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**Presumptions and Cognitive Simplicity in Leibniz and Early Modern Legal Theory**

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**I. Presumptions and Varieties of Simplicity**

Arguments from presumption are based on assumptions that are taken to be true unless and until contrary evidence becomes available. The concept of presumption originates in the Roman-law tradition, and was used and critically debated in early modern theories of meaning, of morality, and of politics. What makes the concept of presumption fascinating from the viewpoint of argumentation theory is that presumptions were traditionally seen as tools for dealing rationally with situations of uncertainty. Since such situations are typical not only for jurisprudence, but also for hermeneutics, moral agency, and political decision making, arguments from presumption can lead to crucial insights into the nature of early modern rationality. The concept of presumption has triggered widespread interest in contemporary argumentation theory.[[1]](#footnote-1) By contrast, there is surprisingly little work on the role of presumptions in early modern thought. The only exceptions to this concern Leibniz’s usage of presumptions, which has found the attention of scholars such as Hans Burkhardt, Robert Merrihew Adams, Matthias Armgardt and Mogens Laerke.[[2]](#footnote-2) However, also in early modern thinkers before Leibniz one finds a variety of fields of argument from presumption, and these applications have not yet been studied in detail. In the present article, I would like to use some sixteenth-century thinkers to elucidate some of Leibniz’s all-too-brief remarks about presumptions. In particular, I will focus on two widely cited sixteenth-century works on legal argumentation, Nicolaus Everardus’s *Centum Modi Argumentandi* (1545) and Andrea Alciato’s *De Praesumptionibus* (1551).

One of the reasons why it is interesting to study the treatment of presumptions in Leibniz and his predecessors is that it may expand our present-day understanding of the nature of the cognitive economy that justified arguing from presumptions. Perhaps the most detailed contemporary account of the relevance of cognitive economy for such arguments can be found in Nicholas Rescher’s *Presumption and the Practices of Tentative Cognition* (2006). Rescher develops his considerations concerning cognition in the context of an analysis of the pragmatic role of presumptions. Generally, he maintains that “[t]he idea of presumption is principally procedural in serving to determine what has to be done in the course of developing a cogent case.”[[3]](#footnote-3) This certainly applies to the group of presumptions that in late medieval and early modern legal theory was called “praesumptiones iuris et de iure”: presumptions that are laid down by the law and that derive their validity not from evidence but from the force of the law.[[4]](#footnote-4) In such cases – think of the presumption of innocence –, actual belief may diverge from the content of the presumption, which nevertheless is taken as the basis for action in order to avoid certain pernicious consequences (such as punishing an innocent) or for positive effects (such as securing the conditions of due procedure).

Rescher is clear that the pragmatic function of presumptions can only be fulfilled if presumptions are formed rationally. One way in which presumptions can be formed rationally involves circumstantial evidentiation and probative substantiation. These evidential grounds for presumptions can range from the deliverances of senses, to the testimony of witnesses and legally relevant indications, to the knowledge of the relative frequencies in which events of a certain kind occur.[[5]](#footnote-5) From this perspective, the rule can be formulated that the best and most strongly evidentiated answer to a question is to be presumed to be correct.[[6]](#footnote-6) This rule implies that whenever a certain supposition is not only plausible but also more plausible than its potential rivals, it may be presumed to be true.[[7]](#footnote-7) This applies to two other kinds of presumptions distinguished in early modern legal theory. So-called “praesumptiones iuris” –i.e., presumptions that are specified by the law but that derive their plausibility from sources other than the law – were understood to be supported by experiences concerning what happens usually (think of the presumption that someone who is missing for a number of years is dead).[[8]](#footnote-8) So-called “praesumptiones hominis” – i.e., presumptions that are formed by individuals and that concern attitudes and actions of other individuals – were understood to be supported by signs indicating personal qualities of individuals.[[9]](#footnote-9)

However, even if it makes sense to use various kinds of evidence in support of presumptions, the versatility of presumptions becomes clear in cases where evidential support is incomplete or missing. This is why Rescher argues that there are further sources of plausibility of presumptions – sources that derive from epistemological desiderata such as simplicity, uniformity, specificity, definiteness, determinativeness, and normality.[[10]](#footnote-10) As he explains, he understands normality as a relation of analogy between the presumption and otherwise validated cases that give rise to the prioritization of “the usual course of things” in plausibility assessment.[[11]](#footnote-11) Also, he clarifies that he regards simplicity as a procedural, regulative principle of presumption, rather than a metaphysical claim as to “the simplicity of nature.”[[12]](#footnote-12) As he comments: “In adopting this policy we shift the discussion from the plane of the constitutive/descriptive/ontological to that of the regulative/methodological/ prescriptive.”[[13]](#footnote-13) This is why he emphasizes that the desideratum of simplicity allows cognitive presumptions to function as instrumentalities of cognitive economy.[[14]](#footnote-14)

As Rescher explains, every piece of information can be evaluated in two dimensions:

Utility: How useful is it; how often do we have occasion/need to make use of it; and how large are the issues that rest on its availability?

Cost: […] how expensive (complicated, difficult, resource-demanding) is its use?[[15]](#footnote-15)

This economic conception of cognitive activity may capture a strong intuition – we do not want to invest more effort than necessary into reaching our cognitive goals. However, more recent work in metacognition has brought to light some difficulties connected with the notion of cognitive simplicity. Take as an example the recent debate concerning the role of cognitive simplicity in the formation of linguistic theories. As Peter Ludlow has argued, from the standpoint of cognitive economy, the notion of simplicity reduces to something like “user-friendliness.”[[16]](#footnote-16) If so, different individuals or different intellectual communities or individuals and communities at different times could have different views concerning what is easy. In this case, it is clear why people prefer certain patterns of thought (they fit other patterns of thought that are familiar to them) but it remains entirely unclear why these patterns of thought should be taken to be conducive to true beliefs. One plausible response to this difficulty could be simply to discard the cognitive value of simplicity. For instance, Brian Leahy has argued that what we need in forming a theory of meaning is not anything like simplicity but rather the theory’s capacity of representing dispositions that the sign-using beings actually have.[[17]](#footnote-17) Another plausible way of responding to the difficulties, however, is to retain the notion of simplicity but to connect the epistemic aspects of the notion with ontological aspects. For instance, Edison Barrios has analyzed developments in the history of generative linguistics where cognitive simplicity can be characterized in terms of the content of substantive, empirical hypotheses.[[18]](#footnote-18) The general strategy of including simplicity of empirical content into an explication of the notion of cognitive simplicity seems to be a promising framework for understanding what is going on in the treatment of presumptions in Leibniz and his sixteenth-century predecessors.

