, assassination, treason, the massacre of an enemy who has surrendered and from whom there is nothing to fear, so, with respect to the present question, the same law condemns every act of hostility which, in its own nature and independently of circumstances, contributes nothing to the success of our arms and neither increases our strength nor weakens the enemy. On the other hand, it permits or tolerates every act which in its essential nature is adapted to attaining the end of the war; and it does not stop to consider whether the act was unnecessary, useless, or superfluous in a given case unless there is the clearest evidence that an exception should have been made in that instance; for where the evidence is clear freedom of judgment can not be exercised. Thus it is not, generally speaking, contrary to the laws of war to plunder and lay waste to a country. But if an enemy of greatly superior forces should treat in this manner a town or province which he might easily have held possession of, as a means of obtaining just and advantageous terms of peace, he would be universally accused of waging war in a barbarous and uncontrolled manner. The deliberate destruction of public monuments, temples, tombs, statues, pictures, etc., is, therefore, absolutely condemned even by the voluntary Law of Nations, as being under no circumstances conducive to the lawful object of war. The pillage and destruction of towns, the devastation of the open country by fire and sword, are acts no less to be abhorred and condemned on all occasions when they are committed without evident necessity or urgent reasons.

But as an attempt might be made to excuse these excesses, as being a punishment merited by the enemy, let us add that by the natural and voluntary Law of Nations only the most serious offenses against the Law of Nations may be punished in this manner. And even then it is always noble to listen to the voice of charity and mercy when it is not absolutely necessary to use severity. Cicero condemns the destruction of Corinth for improper treatment of the Roman ambassadors, since Rome was able to secure respect for its ministers without resorting to such extreme measures.