

# A CODE OF INTERNATIONAL ETHICS

Prepared by the International Union of  
Social Studies

ONE SHILLING AND THREEPENCE

THE CATHOLIC SOCIAL GUILD  
OXFORD

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First published December 1937.  
Second impression August 1938.  
Third impression February, 1940.  
Fourth impression March, 1941.  
Fifth impression October, 1942.

Imprimatur:

✠ THOMAS,  
*Archiep. Birminghamien.*

BIRMINGAMIAE,  
*die 18a Novembris, 1937.*

The Catholic Social Guild acknowledges with gratitude its indebtedness to Rev. E. Langdale, who has translated this work. The original French edition, *Code de Morale Internationale*, is published by Editions Spes, Paris.

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## PREFACE

Some words of explanation are needed on the origin, purpose and method of this work.

According to the plan of its founders the *International Union of Social Studies* chiefly devotes its attention to the study of economic and social problems in the light of Christian morality. The *Code of Social Principles*\* has made known conclusions which have been arrived at after several years of work. By the very nature of things that Code had to consider various questions which come under international morality, for example international organization of labour, regulation of commercial exchanges between States, emigration of labour, economic status of colonies. The solution of these grave problems involves a certain conception of the juridical relations between nations, and it varies with the opinion held with regard to these relations. In order not to overstep the limits of its subject the Code of Social Principles had to leave much unsaid and to pre-suppose rather than set forth the principles of international ethics on which it based itself. This first work needed therefore to be completed.

For if Catholic ideas with regard to individual, family and civic morality are well known, and need only to be mentioned briefly, the same is not true of the Catholic idea of international morality. The latter seems more distant and is largely unknown even to those to whom it applies, for its applications concern chiefly the consciences of statesmen and do not ordinarily trouble that of the man-in-the-street. It therefore seemed inadvisable to take it as understood, and it appeared necessary to make a full statement of principles. The International

\* English translation from the Second French Edition, Catholic Social Guild, Oxford, 1937.

Union of Social Studies has been true to its foundation-charter in devoting a part of its activities to the drawing up of a *Code of International Ethics*.

The drafting of this Code was preceded by an enquiry into present-day methods of teaching International Ethics. Leaving aside universities and theological seminaries, the enquiry considered elementary, secondary and technical schools, as well as those new types of school which have arisen in recent times; higher working-class schools for the training of trade union leaders and schools of social service. The results of this enquiry, which covered the various European countries represented in the Union, show that the teaching of International Ethics is entering more largely than ever into the curriculum of all schools of every type and purpose. In Belgium, for instance, it is an obligatory subject in elementary and secondary schools. In order to help teachers to fulfil this new task the Belgian Ministry of Education has sent out specimen lectures which they have to explain and amplify in their classes according to the age and capacity of the pupils. There is added a bibliography giving the publications of the League of Nations, which they may consult in order to develop their explanations.

It is therefore clear that Christian teachers need a "specialized" manual which presents their views on international relations seriously and with sufficient fulness on all essential questions concerning those great events which nowadays go beyond the internal policy of States. One of the aims of the compilers of this *Code of International Ethics* has been to satisfy this demand. But they have also desired to do something more, namely to give to all who wish to be acquainted with Catholic thought on the problems of international ethics, a book which, though it remains of a dogmatic and philosophic nature, makes continuous use (as the many quotations show) of the doctrinal tradition of the great theologians

and the very important Papal documents issued during and after the Great War.

This book should not be consulted for matter which the authors have deliberately left out, for example the rules of positive international law, the texts of treaties and agreements between States. These materials have been left to professional jurists, and the *Code of International Ethics*, though it takes them into account, claims to go beyond them. It only quotes them in order to judge them. It does not study that which exists, but that which should be. It tries to discover those higher principles to which international order must subject itself in order to win the respect of our consciences. The Mechlin Union has tried to set forth the ethics of international relations, and not to compile a manual of present-day usage. It does not despise this usage, but judges it and determines the degree to which it commands the acceptance of the Christian mind.

Is it necessary to add that the *Code of International Ethics* is not the work of a Council or of the Holy See? It does not claim infallibility. Its phrases and ideas are open to discussion. But the authors do claim one merit; that of sincerity in intention and of prudence in statement.

This Code was compiled by a group of Catholics founded by the late Cardinal Mercier, and of which his successor, Cardinal Van Roey, Primate of Belgium, is the actual President. It consists of theologians, sociologists, and students of the philosophy of law from all over the world. Each member was able freely to bring his own contribution to the common work. That in itself is a guarantee of fairness. It is difficult for any man, even though he be seeking an international ideal, to abstract from the prejudices and interests of his own country. Everyone is influenced, more or less unconsciously, by the class to which he belongs, his race, his surroundings, and is led to consider as principles of

morality maxims which are current in his country, and whose purpose is merely to disguise and justify, under an apparent universality, the selfish appetites of a nation. In an international group where each member submits his ideas to the judgement of all the others these maxims are soon shattered, and the chances of arriving at dispassionate truth are infinitely greater. Sincerity is thus checked in a manner not often found in other circumstances.