As it will turn out, Leibniz took up some methodological considerations that were part and parcel of the early modern legal tradition and integrated them in a systematic way into his ontology of what he calls “requisites” – intuitively, conditions without which something could not exist or not exist in the way it does. It will be useful to study some of the less systematically developed methodological ideas in sixteenth-century theory of law (section II) and then to explore how Leibniz gave an innovative turn to these ideas by using the ontology of requisites (section III). Finally, I will offer some remarks concerning how Leibniz’s usage of the notion of requisites could be used to de-dichotomize the distinction between epistemic and ontological simplicity (section IV).

**II. Cognitive Simplicity and Naturalness**

To distinguish what Leibniz has in common with the early modern juridical tradition and what is new about the turn that he gave to this tradition, it will be useful to consider first the connection that he establishes between the notion of verisimilitude and the notion of presumption:

*The logic of what possesses verisimilitude* is still a desideratum for research […], where probability is not only derived from external factors such as authorities, the majority, or the educated […], but also and foremost from the nature of the thing itself, since different events can happen more easily to different things, and to this extent are more credible […]. But the logic of what possesses verisimilitude has been cultivated by no-one more than by the jurists, who have argued much and in various places about full and half-full proofs, presumptions, conjectures, and indications; even if they have not founded it on certain principles.[[19]](#footnote-19)

So, what did the jurists say about verisimilitude? In his study of probability concepts before Pascal and Leibniz, James Franklin claims that the Latin expressions “verisimilitudo” and “probabilitas” “are in practice perfectly synonymous.”[[20]](#footnote-20) In his view, there is only a single concept that these expressions denote, namely the concept of probability as “what usually tends to happen” (*quod fere solet fieri*).[[21]](#footnote-21) However, a diverging view of the nature of verisimilitude can be found in Nicolaus Everardus. In his view, what matters for verisimilitude is a certain relation between a presumption and a truth about human nature, where a truth about human nature can relate to natural qualities as well as to the demands of natural law. Everardus maintains that “[t]here are some intrinsic qualities with which humans are born, such as that everyone is chaste, peaceful, sober and good; and those qualities everyone is presumed to have unless the contrary is proven.”[[22]](#footnote-22) To give just one example mentioned by Everardus: One should presume that a woman with a newborn gives up her obligations of chastity not spontaneously but only driven through fear.[[23]](#footnote-23) This presumption can be well understood as being based on what the natural constitution of the female body and also the natural circumstances of the life of a family demand. However, it is easy to imagine situations of oppression in which fear forces women with newborns into having sexual intercourse against their will. Clearly, in such situations a rational presumption concerning their will can be based on considerations concerning human nature but not on considerations of what happens most frequently at a certain place. This is why the difference between presumptions founded upon what is natural, and presumptions founded upon what usually happens is a conceptual difference that can make a substantial difference in juridical argument.

Accordingly, it is possible to extrapolate two distinct concepts (I will use capitals for labelling concepts):

 PROBABILITY: what happens most frequently.

VERISIMILITUDE: what resembles a truth about natural qualities of humans or the demands of natural law.

The meaning of PROBABILITY clearly does not coincide with the meaning of VERISIMILITUDE: situations are thinkable in which the inclinations arising from natural qualities or the demands of natural law are more frequently than not eclipsed by other causal factors. This, then, is the conceptual framework in which Leibniz places the workings of the concept of presumption, when he refers to the logic of verisimilitude as developed by the jurists.

Evidently, distinguishing PROABILITY in this way from VERISIMILITUDE raises the question of how presumptions based on VERISIMILITUDE relate to PROBABILITY. Leibniz clearly distinguishes presumptions from PROBABILITY. As he explains, the degree of probability (in the sense of a relative frequency) is a matter of the easiness of a thing’s or an event’s coexisting with all other things or events in the universe.[[24]](#footnote-24) By contrast, what matters for presumption is only the easiness of a thing’s or an event’s existing.[[25]](#footnote-25) In the variants to the *Elementa Juris Naturalis*, Leibniz offers the following explication of the relation between presumption and PROBABILITY:

In a presumption, we demonstrate from the nature of the things that something is easier and hence has to be presumed to be more frequent […]. For what we presume, we demonstrate to be easier out of its nature, and therefore we presume that it is more frequent. By contrast, we know through induction that what is probable is more frequent and from thence we presume it to be easier.[[26]](#footnote-26)

This passage connects two notions that play a significant role in early modern juridical treatments of presumptions: the notion of easiness and the notion of naturalness.

 The connection between what is “natural” and what should be presumed can be observed in sixteenth-century legal theory. To begin with, all three great rules underlying presumptions that Andrea Alciato analyzes are, in some way or other, connected with belief concerning some fundamental characteristics of reality. Let me briefly illustrate this point with respect to the first and third rule, and then go into more detail with respect the second rule, which is particularly relevant as a background for Leibniz’s reasoning. The first rule discussed by Alciato advises us to presume that “a quality that inheres naturally in a human being is always presumed to be present.”[[27]](#footnote-27) This rule is based on an understanding of what the natural qualities of humans are. Among these qualities are natural emotional reactions,[[28]](#footnote-28) natural rational capacities,[[29]](#footnote-29) and natural-law based rights.[[30]](#footnote-30) The third rule advises us always to prefer the more benign interpretation.[[31]](#footnote-31) For instance, due to this rule, it should not be presumed that someone wants to injure the rights of another but rather to use his own rights.[[32]](#footnote-32) Likewise, everyone is presumed to be good.[[33]](#footnote-33) As Alciato explains, “this is a presumption of nature, since naturally everyone is good.”[[34]](#footnote-34) And in case that his readers may not be persuaded by this factual claim, he gives a normative turn to the foundations of this presumption: “since [everyone] is obliged to be good, [everyone] can legitimately be presumed to be so.”[[35]](#footnote-35)

Alciato’s second rule tells us that “change is not to be presumed.”[[36]](#footnote-36) This rule is based on an ontological analysis of the nature of change: “[T]he rationale of this rule is that changing means that something happens accidentally; and accidents are not presumed […].”[[37]](#footnote-37) As Alciato’s treatment of accidents in discussing single instances of such presumptions shows, what he has in mind is a distinction between intrinsic accidents (which can be presumed because they arise from the essence of a thing) and extrinsic accidents (which cannot be presumed because they arise from an event that is external to the essence of the thing). For instance, he contrasts the insight that “extrinsic accidents are not presumed”[[38]](#footnote-38) with the insight that someone who was poor in the past is not to be presumed poor now because everyone is presumed to strive to become wealthier.[[39]](#footnote-39) Here, the striving for material well-being seems to be understood as one of the natural qualities that are presumed to be present in every person, and which give rise to the presumption of change.

Alciato also notes that the presumption against change can be applied to expectations concerning the moral quality of persons. A frequently cited rule has it that “[w]ho has been bad once is presumed to be bad now.”[[40]](#footnote-40) As Alciato makes clear, this applies at least to actions that belong to the same kind of badness.[[41]](#footnote-41) For instance, who has committed perjury once is presumed to commit perjury now – which is why such persons are excluded from giving testimony.[[42]](#footnote-42) Here, ontological consideration concerning the nature of a particular kind of mental dispositions – moral vices – is what gives plausibility to the presumption that someone will succumb to a vice of a different kind in the future. These considerations are also relevant for the question concerning what to expect from the children of wrongdoers. As Alciato holds, the transgression of the father gives rise to the presumption that he will of the children tend to be involved in the same kind of transgression.[[43]](#footnote-43) At the same time, Alciato is explicit about the defeasible nature of these presumptions. They do not obtain if someone abstained from the transgression in question for some time,[[44]](#footnote-44) or has given a clear indication of penance,[[45]](#footnote-45) or if the transgression is of such a kind that it undergoes change through nature or age, such as sexual licentiousness.[[46]](#footnote-46) Thus, the first two exceptions are evidence-based, while the third exception makes use of the idea of changes that fall under the heading of intrinsic accidents.

 Everardus gives a more detailed analysis of the idea that change is not to be presumed when he discusses the argumentation from one time to another time. With respect to the predicament of passions of the mind, he states: “[W]ho was a friend or an enemy in the past is presumed to be such in the present, unless the contrary is proven directly or indirectly.”[[47]](#footnote-47) As he explains:

[T]he one who is angry and hates or likes another is not said to act but rather to suffer; and therefore such emotions are called by the philosophers passions of the mind; however, things stand differently where someone suffers an injury through words or other external motions: because it does not follow, who is wounded in the past, is wounded also now […]. [F]or the intrinsic and mental passions are presumed to be continuous, but the passions deriving from extrinsic and bodily acts are not presumed to be continuous […].[[48]](#footnote-48)

Everardus also points out that, in contrast to actions and momentary passions, intrinsic passions belong to the predicament of *habitus* – i.e., to the category of persistent mental dispositions – and thereby differ from those mental states that change by nature.[[49]](#footnote-49) Likewise, with respect to mental qualities Everardus writes:

[W]ho was frantic or mentally dysbalanced in the past, is presumed to be such also in the present; and hence the one who says that he now is mentally healthy must prove this; and if he does not prove it, an act of a person of this kind is to be declared invalid after the episode of frenzy: for a frenzy that occurs once is presumed to be still present, unless the contrary is proven.[[50]](#footnote-50)

In this respect, Alciato offers the qualification that this presumption requires a proof that someone suffered from frenzy continuously for a certain time; by contrast, single stupid actions in the past are not enough to give rise to such a presumption.[[51]](#footnote-51) Also, he cautions us that in cases in which someone alternates between dysbalanced and lucid moments, the validity of a legal act has to be decided on the basis of the quality of act that has been performed.[[52]](#footnote-52)

Finally, Everardus writes with respect to presumptions concerning the predicament of action:

[T]his argumentation takes place with respect to acting itself or acts that have their natural goals: for the acting of humans cannot be continuous according to nature […]. Hence, who procured, or contested, or transacted, or did something in the past, is not in this way presumed to do this today with respect to acting itself; but as to willing itself, or a quality of the mind, perseverance is presumed; nor is it presumed that the mind has been changed from its beginning, which is why in this respect this argumentation works well.[[53]](#footnote-53)

While there is much convergence between Everardus and Alciato on the structure of such person-related presumption, Alciato brings out more clearly than Everardus the connection between naturalness and easiness. To get the general thrift of Alciato’s view, it will be sufficient to consider two examples that he mentions. One example concerns the nature of the act of the judge:

[A] judge is not presumed to do something without the knowledge of the cause […]. Nor is he presumed to want to judge contrary to the facts […]. And it is presumed that those who know the causes do not fall easily into guilt when they examine the truth.[[54]](#footnote-54)

Clearly, Alciato applies here the precept that in a legal act those factors should be assumed to be present that are characteristic of the nature of the act – namely, reaching a just verdict. Moreover, presuming that these factors are present leads to a further presumption, namely, that it is not easy for a judge to reach an unjust verdict. And what makes reaching an unjust verdict difficult is the state of mind presumed to be present in a judge.

A second example concerns the nature of aging persons:

[S]exual desire is presumed to diminish in old age […]. And generally, those qualities are presumed that are present according to the different ages: from whence an old person is presumed to die easily […]. You could say that old age properly speaking is not a disease; but once old age is proven, there results a *praesumptio juris* that this person is weakened […]. Likewise, an old person is not as easily presumed to flee as a young person […].”[[55]](#footnote-55)

Note the dual occurrence of the notion of easiness: the first occurrence concerns the intentional object of the presumption, namely, the proposition that some event occurs easily; the second occurrence concerns the formation of the presumption itself. Taken together, these occurrences suggest that a presumption is formed easily because the event described in its content takes place easily.

What the rules specified by Alciato and Everardus have in common is that the plausibility of the presumptions mentioned does not depend on the availability of any information concerning relative frequencies. Rather, it is the ontological distinction between accidents that derive from the nature of a thing – such as changes that derive from the nature of a thing – and accidents that do not derive from the nature of a thing – such as changes that are induced from the outside – that matters here. Alciato and Everardus agree in recommending that one should presume the occurrence of accidents of the former kind, but not the occurrence of accidents of the latter kind. And this means that the plausibility of these presumptions depends on ontological considerations concerning the nature of persons and their acts.

**III. Cognitive Simplicity and the Ontology of Requisites**

This, then, is the background of Leibniz’s view that “[i]n a presumption, we demonstrate from the nature of the things that something is easier.” Still, one might ask, what justifies such a prioritization of intrinsic over extrinsic accidents? And in which sense can a course of events that follows the “nature” of a person or an act be easier than a course of events that follows some external influence? As far as I can see, in sixteenth-century legal theories this question was not addressed explicitly. Arguably, however, Leibniz’s ontology of requisites can be seen as an explication of the intuition of what underlies the claim that one should presume from the nature of a person, a thing, or an act.