The first principles of international ethics are clear and certain. The more remote deductions from them are less so. They must be carefully expressed and sometimes corrected with a possible doubt, and one must often confine oneself to generalities which leave room for several different interpretations. Mathematical evidence is not current in the remote parts of this domain. An approximate certainty, a simple probability, or even an undecided attitude is sometimes all that one can hope for. This is not weakness, but an acceptance of facts. This prudent method will often be found in the *Code of International Ethics*. It should not be criticized on this score. It would be dishonest to give a clear outline of things which of their very nature lie in some obscurity.

M. DEFOURNY,

Secretary.

Louvain,

15th July, 1937.

## INTRODUCTION

1. Moral science studies the principles which direct human activity towards the full well-being of man; it lays down the rules and precepts which must govern the conduct of man if he wishes to attain his final end.

2. This science can be divided into two parts, general and special.

The first considers human nature in its universal and permanent aspects, and from these deduces general laws governing every kind of human activity.

The second considers the actual contingencies of life both as regards the proximate ends of human activity and the particular spheres in which it is exercised. Thus we speak of domestic, professional, civic, social morality, etc.

Among these many branches of particular morality there is one which governs the conduct of men and particularly of rulers in regard to international relations.

3. Many to-day dispute the right of moral science to concern itself with international or even national politics. Basing themselves on a mistaken view of the sovereignty of the State, they maintain that the latter's autonomy has no limits but those which it gives to itself. Thus the State creates for itself, according to its needs, its own standards of justice and honesty.

The Christian conscience will always reject such an unwarranted claim, which substitutes arbitrariness to right and leaves the way open to every kind of tyranny. "That which is not permissible to individuals in private

life," wrote Leo XIII in 1895, "is not allowable in public affairs." (Encyclical *Longinqua Oceani*.)

Human societies, which are truly invested with moral personality and are composed of human beings governed by free wills, are subject just as much as physical persons, to the moral law, which is the sovereign ruler of human wills. Their mutual relations must therefore be governed by the set of rules and principles which form international morality.

4. These rules and principles, being based upon human nature, express the very just and wise order willed by God for the prosperity of nations and the happiness of humanity.

## CHAPTER I

### HUMAN SOCIETIES

#### I.—The Family, the Township, the State

5. Mankind is in itself one great family. All men are descended from one primitive couple, they are children of the same Father Who is in Heaven, they have been redeemed by the Blood of God made Man and are all invited to become members of His Mystical Body. No differences of race, colour, language or nationality can ever conceal its indestructible unity.

Natural morality, confirmed and strengthened by the law of the Gospel, imposes upon all human beings, in their relations with one another, mutual duties of justice and charity. Furthermore it obliges them to co-operate, according to their abilities, in the establishment and maintenance of those spiritual and material conditions which will most efficaciously ensure the full development of the species and thereby constitute the common good of humanity.

6. Each individual can indeed contribute directly to this common good, for example by the spreading of sound doctrines, by discoveries in the realm of science, and especially by the graces which his prayers and merits obtain for the human race.

Normally, however, this influence only extends to a very limited circle, and it is only through a system of relationships of ever-growing complexity—families, township, profession, State—that it eventually affects the human race as a whole.

7. Man being incapable of obtaining alone all that is necessary for his existence and development, is naturally

led to seek in the society of his fellow men those things which he lacks.

The family is his first and most firm support. But families themselves are bound, in order to secure for their members all the things which their nature demands for their betterment, to unite into a larger group; the City or State. The State also unites and governs other natural or voluntary groups which are formed to promote certain specific common interests, either cultural or professional, scientific, artistic, etc.

8. Every society is formed for the common good of its constituent members; the family, in its limited sphere, seeks the general good of its members: the other subordinate societies pursue some specific interest. But neither are called upon to secure for their members all the conditions required for a truly human existence. It is the purpose of the State, which unites them all in a higher unity, to provide those general conditions which will enable each one to attain more easily "the full good of human life" (St. Thomas). For this reason it exercises sovereign power over the territories under its control.

#### II.—Collaboration between States

9. In spite of this legitimate sovereignty, the State finds itself more and more bound up with similar groups into which the human race is divided, in strict relations of interdependence, without which it would be unable to accomplish its task. The "full good of human life" which the State must give to its members cannot even be thought of apart from a wide sharing in the material and spiritual life of the whole world, as well as in the varied resources which the Creator has scattered all over the globe.

But this sharing is only possible if all States mutually assist one another in establishing an international regime which will enable all to fulfil adequately their functions. States are therefore bound, by the very nature of their mission, without losing their own individuality and legitimate authority, to belong to a higher group—

International Society, or the Society of States—which finally establishes the human family as a well-ordered organism, capable of lasting and full of wonderful possibilities.

10. The Family, political society and international society—*domus, urbs, orbis*, as St. Augustine has it—are institutions of natural law, since they correspond to certain fundamental needs of human nature. But as regards their actual constitution they have not always been equally necessary, and have developed successively in the course of ages.

The family is as old as the human race. It could not have been otherwise, since the family is at once the source and the preserver of life.

Various needs, such as the maintenance of order and security, collective works, etc., soon led families to unite on a more or less extensive scale into cities and states entrusted with the management of the common good of all the associates.