In the *Elements of Natural Law*, the notion of easiness is characterized as a comparative concept: “Easier […] is that in which there are smaller or fewer things than in the opposite, [i.e.] that whose requisites are a part of the requisites of the opposite.”[[56]](#footnote-56) At the same time, he makes it clear that the notion of easiness has not only an ontological but also an epistemological dimension: “Easier is what is by itself more intelligible, or what has fewer requisites.”[[57]](#footnote-57) I take the “or” to be explicative, thus suggesting that the notion of intelligibility can be explicated through the notion of a smaller number of requisites. And recall that Leibniz maintains that what happens more easily thereby is more credible. In this sense, the notion of credibility also can be explicated through the notion of a smaller number of requisites.

Arguably, for Leibniz the notion of requisite has both ontological and logical aspects.[[58]](#footnote-58) On the ontological level, Leibniz thinks of requisites as conditions for existence. In this sense, “[a] *requisite* is something that, if it is not given, a thing does not exist either.”[[59]](#footnote-59) He distinguishes between mediate requisites – roughly: causal antecedents – of a thing or an event[[60]](#footnote-60) and immediate requisites – roughly: parts or constituents – of a thing or an event.[[61]](#footnote-61) Mediate and immediate requisites are ontological conditions: conditions for the existence of a thing or an event. Both logical and ontological conditions play a role in Leibniz’s conception of easiness. On the ontological level, a thing or an event thus is easier than another thing or event if its existence depends on fewer conditions.

On the logical level, a concept or a proposition is easier than another concept or proposition if it depends on fewer logical conditions. Leibniz explains the relation between a condition (*conditio*) and what is conditioned (*conditionatum*) in such a way that from non-A (the negation of the condition) there follows non-B (the negation of the conditioned).[[62]](#footnote-62) This formal structure characterizes the relation between two propositions when the truth of one proposition is a necessary condition for the truth of the other.[[63]](#footnote-63) Likewise, when one concept cannot be thought without the other, the same formal structure characterizes the relation between the two concepts. For example, Leibniz writes: “A *requisite* is something that, if it is not thought, something else cannot be thought either.”[[64]](#footnote-64)

Both the ontological and the logical aspects of the notion of requisite come together when, in the variants to the *Elementa Juris Naturalis*,Leibniz formulates the following rule for forming presumptions: “Presumed should be everything that has to be presupposed for its contrary, not vice versa […]. That is presumed, in which everything that has to be supposed, also has to be supposed in its contrary, not vice versa.”[[65]](#footnote-65) I think that both the ontological and the logical aspects of the notion of requisite are relevant for this rule since what has to be presupposed for thinking about a state of affairs depends on what requisites this state of affairs has. As we shall see, this rule still needs a significant qualification; but before looking into this qualification, it is important to see that already in its unqualified form it has several applications in Leibniz’s early thought. For present purposes, it will suffice to mention three of them.

(1) The connection between easiness, comparatively measured by the containment of suppositions of several things or states of affairs, and presumption underlies Leibniz’s remarks about possibility:

[I]t is easier for something to turn out to be possible than impossible. For nothing is required for the possible but that it be supposed; for the impossible, however, it is required that while it is supposed, its opposite be supposed at the same time. Therefore, more things are required for the impossible than for the possible […]. Indeed, the requisites [*requisita*] or suppositions [*supposita*] of the possible are contained in the suppositions of the opposite, and not conversely. That is *presumed*, however, whose suppositions are also the suppositions of the opposite, and not conversely.[[66]](#footnote-66)

The view that the requisites of the possible are contained in the requisites of the impossible together with the view that cases where the requisites are contained in the requisites of the opposite are the proper object of presumption implies fairly straightforwardly that one should presume something to be possible rather than impossible. This consequence is drawn explicitly in the variants: “Whatever is supposed in what is possible […] is also supposed in what is impossible, but not vice versa, because in what is impossible something more is supposed. Therefore, anything whatsoever is presumed to be possible.”[[67]](#footnote-67) Although Leibniz never uses the term,[[68]](#footnote-68) let me call this the *presumption of possibility.*

It might be helpful to distinguish here between the two levels of dependence relations. In the first half of the quotation, the dependence relation at stake is one between suppositions that we make: Leibniz tells us that we have to make one supposition in order to be able to make another supposition. Possibly, when Leibniz speaks of “supposing” a particular possible or impossible entity, what he means is something like forming a concept of this possible or impossible entity. In this case, his claim would be that in order to form the concept of a particular impossible entity we first have to form the concept of a particular possible entity. In this sense, the concept of this possible entity would be a condition of the concept of the impossible entity, not the other way around. So far, Leibniz formulates a claim about conceptual dependence. But the reason that Leibniz gives for this claim about conceptual dependence invokes ontological dependence: we are told that a given possible entity has fewer ontological requisites than an impossible entity. Hence, to every impossible entity there corresponds at least one possible entity that has the same ontological requisites as the impossible entity except those that are responsible for the contradiction. In other words: For every impossible entity, there is at least one possible entity whose ontological requisites are a proper part of the ontological requisites of the impossible entity. Therefore, I agree with Hans Burkhardt and Robert M. Adams that in the case of the presumption of possibility the work is done on the level of ontological requisites.[[69]](#footnote-69) The level of logical dependence follows suit: If the requisites of a possible entity are a proper part of the requisites of an impossible entity, then the requisites of the concept of a possible entity are a proper part of the requisites of the concept of an impossible entity.