11. International society has been a much longer time in taking shape. The peoples of the earth, having fallen from the state of original justice into barbarity, separated also from each other by more or less insuperable natural barriers, by differences of climate, language and customs, had forgotten their common origin. For long centuries men considered the stranger merely as a harmful being—*homo homini lupus*—and fought him without mercy. But at last the imprescriptible law of nature triumphed over the worst barbaric instincts. It began by submitting war itself to its dictates. Later the need of securing even elementary security made relations between nations more peaceful. The spread of the Gospel message of brotherhood and love, the progress of civilization, the economic development of all the continents, the improvement in means of communication, all these things have powerfully contributed to remind nations of their close solidarity. To-day no State could adequately fulfil its mission without the individual or

collective assistance of the other members of international society.

12. For a long time the fact that nations were widely scattered and consequently lived in isolation, has prevented any considerable and fruitful international collaboration from taking place, and philosophers and moralists alike came to consider the State as a *perfect society*, endowed with all the necessary means to help its members to attain "the full good of human life."

Things are very different to-day. In view of the great extension of international life the term *perfect society* can only be applied to the State in a very restricted sense.

The State is still a perfect society inasmuch as it possesses full authority to maintain order, peace and justice within its boundaries, since a universal State which could claim immediate jurisdiction over all members of the human family is almost unthinkable.

But the State is no longer a perfect society inasmuch as it cannot now give to its subjects, by its own means, the "fullest good of human life," such as the progress of civilization and the fruitful resources of an harmoniously organized international co-operation have rendered possible.

### III.—The Natural Society of States

13. Suarez was already of this opinion, when he wrote: "Wherefore, though any one State, republic or kingdom be in itself a perfect community . . . nevertheless . . . none of these communities is ever sufficient unto itself to such a degree that it does not require some mutual help, society or communication, either to its greater advantage or from moral necessity and need." (*De Legibus*, Lib. II, c. 19, par. 9. cf. Eppstein, *Catholic Tradition of the Law of Nations*, p. 265.)

For it is evident that the same law of sociability which leads individuals to seek in mutual help the necessary support of their own weakness and native indigence, obliges States to obtain by close and constant collabora-

tion the means of fulfilling adequately their purpose in regard to their own subjects.

Thus the bonds which spontaneously unite State to State are more than a passing phase; they correspond to an essential need of social life, and in consequence find their justification in human nature itself.

14. Every society is constituted for a common good, in the attainment of which all the associates are interested and bring their individual contribution. The common good to which the co-operation of nations must tend has a two-fold object:

(a) The maintenance of international order, which will enable each State, enjoying the full possession of its rights, peacefully to attend to its social tasks.

(b) The progress of civilization by the exchange and inter-communication of material and spiritual wealth. International institutions which make up for the inability of single States to direct their efforts in harmony for the greater good of the collectivity (transport, hygiene, suppression of immorality, labour organization, intellectual co-operation, commercial exchanges) will further such progress most effectively.

15. As a collective entity international society can only live and act through the work of its members. The latter have a right to its help and services, and in return they are obliged to co-operate efficaciously, according to their means, in the work from which they derive so many benefits. International life will be active and fruitful precisely inasmuch as the various States appreciate the natural solidarity which unites them and agree to comply with all its conditions.

There can be no social life without self-abnegation and sacrifice. The States, as members of international society, will have to subordinate their special interests to those of the collectivity and submit their independence, as far as is necessary, to the law of the international community.

16. This necessary subordination of national interests

to the higher interests of the universal family is only possible if each State manages to cast off its selfish appetites and that insatiable cupidity which St. James the Apostle denounces as the primary cause of all quarrels. "From whence are wars and contentions among you? Are they not hence, from your concupiscences?" (iv, 1). For as Pius XI wrote, earthly goods, when sought to excess, "inasmuch as they cannot satisfy all alike or fill the desires of anyone, become causes of discord and sickness of spirit." (*Ubi Arcano Dei.*)

17. On the other hand, States must cease to claim that absolute independence which nature has not given them and which in fact they have never possessed. Their rights are exactly proportioned to the mission of protection and assistance which they exercise in regard to their own subjects. They cannot efficaciously fulfil their mission alone, without the help of international society and outside its framework. They can command with sovereignty within their own frontiers, but must submit their authority to the higher and necessary law which ordains all national activities to the common good of humanity.

18. These sacrifices will naturally hurt the self-esteem of nations and rulers. But they are necessary, and will eventually turn to the advantage of those who accept them. For as the individual "only fully becomes what he has the right to be when he ceases to think of himself alone" (A. Valensin, *Social Week of Le Havre*, 1926, p. 259) the State can only effectively fulfil its mission when, looking beyond the narrow circle of its national interests, it agrees to collaborate wholeheartedly in the common tasks of international society.

In helping to maintain international order it provides as much as and even more than by armaments for its own security, and in promoting the cultural and economic development of other nations it labours for the prosperity of its own subjects.

19. International society fulfils the innermost tenden-

cies of human nature. These tendencies do not become evident or compelling until the progress of civilization has created between nations a bond so strong that to return to original isolation would cause grave damage to themselves and to the rest of the human community. Henceforth the nature of the duty of nations towards international society changes. Previously it was of a purely negative character, forbidding any State to oppose directly the constitution of such a body; it now becomes a positive duty, and compels nations actively to co-operate in the common task of order and civilization under an international authority.

20. For every society presupposes an authority entrusted with the task of co-ordinating the activities of its members with a view to accomplishing its purpose, the common good of all the associates. The community of nations is not exempted from this fundamental law of social life; it needs an authority. "It must be governed and directed in all that is necessary to its existence, its improvement, and the end which it proposes to attain." (Taparelli d'Azeglio, *Saggio teoretico di diritto naturale*, No. 1364).

21. "There is no power but from God; and those that are, are ordained of God." (St. Paul, *Rom.*, xiii, 1.) The constituted authority of international society proceeds from the same source, and has therefore a right to command the respect of all the associated States. The Creator, however, has left to man the task of elaborating the structure of this authority and the forms of its exercise.

22. In principle there is nothing to prevent men from conferring this authority on one person or a small group. In the Middle Ages the great family of Christian nations had tended to this when it placed itself under the double jurisdiction, spiritual and temporal, of the Pope and Emperor.

In point of fact, however, this semi-monarchical solution did not prevail. Schism and heresy soon detached great and powerful nations from their allegi-

ance to the Holy See, and kings and princes, anxious to secure their independence, disputed the primacy of the imperial crown, and for a long time even the idea of an international society was forgotten.

23. All the same that society continued to exist in law and in fact, and this existence postulated an authority. The law of nations continued to govern international relations. But "how can a law of nations, that is, a body of laws binding all nations, have any existence at all, if there is no real authority to determine these laws?" (Taparelli, *Saggio*, No. 1364). For as Vittoria rightly remarks, "the law of nations does not derive its binding force from mere human convention; it is in fact a rule of law . . . No kingdom has the right to disobey it, for it has been established by the authority of the whole world." (*De Potestate Civili*.)

It follows therefore that so long as no individual titulary has been invested with international authority, the latter "is to be found in the common agreement of associated states, and the associates must determine the manner in which this authority is to be exercised."\* (Taparelli, *Saggio*, No. 1366.)

\* Taparelli d'Azeglio, S.J. (1793-1863) was the first among Catholic philosophers to work out a complete theory of international society. All the VIth Book of his famous *Saggio teoretico di diritto naturale* (1840-5) is devoted to this. Let us note these almost prophetic lines: "We notice that all modern nations seem to feel the need of an international society which is regular and absolutely determined in its functions, the need of an authority which is strong and respected by all, and which can effectively prevent the right of the weak from being at the mercy of the stronger.

"This is to the interest of the greater number, and when personal interest is combined with right it becomes powerful and infallibly brings into being organisms which are most in harmony with the needs of society. Therefore we believe that a sort of universal federal tribunal will arise, which will replace alliances, congresses, treaties, as the latter replace provisionally to-day the supreme authority of the Emperor and the patriarchal rule of the Pontiffs. And we believe that this will infallibly take place, though slowly perhaps, for the life of nations is measured by the number of centuries, as the life of individuals is numbered by their years" (No. 1366).

24. The rights and duties of the international authority are naturally determined by the very end of the society of States.

The first and principal duty of this authority is to secure for its members, together with the inviolability of their territory, their legitimate independence and the full enjoyment of all their rights.

Secondly, it must positively assist the progress and improvement of the associated nations by putting at their disposal those institutions and collective services which will enable each one to attain more efficaciously its own end.

25. The international authority can only fulfil this protective and constructive mission with the help of the associated States. It has therefore the right to claim their assistance in order to ensure the maintenance of international order and the respect of justice, as well as to found those institutions of collective utility needed for the progress and improvement of the human community.

26. To this right of the international authority corresponds the duty, on the part of the rulers of the associated States, to respect its commands in all that concerns the common good of the society of nations, as well as to collaborate with it generously and faithfully. None has the right to disobey its orders unless they overstep the natural boundaries of its jurisdiction or constitute a manifest violation of justice.

No State can be allowed, under pretext of safeguarding its independence, to forswear all allegiance to international society. This gesture would not suffice to destroy the natural fact of solidarity which unites it to the family of nations and obliges it to contribute to the prosperity of all.

27. In any given political society individuals are allowed to form smaller groups, the purpose of which does not contradict the superior end of the national community. Likewise the various members of the inter-

national community can establish particular agreements, leagues or alliances with a view to attaining certain reasonable ends compatible with the common good of the universal community. Taparelli even considers it essential to a well-constituted society that "the weaker States should be grouped into special confederations in order to balance the power of the greater States." (No. 1398.)

But in order to prevent the necessary unity of the universal association of peoples from being broken up, anything which would make these groups or regional agreements appear to be directed against any other State or group of States must be carefully avoided.

28. This international society, of which we have laid down the principles, and which is demanded by the very nature of man, has to be actualized and brought into being in an effective manner.

This task is an extremely difficult one, and requires the collaboration of all men of good will, of rulers as well as of ruled. Catholics must not remain indifferent to it, and the purpose of condensing into this Code of International Ethics the conclusions of Catholic Sociology has been to help them to study fruitfully these important problems.