(2) The connection between easiness and presumption is also relevant for Leibniz’s view that we should presume a given action to be just.[[70]](#footnote-70) (Again, for simplicity’s sake, I will call this the *presumption of justice*, although Leibniz does not use this term.) In this case, the logical and ontological levels of dependence do not fall apart any more than in the case of the presumption of possibility. This is so because Leibniz regards the presumption of justice as a special case of the presumption of possibility. Indeed, what Leibniz says about the presumption of possibility is presented as an explanation of the presumption of justice. In his remarks on the presumption of possibility, he gives the following argument that starts from one of the sentences already quoted above: “[M]ore things are required for the impossible than for the possible. Therefore, it is easier for an action to be just than to be unjust.”[[71]](#footnote-71) On first sight, of course, the two presumptions are different: the one is concerned with the justice of an action, the other with the possibility of a thing. What connects the two presumptions, however, is Leibniz’s modal approach to virtue ethics. For Leibniz, it is not the just action that makes an agent just. Rather, just actions are those that can be done by just persons. According to Leibniz, a just action is “an action that is possible for a good person (*vir bonus*).”[[72]](#footnote-72) To be sure, as far as the characterization of the moral quality embodied by a good person goes, Leibniz’s views depart from Aristotle’s. At the early stage of his thought represented in the *Elements of Natural Law*, Leibniz has not yet fully arrived at his later definition of universal justice as the “charity of the wise” (*caritas sapientis*). Nevertheless, *caritas* is implicit in his definition of justice as “the habit of loving everyone”[[73]](#footnote-73) and of the good person as “the person who loves everyone.”[[74]](#footnote-74) In any case, in one respect his opinion is clear: A just action is a special kind of possibility: something that is possible for a good person.[[75]](#footnote-75) In the manuscript variants to the passage about the presumption of justice, he explains:

The just is easier than the unjust. For easier is what is more possible, or what requires fewer things for its existence. Yet in order for something to be just, it is required that it is possible, in order for something to be unjust it is required that it is impossible for a good person. But fewer things are required for the possible than for the impossible.[[76]](#footnote-76)

The logic of the presumption of justice thus is closely analogous to the logic of the presumption of possibility: In both cases, the direction of argument leads from the smaller number of requisites to the presumption.[[77]](#footnote-77) The presumption of justice amounts to the claim that it is easier for an action to be possible for a good person than to be impossible for a good person. Again, the background of this claim is Leibniz’s conception of possibility as non-contradiction. An action that is impossible for a good person is an action that, if performed by a good person, involves a logical contradiction. Among its ontological requisites, there is at least one that accounts for the occurrence of this contradiction. Hence, for every action that is impossible for a good person there is at least one action that is possible for a good person that has the same ontological requisites except the ones that are responsible for the contradiction. In this sense, for every unjust action there is at least one just action that is easier than the unjust one.

(3) In his work on the election of the King of Poland (1669), the notion of easiness is built into considerations concerning what makes actions and political circumstances indifferent or dangerous:

 *Indifferent* is what has equally easy a good or a bad outcome.

*Dangerous* is what is more probable to have a bad outcome than a good outcome.

Hence, *dangerous times* are those in which everything has more easily a bad outcome than a good outcome.

Hence, indifferent things in a dangerous time, if put on the scales of a balance, incline towards the worse.

Dangerous things, in addition to the probability of a bad effect that they carry in themselves, acquire a new probability from the times.[[78]](#footnote-78)

Here it becomes clear that the notion of easiness is connected with a notion of probability that does not reduce to relative frequencies. Rather, a possible future event is characterized as more probable than another possible future event if it comes about more easily. Read from Leibniz’s contemporary characterization of the notion of easiness, there is thus a sense in which we are advised to regard a possible future event as more probable when it has fewer requisites than another possible future event.

Likewise, certain external circumstances – such as being a candidate for being elected king – contribute to the easiness of the occurrence of certain mental states such as recollection. This is relevant for Leibniz’s discussion of how certainly we can assume that someone acts knowingly in a dishonest way. The particular kind of dishonest action that Leibniz has in mind consists in knowingly refraining from restituting the honor that was violated through a previous unlawful act. Leibniz is aware that when we want to assess how certainly someone acts knowingly in such a way, we should assess how easily it comes about that someone recalls the previous unlawful act in the present situation:

Dishonest is a person who knowingly omitted the restitution of honor […].

Hence, the dishonesty is bigger the more certainly someone was acting knowingly.

He is the more certainly knowing the more certainly he remembered the previous injury at the time of conferring a benefit.

But the cause of remembering is similitude.

Hence, he remembered more easily, and consequently is more dishonest, the more similar the benefit is to the previous injury.[[79]](#footnote-79)

Thus, the similarity between the present election situation and a previous election fraud through bribes and threats makes recollection of the previous violation easier and, hence, we are justified in assuming that someone who does not restitute honor in such a situation acts knowingly in a dishonest manner. These passages document that presumptions play a substantial role in Leibniz’s early account of political decision making. Moreover, his use of presumptions indicates a sense in which political decisions can be rational, even if we do not know the probabilities in the sense of relative frequencies.

**IV. De-Dichotomizing Ontological and Cognitive Simplicity**

By now it should be clear why it pays to take Leibniz’s suggestion seriously that arguing from presumptions should be seen in the context of the juridical concept of VERISIMILITUDE. As we have seen, VERISIMILITUDE does not coincide with PROBABILITY (in the sense of what happens most frequently). Rather, it designates what resembles a truth about natural qualities of humans or the demands of natural law. Therefore, the precept to presume what possesses VERISIMILITUDE neatly fits the precept to presume what happens according to the nature of a thing, a person, or an act. Also, the notion of easiness in the juridical literature is connected with this conception of naturalness, and when Leibniz suggests that “[i]n a presumption, we demonstrate from the nature of the things that something is easier”, he clearly places his views in the same tradition.

Leibniz gives a novel turn to this tradition by offering an analysis of the notion of easiness that is lacking in the juridical literature. The reason why we should form a presumption in favor of the occurrence of a fact that is grounded in the intrinsic qualities of a thing, a person, or an act is that the requisites of such a fact are part of the requisites of a fact that is grounded in intrinsic qualities and additional external factors. To carry out such a comparison of degrees of easiness, we do not need to know all of the requisites of an event. Rather, it is enough to know that the requisites of A are also the requisites of B and to know that the set of requisites of B contains at least one requisite in addition (while the same is not the case for A).

For instance, for every impossible entity, there is at least one possible entity whose ontological requisites are a proper part of the ontological requisites of the impossible entity.Likewise,an action that is impossible for a good person is an action that, if conceived of as performed by a good person, involves a logical contradiction. Among its ontological requisites, there is at least one that accounts for the occurrence of this contradiction. Hence, for every action that is impossible for a good person, there is at least one action that is possible for a good person that has the same ontological requisites, except the ones that are responsible for the contradiction. This way of characterizing a comparative notion of easiness can also be instructively applied to the cases of political decision making. Take the case of a prince who comes from a turbulent family. The future actions of this prince have a number of requisites, including the impressions from education and family life. Since these impressions form part of the biography of the individual in question, they will be among the requisites of any future action, no matter whether some additional factors will lead the prince to act calmly. Hence, the calm future course of action has more requisites than the turbulent behavior.