Nevertheless, in laying down the principles which must govern collective life and the mutual relations of nations, one must take into account the actual form which this collective life has taken in the past, is taking in the present, and may take in the future. In this connection we can distinguish three stages of organization which imply their own particular forms of government.

(a) In the first, or unorganized stage, there is no positive social bond between independent and sovereign States, and their relations are merely governed by the rules of commutative justice and charity, and by certain customary rules which they feel bound to observe.

(b) In the second stage a purely contractual organiza-

tion exists, in which the States freely and spontaneously agree to submit to the authority of an international body created by themselves, and whose sphere of activity they have carefully limited. This is but a mere outline of the organization needed in a well-ordered international life, and is a society which is still very imperfect, as it does not include all the nations of the world and its governing body does not possess full power.

(c) A third stage can be conceived, in which the juridical organization of the community of peoples would correspond more fully to the demands of natural law; a supreme authority, superior to all States, would govern the collective action of the associated nations and direct it to the common good of the human race, in virtue of its own powers and not merely by delegation.

To each of these stages corresponds a special juridical order which will be explained in the following chapters.

The rules of law applicable to the unorganized state of international society are of two kinds. Some, which are derived immediately from the general principles of Right, have a transcendent value and apply to all the stages of the gradual organization of the community of nations. Others are concerned with practices allowed or tolerated in view of the early precarious stages of international relations; as the organic structure becomes more perfect and complete, they will disappear to make way for the higher rules of a more searching and human morality.

## CHAPTER II

# UNORGANIZED INTERNATIONAL SOCIETY

### PART I.

#### FUNDAMENTAL RIGHTS AND DUTIES OF STATES

##### I.—Preliminary Remarks

29. The human family, having spread all over the earth and established itself under every climate, has been broken up into a large number of partial societies, all of which have their own particular features and characteristics. This division, which was brought about by the very needs of occupation and human settlement, is a natural phenomenon and corresponds to the evident designs of God's Providence.

In order to obtain for their members the general conditions needed for a truly human life, these groups were naturally led to organize themselves into States, and the latter, having their own specific end, which is distinct from that of the individuals which compose them, are true moral persons, endowed with all the rights which the fulfilment of their mission requires both in regard to their own subjects and to other societies of the same kind. These rights imply in turn corresponding duties towards the other States.

30. But the rights of a State are no more absolute than those of an individual. Their exercise is limited by the duty of respecting the equal rights of other States and of submitting to the requirements of international collaboration.

31. The fundamental rights and duties of States were not created by the will of man. They are derived from the very nature of States, and are therefore natural

rights and duties. All that custom and international agreements can do is to specify their import and determine their mode of application.

## II.—The Right to Existence

32. A State consists of a territory, a population and a government. Every historically constituted State, so long as it can maintain sufficient peace and order within its territory and shows itself capable of fulfilling its international obligations, has a right to existence and to remain in existence. The other States are bound to respect it and to accept it as a member of international society.

33. A great variety of historical circumstances has brought about the rise of modern States, which have been formed by secession, dislocation or fusion. There is nothing immutable in the present political firmament, and new changes may take place in a more or less distant future. Furthermore the origin of modern States has not always been above reproach, and many have been created in disregard of the indisputable rights of a pre-existing State. In such a case the latter can quite rightly defend the *status quo ante*. Other States have the right and may even have the duty of assisting it in such a task: but on no account are they to help dissidents or unjust aggressors. When it is not clear, however, on which side justice is to be found, or when the injured State, being incapable of defending its rights, has given up the struggle, a legitimate prescription may condone the irregular origin of the new State. From that time onwards it definitely acquires the right to recognition by the other members of international society.

34. The right to existence which all States possess does not depend on the numerical importance of their population or the extent of their territory. It has been held in the past that the existence of small States was incompatible with the present-day needs of international life and constituted an intolerable anachronism. Experience

as well as law has disproved this cynical opinion. Especially to-day, in a troubled world where right and might are too often at variance, the existence of small States which only subsist by the force of right is an eloquent tribute to morality and international justice. Being devoid of territorial ambitions and anxious for order and justice, the small States take the side of right most easily and almost instinctively in all the great international controversies. More than once the impressive unanimity of the small nations has sufficed to contain within the limits of justice certain imperialistic appetites about to be unloosed.

35. The "right of national self-determination" has often been invoked in order to justify every separatist effort of national minorities which aspire to independence or wish to form a State with other groups of the same race. But this principle does not possess the absolute value which its supporters claim for it.

A national minority has undoubtedly the right to subsist within the greater collectivity whilst retaining and developing its own cultural characteristics. The State on which it depends must help it in this task to the fullest extent. But if under pretext of safeguarding its unity the State oppresses the minority by a policy of assimilation and uniformity, it is betraying its trust, and the separatist activity of the oppressed nation may be justified, so long as there is no other means of redress and the international common good is safeguarded.

If, on the other hand, the authorities do not arbitrarily identify the State and nationality, and confining themselves to their task of security and general assistance, leave the racial groups under their care freely to exercise within the State their cultural mission, the secessionist claims of the minority are quite groundless.

• But in no case can the mere advantage which a minority would find in becoming an independent political body or in uniting itself to another national State ever

justify the unilateral severance of the bonds which unite it to a rightly organized political society. For usually the other members of this society have adapted themselves to a collaboration from which all have benefited, and to which all have sacrificed something. Thus a close bond of solidarity has been created between all the members of this community, and no one has the right to reject it, lest grave damage be caused to its associates.

36. Recourse has also been made, in order to justify territorial readjustments or to oppose them, to the "theory of equilibrium" or "balance of power," which considers that the best guarantee of international order against the unjust attempts of armed force is to be found in a well-proportioned arrangement of territories and other elements of political power (armaments, colonies, natural resources). For it is clear from history that a State strong enough to bid defiance to all its neighbours is inclined to abuse of this superiority in order to impose its yoke.

The argument of equilibrium could therefore be validly opposed to powers which were preparing to extend their territories unduly, to reinforce their armaments to a considerable extent or to make alliances which would have allowed them to disturb international policy. The objection seems all the more admissible as the States to which it is opposed have often used it themselves in the course of history against rivals whose political, military or territorial expansion they feared. But it would be wrong to give it an actual juridical basis and to consider equilibrium as a natural need of international life. In a well-ordered society of States, the right of a member should earn the respect of all the other associates by its moral force alone.

It is hardly necessary to add that the "balance of power" does not allow a State to seek at the expense of a third power the advantage taken from it by a fortunate rival.

**III.—The Right of Self-Preservation and Defence**

37. The right of existence implies for each State the right to take all the measures of self-preservation and defence necessary to safeguard its physical and moral integrity which are compatible with respect for the equal right of the other members of international society, namely internal police, armaments, alliances, and even, in certain circumstances, intervention in the affairs of a neighbouring State.

As we shall study later on the problems to which the right of intervention gives rise, we shall only concern ourselves here with the question of armaments and alliances.

38. The backing of the purely moral force of law by armed force still remains the safest way to secure the supremacy of right over might. So long as the community of nations does not possess an international force, one must uphold the right of each State to levy and maintain armies, to fortify its territories, to manufacture arms and munitions in order to defend efficaciously against aggression its existence and legitimate interests. But, on the other hand, it is forbidden to arm itself in order to make its ambitions prevail over the rights of others. But how difficult it is in practice to determine the exact moment when armaments cease to be purely defensive and become aggressive! All States insist that they have no warlike intentions; no one believes in these professions of pacific faith, and all allege the military superiority of their neighbours in order to increase their own means of defence. Thus has arisen the "armaments race" which the recent Popes have denounced as the unending cause of ever-recurring conflicts.

There is but one way to stop this fatal course for which every State (more or less in good faith) refuses to hold itself responsible; it was put forward by Benedict XV in his Peace Message of August 1st, 1917:

"First of all, the fundamental point must be that the moral force of Right shall be substituted for the material

force of arms; thence must follow a just agreement of all for the simultaneous and reciprocal diminution of armaments, in accordance with rules and guarantees to be established hereafter, in a measure sufficient and necessary for the maintenance of public order in each State; next, as a substitute for armies, the institution of arbitration, with its high peace-making function, subject to regulations to be agreed on and sanctions to be determined against the State which should refuse either to submit international questions to arbitration or to accept its decision." (cf. Eppstein, *C.T.*, 216-7.)

It is well known that the League of Nations took up on its own account the policy of simultaneous and reciprocal disarmament suggested by Benedict XV; the persistent mistrust which has so far opposed this noble idea is also common knowledge. So long as an agreement has not been reached in this matter, States will not fail to put forward, as an argument for the maintenance or increase of their armaments, their undeniable obligation to provide for their security by their own means. But only those States can invoke it, which are ready, without reserve or ulterior design, to take part in the organization of arbitration, collective security and disarmament. At the present time this is the first and most pressing duty of international society, and all Christian writers should play their part in making the idea of arbitration better known.

39. By alliances, smaller States are given the possibility of adding to their military strength all the resources of the friendly powers with which they unite. They are only allowable if they proceed from a reasonable concern for defence. But as in the case of armaments, it is very difficult to make an exact distinction between defensive and offensive alliances, and the desire to secure a balance of the various political systems will inevitably bring into being a maze of alliances and counter-alliances as dangerous to world peace as the armaments race. So long as there is no collective organization of international

security, individual States can only make up for the insufficiency of their means of defence by alliances; they can therefore quite rightly have recourse to them, in spite of the danger above mentioned. But this does not in any way lessen their obligation to help sincerely and without reserve in the building up of a more perfect juridical organization of international relations, which will secure for the right of even the smallest State the collective guarantee of all the Powers.

40. Does the right of other third Powers constitute an insuperable barrier to the right of self-defence possessed by every State? The opinion of the theorists of international law is very much divided on this grave question. For some, the need of self-preservation takes precedence over every other consideration: *Salus populi suprema lex esto* (Necessity knows no law). Others refuse to admit any alleged "right of necessity." They base their uncompromising attitude on the sacred and inviolable character of Right, and insist on the flagrant contradiction involved in the recognition of a "Right against Right" in favour of a State in difficulties.