Such a comparative notion of easiness obviously does not involve anything like an assumption concerning the simplicity of nature. Still, ontological considerations play a role in forming presumptions. This is so because considering degrees of easiness offers a way of analyzing the notions of intelligibility and credibility. This is so because, when we think about matters of fact, the number of logical requisites – the number of suppositions we have to make to form a particular concept or proposition – corresponds to the number of ontological requisites that the state of affairs about which we think has to make. Considering which state of affairs has a smaller number of ontological requisites thus is a way of figuring out which concept or proposition has a smaller number of logical requisites. Leibniz’s reference to the epistemological notions of intelligibility and credibility corresponds closely to Rescher’s desideratum of cognitive economy. However, Leibniz goes beyond Rescher’s analysis of simplicity by using the ontology of requisites to explicate the sense in which thinking about one state of affairs can be said to be easier than thinking about another state of affairs. This is why Leibniz indicates how Rescher’s dichotomy between a purely pragmatic sense of simplicity and the metaphysical assumption concerning the simplicity of nature can be circumvented: Leibniz need not assume that nature always proceeds in the simplest way; rather, he suggests using considerations concerning ontological simplicity to explicate what cognitive simplicity consists in.

What is more, using ontological considerations in this way to explicate the notion of cognitive simplicity also indicates a sense in which simplicity can relate to truth. Clearly, using the notion of a smaller number of ontological and cognitive requisites to explicate the sense in which presumptions can be rational even in the absence of knowledge of relative frequencies does not use simplicity as a guide to truth in an unqualified way. Rather, it uses cognitive simplicity as a justification for taking something to be true in a provisional way. What justifies forming such an attitude is the view that, in the absence of contrary information, we can presume that what presupposes fewer ontological requites will have the tendency of occurring more frequently. Cognitive simplicity thus is neither irrelevant for the pursuit of truth, nor should it be taken to be truth-tracking in an absolute sense; rather, it would be justified to assume that something is true unless and until contrary evidence becomes available.

 Before concluding, however, it is important to note that Leibniz builds an important prudential caveat into his treatment of the connection between easiness and presumption:

But those events that are easier, should not be at once be presumed to be more probable; they also have to be taken for certain in acting by the prudent. Thus, something can be most probable, and nevertheless in the case of success hardly fruitful, and if disconfirmed very detrimental.[[80]](#footnote-80)

Here, a further aspect of the role of presumptions in human life comes to the fore. As Leibniz puts it: “To *presume* is to hold for certain until the opposite is proved […]. *For certain* is what we follow in action as if it were certain.”[[81]](#footnote-81) Presumptions thus function as foundations for practical action; therefore, it would be irrational to act on the basis of presumptions that, if successful, would not lead to practically useful results and, if unsuccessful, would lead to detrimental results. In this sense, Matthias Armgardt is certainly right when he emphasizes that, for Leibniz, there is no automatic transition from what has fewer requisites to what should be presumed.[[82]](#footnote-82)

Yet, does Leibniz’s prudential caveat diminish the role of concepts such as VERISIMILITUDE, naturalness, and easiness for his account of presumptions? I think the contrary is the case. As Leibniz writes in the revision notes for the *Nova Methodus*: “In practice, one has to consider not only what has more verisimilitude, but also what is safer; although, even in estimating how safe something is, again verisimilitude has to be considered.”[[83]](#footnote-83) Thus, considerations concerning VERISIMILITUDE (in the juridical sense mentioned a bit earlier in the same revision notes) do not decide about what we should presume in a single step. In fact, considerations concerning VERISIMILITUDE play a role in weighing how easily a certain state of affairs comes about against how easily contrary states of affairs could lead to detrimental results. This suggests that the conceptual framework of VERISIMILITUDE, naturalness, and easiness that Leibniz derived from the early modern jurists remains intact for the purpose of assessing risks. If so, the presumption that should be chosen as a basis for acting rationally in situations of uncertainty could be understood as a function of a presumption concerning the easiness of a certain state of affairs and presumptions concerning the easiness of damage that alternative states of affairs could bring with them. And, as we have seen, this corresponds exactly to the use that Leibniz makes of the notion of easiness in forming presumptions concerning future political risks.