In this form the problem seems to be wrongly stated. It is not a question of determining whether the *fact* of necessity must prevail over a well-established *right*, but whether the right to existence which a State undoubtedly possesses must prevail over the equal right or a right of lesser importance possessed by a third State; it is a case of right against right.\* Thus the conflict is one in appearance only, since Right cannot recognize at the same time the contradictory demands of the parties involved. If the validity of one is admitted, the other cannot claim a hearing.

\* In connection with such a dispute, Taparelli remarks "It is precisely because of the apparent equality of rights that arbitration is necessary. The parties are obliged, in order to find a solution of their quarrel, to have recourse to impartial judges who can give an equitable decision." (*Saggio*, No. 1337. cf. Eppstein, *C. T.*, p. 169.)

In reality the problem is more theoretical than practical, since the exception arising out of necessity can only be admitted under two conditions:

First of all, the necessity invoked must be real, extreme, and threatening the very existence of a State; to be or not to be. The danger of defeat followed by an amputation of territory does not constitute a necessity in the sense of which we are speaking.

Secondly, the State invoking necessity must not have brought about by its own fault the dangerous situation in which it finds itself. Thus an unjust aggressor could not plead necessity in order to make others bear the consequences of his crime.

It is hardly necessary to add that there are few cases in history when these two conditions have been present. But in the event of such a case arising, it will be sufficient to consult the general principles of morality and Right in order to solve a conflict arising out of the case of necessity.

The rights of a State are no more absolute than those of an individual; they are limited by the respect due to the legitimate interests of other States and the needs of the common good of international society.

The right to existence is the first and most pressing right of a State; but it cannot prevail against the equal right to existence of another State which has remained a stranger to the circumstances which have caused the necessity.

But on the other hand this right to existence can rightly take precedence over a lesser right which another State could put forward. When a certain Power, under stress of necessity, is led to disregard the right put forward by a neighbouring State, it is only compelling the latter to fulfil its obligations under the law of justice; in the case of a conflict of rights, the lesser right must disappear before the higher one.

**IV.—The Right to Independence (External Sovereignty)**

41. The common good, which is the purpose of all social life, supposes the existence of an authority whose task it is to direct to this collective end all the particular activities of the associates. The right of determining in the last resort the rules to which all must submit their action, and of issuing orders which cannot be disobeyed, belongs to the State and constitutes Sovereignty.

The notion of sovereignty implies that the authority possessing it has a double right: that of ruling effectively the activity of the members of the social body and of rejecting any interference of other States in the exercise of its mission.

It is customary to speak of internal and external sovereignty. Whilst taking into account the double aspect, positive and negative, of these complementary rights, it is more exact to speak of the sovereignty which the State exercises over its own territory and subjects, and of its independence in regard to other States. We shall now deal with the right to independence, the right of sovereignty being treated in section V.

42. For various reasons some States find themselves habitually incapable of directing the activity of their subjects to the common good, and are obliged to demand or accept the advice and help of a foreign power in order to fulfil their mission. They then cease to be sovereign and independent States and become protected States. When a government is incapable of securing the well-being of its subjects, a protectorate is quite a legitimate institution, so long as it is sincerely exercised for the good of the peoples thus placed under the tutelage of another nation.

43. But there is nothing absolute in the sovereignty and independence of States. Their extent and limits are to be found first of all in the very need of the common good which every State must secure for its members, and secondly in respect for the equal right of other States, and in the obligation incurred by all the members of

international society of promoting the general and higher good of the human race.

44. These limits have often been overstepped, and the history of international relations is little else but a tissue of interventions—in the ordinary sense of the word—which States have assumed the right to practise towards one another, in their internal affairs as well as in their respective foreign policies; diplomatic or armed interventions, open or disguised, individual or collective.

One cannot pass a uniform judgement on all these interventions, and they must be considered on their merits. Often they have been resorted to by States which were ambitious and anxious to dominate; sometimes they appear to be a natural reaction against the abuse by a State of its right of sovereignty.

Intervention does not necessarily mean war. It can take all sorts of forms; diplomatic remonstrances, economic reprisals, embargo, peaceful blockade, military or naval demonstrations. War is the most extreme form of intervention, and can only be resorted to when other methods have failed, and for a very grave motive.\*

In the absence of an international organization which is juridically organized and capable of keeping order among States, intervention will be justified in the four following cases:

(a) When a State has recourse to it to defend its legitimate interests which have been unjustly attacked or threatened by the internal or external policy of another Power. In this case intervention is only the legitimate exercise of the right of self-preservation.

(b) When its object is to assist a third Power victim of an unjust aggression.

(c) When its purpose is to secure the respect of certain rules of the Law of Nations, the observation of which is of vital interest to all the members of international society.

\* See in part IV of this chapter the severe conditions which govern recourse to war.

(d) When it is resorted to for the defence of the higher rights and interests of humanity against barbarity.

45. In all these cases intervention is merely the exercise of an unquestionable right. In many cases it may even become a strict duty of international justice or charity.