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Stichworte

Action

Change

Conjecture

Dependence

Economy, cognitive

Evidence

Frequency

Information

Naturalness

Nature

Passions

Plausibility

Possibility

Probability

Proof

Requisites

Supposition

Testimony

Uncertainty

Verisimilitude

1. See *Ullman-Margalit* 1983; *Mendonca* 1998; *Rescher* 2006; *Walton* 2014. [↑](#footnote-ref-1)
2. *Burkhardt* 1980, pp. 425 f.; *Adams* 1994, pp. 202–205; *Armgardt* 2015. On the application of presumptions in religious controversies, see *Laerke* 2005. On the problems arising from applying presumptions to the realm of metaphysics, see *Adams* 1988. [↑](#footnote-ref-2)
3. *Rescher* 2006, p. 3. [↑](#footnote-ref-3)
4. *Alciato*, Tractatus de Praesumptionibus, “In secundam partem praesumptionum argumenta” (pp. 15 f.). [↑](#footnote-ref-4)
5. *Rescher* 2006, p. 39. [↑](#footnote-ref-5)
6. Ibid., p. 37. [↑](#footnote-ref-6)
7. Ibid., p. 39. [↑](#footnote-ref-7)
8. *Alciato*, Tractatus de Praesumptionibus, “In tertiam partem praesumptionum argumenta” (p. 27). [↑](#footnote-ref-8)
9. *Praetis*, De ultimarum voluntatum interpretatione, liber I, interpretatio II, dubitatio I, solutio IV (pp. 85 ff.). [↑](#footnote-ref-9)
10. *Rescher* 2006, p. 40. [↑](#footnote-ref-10)
11. Ibid., p. 41. [↑](#footnote-ref-11)
12. Ibid., p. 40. [↑](#footnote-ref-12)
13. Ibid., p. 40. [↑](#footnote-ref-13)
14. Ibid., p. 27. [↑](#footnote-ref-14)
15. *Rescher* 1989, p. 12. [↑](#footnote-ref-15)
16. *Ludlow* 2011, pp. 152–162. [↑](#footnote-ref-16)
17. *Leahy* 2014, pp. 511f.. [↑](#footnote-ref-17)
18. *Barrios* 2016. [↑](#footnote-ref-18)
19. *Leibniz*, Nova Methodus Discendae Docendaeque Jurisprudentiae,A VI, 1, Nr. 10 (p. 280): “*Logica Verisimilium* est opus adhuc desideratum […], ubi probabilitas non tantum petitur ab externis seu ab autoritate, vel plurium vel sapientum […], sed etiam et maxime quidem ex ipsa rei natura, quia alia aliis facilius contingere possunt, eoque sunt credibiliora […]. Logica autem Verisimilium a nullis magis quam jurisconsultis exculta est, qui de probationibus plenis aut minus plenis, praesumptionibus, conjecturis, indiciis, passim et multis egerunt; etsi certis principiis nondum constitutis.” Unless otherwise noted, translations are my own. [↑](#footnote-ref-19)
20. *Franklin* 2001, p. 127. [↑](#footnote-ref-20)
21. Ibid*.*, pp. 116 f.; see *Cicero*, De inventione, 1.46, building on *Aristotle*, Analytica Priora2.27 (79a3–70a7). [↑](#footnote-ref-21)
22. *Everardus*, Centum modi argumentandi, “Locus a tempore ad tempus” (p. 329): “Quaedam enim est qualitas intrinseca cum qua homo nascitur, scilicet quod aliquis sit castus, pacificus, sobrius et bonus: & hanc quis praesumitur habere nisi contrarium probetur […].” [↑](#footnote-ref-22)
23. *Everardus*, Centum modi argumentandi, “Locus a verisimili” (p. 91). [↑](#footnote-ref-23)
24. *Leibniz*, Elementa Juris Naturalis, A VI, 1, Nr. 15.2 (p. 472). [↑](#footnote-ref-24)
25. Ibid. [↑](#footnote-ref-25)
26. *Leibniz*, Elementa Juris Naturalis, Variants,A VI, 2 (p. 567): “In praesumptione enim ex natura rei demonstramus esse faciliorem ac proinde praesumendam frequentiorem […]. Quod enim praesumimus, id ex natura sua demonstramus esse facilius, ac proinde praesumimus esse frequentius. Contra probabile inductione scimus esse frequentius atque inde praesumimus esse facilius.” [↑](#footnote-ref-26)
27. *Alciato*, Tractatus de Praesumptionibus, “Regula prima praesumptionum”, praesumptio 1 (p. 34): “qualitas quae naturaliter inest homini, semper adesse praesumitur.” [↑](#footnote-ref-27)
28. Ibid., praesumptio 1–4 (pp. 34–42); praesumptio 20–23 (pp. 65–71); praesumptio 36–37 (pp. 103–108). [↑](#footnote-ref-28)
29. Ibid., praesumptio 38 (p. 108). [↑](#footnote-ref-29)
30. Ibid., praesumptio 8 (pp. 45–49). [↑](#footnote-ref-30)
31. Ibid., praesumptio 1 (p. 237): “semper fit praesumptio in meliorem partem.” [↑](#footnote-ref-31)
32. Ibid., praesumptio 1 (p. 238). [↑](#footnote-ref-32)
33. Ibid., praesumptio 2 (p. 244). [↑](#footnote-ref-33)
34. Ibid., praesumptio 2 (p. 244): “ista est praesumptio naturae, quia naturaliter quilibet est bonus.” [↑](#footnote-ref-34)
35. Ibid., praesumptio 2 (p. 245): “cum debeat esse bonus, merito etiam debet etiam praesumi.” [↑](#footnote-ref-35)
36. Ibid., praesumptio 1 (p. 143). [↑](#footnote-ref-36)
37. Ibid., praesumptio 1 (p. 143): “Et ratio regulae est, quia mutare est quid accidens: & accidentia non praesumuntur […].” [↑](#footnote-ref-37)
38. Ibid., praesumptio 27 (p. 214). [↑](#footnote-ref-38)
39. Ibid., praesumptio 27 (p. 214). [↑](#footnote-ref-39)
40. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-40)
41. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-41)
42. Ibid., praesumptio 10 (p. 166). [↑](#footnote-ref-42)
43. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-43)
44. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-44)
45. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-45)
46. Ibid., praesumptio 7 (p. 161). [↑](#footnote-ref-46)
47. *Everardus*, Centum modi argumentandi, “Locus a tempore ad tempus” (p. 323): “Item etiam videre poteris in praedicamento passionis, habito respectu ad passionem animi: unde qui olim fuit amicus vel inimicus, etiam hodie talis praesumitur, nisi directe vel per obliquum contrarium probetur.” [↑](#footnote-ref-47)
48. Ibid.: “ille enim qui irascitur & alium odit vel diligit non dicitur agere sed pati: & ideo talia a philosophis appellantur passiones animi; secus vero est, ubi quis patitur iniuriam per verba vel alios motus extrinsecos: quia non sequitur, quis est percussus, ergo nunc percutitur […]. [P]assiones enim intrinsecae & mentales praesumuntur continuae: sed passiones provenientes ab actu extrinseco & corporales non praesumuntur continuae […].” [↑](#footnote-ref-48)
49. Ibid., “Locus a tempore ad tempus” (p. 324). [↑](#footnote-ref-49)
50. Ibid., (p. 320): “si quis olim fuit furiosus vel incompos mentis, praesumitur etiam hodie talis: & ergo ille qui dicit eum hodie esse sanae mentis, debet hoc probare: & si non probaverit, debet actus per talem gestus post furorem declarari invalidus: quia furor semel accidens praesumitur adhuc adesse, nisi probetur contrarium.” [↑](#footnote-ref-50)
51. *Alciato*, Tractatus de Praesumptionibus, “Regula secunda praesumptionum”, praesumptio 18 (p. 184). [↑](#footnote-ref-51)
52. Ibid., praesumptio 18 (p. 185). [↑](#footnote-ref-52)
53. *Everardus*, Centum modi argumentandi, “Locus a tempore ad tempus” (p. 322): “In praedicamento autem actionis similiter procedit haec argumentatio, inquantum ad ipsum agere vel actum qui habet suos terminos naturales: nam agere hominis non potest esse continuum secundum naturam […]. Unde qui olim procuravit, vel litigavit, vel gessit, vel aliquid aliud egit, non ideo praesumitur hodie id facere, quantum ad ipsum agere: sed quantum ad ipsum velle, seu qualitatem mentis, praesumitur perseverantia, nec praesumitur, mens mutata a principio sui esse, unde illo respectu bene procedit haec argumentatio.” [↑](#footnote-ref-53)
54. *Alciato*, Tractatus de Praesumptionibus, “Regula tertia praesumptionum”, praesumptio 9 (p. 266): “non praesumitur iudex aliquid sine causae cognitione facere […]. Nec praesumitur velle contra factum suum iudicare […]. Et praesumitur qui causas cognoscunt, non facile ad culpam venire cum veritatem examinant.” [↑](#footnote-ref-54)
55. Ibid., “Regula prima praesumptionum”, praesumptio 53 (p. 142): “praesumitur libido diminuere in senectute […]. Et generaliter, secundum aetates praesumuntur ea quae naturaliter insunt: unde senex praesumitur de facili moriturus […]. Potes dicere, quod senectus proprie loquendo non sit morbus: sed probata senectute, resultat praesumtio iuris, quod sit aeger […]. Item senex non ita de facili praesumitur fugiturus sicut iuvenis […].” [↑](#footnote-ref-55)
56. *Leibniz*, Elementa Juris Naturalis, A VI, 1, Nr. 12.5 (p. 472). [↑](#footnote-ref-56)
57. Ibid.: “Facilius est quod est per se intelligibilius, seu quod pauciora requirit.” [↑](#footnote-ref-57)
58. For detailed discussions, see *Adams* 1994, pp. 115–119; *Piro* 2002, pp. 38–54; *di Bella* 2005a, pp. 72–98; *di Bella* 2005b. [↑](#footnote-ref-58)
59. *Leibniz*, Demonstratio Propositionum Primarum, A VI, 2, Nr. 57 (p. 483). [↑](#footnote-ref-59)
60. *Leibniz*, Vorarbeiten zur Characteristica Universalis,A VI, 2, Nr. 58 (p. 489). [↑](#footnote-ref-60)
61. Ibid., (p. 499). [↑](#footnote-ref-61)
62. See, e.g., *Leibniz*, Enumeratio Terminorum Simpliciorum, A VI, 4, Nr. 97 (p. 389). [↑](#footnote-ref-62)
63. *Leibniz*, Enumeratio Terminorum Simpliciorum, A VI, 4, Nr. 97 (p. 389). [↑](#footnote-ref-63)
64. *Leibniz*, Vorarbeiten zu den Elementa de Mente et Corpore, A VI, 2, Nr. 42.4 (p. 283). [↑](#footnote-ref-64)
65. *Leibniz*, Elementa Juris Naturalis, Variants, A VI, 2 (p. 567): “Praesumitur quicquid opposito suo praesupponendum est, non contra […]. [I]d *praesumitur*, in quo quicquid supponitur, etiam in opposito supponitur, non contra.” [↑](#footnote-ref-65)
66. *Leibniz*, Elementa Juris Naturalis, A VI, 1, Nr. 12.5 (p. 471); translation from *Adams* 1994, p. 204, with one sentence added. [↑](#footnote-ref-66)
67. *Leibniz*, Elementa Juris Naturalis, Variants, A VI, 2 (pp. 567 f.): “Quicquid ergo supponitur in possibili […] supponitur et in impossibili non contra, nam in impossibili supponitur aliquid amplius. Ergo unumquodque possibile praesumitur.” [↑](#footnote-ref-67)
68. Thanks to Matthias Armgardt for emphasizing this terminological point. [↑](#footnote-ref-68)
69. *Burkhardt* 1980, pp. 425 f.; *Adams* 1994, p. 205. [↑](#footnote-ref-69)
70. *Leibniz*, Elementa Juris Naturalis, A VI, 1, Nr. 12.5 (p. 471). [↑](#footnote-ref-70)
71. Ibid., (p. 471). [↑](#footnote-ref-71)
72. Ibid., (p. 476). [↑](#footnote-ref-72)
73. Ibid., (p. 465). [↑](#footnote-ref-73)
74. Ibid., (p. 466). [↑](#footnote-ref-74)
75. Ibid., (p. 470). [↑](#footnote-ref-75)
76. *Leibniz*, Elementa Juris Naturalis, Variants, A VI, 2 (p. 567): “Justum facilius est injusto. Nam facilius est, quod magis possibile est, seu quo ut sit, pauciora requiruntur. Jam ut aliquid justum sit, requiritur ut sit possibile, ad injustum ut sit impossibile viro bono. Pauciora autem requiruntur ad possibile, quam ad impossibile.” [↑](#footnote-ref-76)
77. For an alternative reading, see *Armgardt* 2015, pp. 53 ff. [↑](#footnote-ref-77)
78. *Leibniz*, Specimen Demonstrationum Politicarum, A IV, 1, Nr. 1 (p. 11): “*Indifferentia* sunt, quae aeque facile bene, quam male cedere possunt.

*Periculosa* sunt, quae probabilius est male, quam bene cessura.

Ergo *tempus periculosum* est, quo omnia facilius male quam bene cedunt.

Ergo et indifferentia, in tempore periculoso constituta, pondere, velut bilanci adjecto, in deterius inclinantur.

Periculosa praeter probabilitatem mali quam in se habent, novam a tempore accipiunt.” [↑](#footnote-ref-78)
79. *Leibniz*, Specimen Demonstrationum Politicarum, A IV, 1, Nr. 1 (p. 43): “Turpe est, si quis honoris restitutionem sciens omittat […].

Ergo tanto major turpitudo est, quanto certius est scientem fuisse.

Id vero tanto certius, quanto certius tempore conferendi beneficii, prioris laesionis recordatum.

Recordationis autem causa: similitudo.

Tanto facilior ergo recordatus, et per consequens turpior est, quanto similius est beneficium hoc priori laesioni.” [↑](#footnote-ref-79)
80. *Leibniz*, Elementa Juris Naturalis, A VI, 1, Nr. 12.5 (p. 471): “Neque enim statim faciliora, probabiliora praesumenda; etiam sequenda sunt, id est in agendo pro certis habenda a prudente. Ecce enim potest aliquid esse probabilissimum, et tamen si succedat parum fructuosum, si frustretur valde damnosum.” [↑](#footnote-ref-80)
81. *Leibniz*, Elementa Juris Naturalis, Variants, A VI, 2 (p. 567); translation from *Adams* 1994, p. 202. [↑](#footnote-ref-81)
82. *Armgardt* 2015, p. 59. [↑](#footnote-ref-82)
83. *Leibniz*, Nova Methodus Discendae Docendaeque Jurisprudentiae, A VI, 1, Nr. 10 (p. 280): “In praxi autem inspiciendum non tantum quid sit verisimilius, sed quid tutius; quanquan in hoc, ut aestimetur quam tutum sit aliquid, rursus consideratur verisimilitudo.” [↑](#footnote-ref-83)