It will be a duty of strict justice when a State has undertaken by treaty to defend a friendly or allied Power in its just demands. In all other circumstances it is a duty of charity, since the existence of a natural society of States obliges them to mutual assistance of one another. But this duty of charity does not bind States if its fulfilment renders them liable to heavy sacrifices or grave dangers. The State exists to protect the rights and interests of its members, and it would be betraying its essential mission if it exposed itself to sacrifices or dangers, the result of which would be to imperil the life or property of the citizens under its care. As the consequences of an armed intervention are usually difficult to foretell, States will often discover in this uncertainty a legitimate excuse for abstention.

It is indeed preferable, for the sake of international order and peace, that these interventions should be as rare as possible. For in the absence of an international society qualified to determine Right, there is a grave danger that States should make use of the right of intervention to further their own personal ends.

46. The principle of non-intervention has sometimes been opposed to the right of intervention as defined above. When expressed as an absolute and unrestricted rule of conduct, this principle has been formally condemned by Pope Pius IX (*Syllabus*, Proposition 62).

But this condemnation does not forbid a State to oppose foreign intervention in its own affairs or those of others, if it considers that it is injurious to its legitimate interests.

Likewise, concern for the superior good of the international society can rightly suggest a non-intervention

agreement between the other States, which may be too much divided among themselves in order to judge the conflict properly, so that the internal troubles of a nation may not become the cause of a general war.

47. Except in the case when intervention becomes a positive duty, a State can, in the present unorganized condition of international society, deliberately refrain from taking part in a conflict between two or more nations and proclaim its neutrality. It must then conscientiously fulfil all the duties which this attitude implies, and avoid helping in any way the cause of one or other of the belligerents. We shall deal later on in detail with the rights and duties of neutrality. (198.)

#### V.—The Right of Sovereignty (Internal Sovereignty)

48. The sovereign power of the State is not only exercised over its subjects, whose activities it co-ordinates for the common good, but also over the territory which it occupies, and which it must dispose to the same ends. Thus sovereignty has two aspects: territorial and personal.

##### (i) *Territorial Sovereignty*

49. Territorial sovereignty gives the State the right to use with full freedom its own territory, according to the needs of the common good of the society which it governs. This right, which can be opposed to any interference of another State, is distinct from the right of property which individuals exercise quite legitimately over various parts of this territory. Nor must it be confused with the more exclusive rights which the State possesses over its public and private domain.

By reason of this sovereignty, the State alone has the power to make law within its frontiers, to maintain order and to provide as well as possible for the interests committed to its care.

As in all other matters, these powers are not absolute; they are limited by the duty of respecting the rights of

other nations and of co-operating with them for the common good of humanity.

50. The territorial sovereignty of the State is exercised over a triple domain :

(a) The land.

Naval roads, ports and rivers are included in the national territory.

The needs of international commerce, in the maintenance of which all nations are equally interested, have naturally brought about some modifications to the right which each State possesses over its naval roads and ports, both of them indispensable to sea traffic. For similar reasons, the rivers which flow through the territory of several States are considered as open to all nations.

(b) The sea.

Modern international law looks upon the sea as a *res communis*, which cannot be appropriated and is left to the free use of all. But there is an important exception to this principle. Each State possesses certain police, navigational and fishing rights to a distance from its coast generally fixed at three miles. But this is rather in the nature of a right of servitude, being only allowed to the extent needed for the safeguarding of legitimate interests, and no State can invoke it to prevent the harmless passage of foreign ships.

(c) The air.

It is obvious that one cannot deny to the State its right of police and supervision in the air above its domain. But as in the case of territorial seas, an attempt has been made to harmonize the undoubted rights of the States with the reasonable demands of air traffic. This adjustment can only be effectively brought about by international regulation.

51. The territorial sovereignty of a State naturally implies the inviolability and integrity of its soil and frontiers. But in fact, history teaches us that this integrity is by no means absolute, and that in the course of centuries the political map of the various continents

has undergone profound changes. These territorial readjustments have generally taken place in one of the three following ways: occupation, transfer or conquest.

By occupation territories come under the dominion of a State, which were previously under no sovereignty, or were controlled by the nominal sovereignty of a Power incapable of fulfilling its mission. As there are practically no unoccupied lands nowadays, this title can hardly be invoked.

Transfer is an essentially peaceful means of acquiring territory; it may take place by gift, exchange, sale, legacy. It was much used in former times when princes, who often mistook sovereignty for property, determined the fate of their own territories at their convenience, but it is hardly compatible with the modern view which considers the soil as the common heritage of the nation. In recent times it has been resorted to, under the form of lease, for the sake of giving some appearance of lawfulness to annexations made to the detriment of States unable to defend themselves against great Powers in need of expansion.

Annexation, or conquest, is the only practical means of acquiring territory left to-day. We shall see later on to what extent it can be reconciled with the demands of international justice. (See No. 192.)

52. In latter years, however, the idea of voluntary transfer has come to the forefront in international discussions. Certain States, pleading the poverty and over-population of their soil, have put forward the idea of a revision of their territorial status and a re-distribution of colonies.

In itself their argument is not without weight. A nation, whose over-numerous population can hardly live on poor or limited territories, and cannot emigrate to other countries on account of racial differences, can rightly plead its imprescriptible right to life. International charity makes it a duty for other States to provide it with appropriate means of expansion.

But this can happen only very rarely, since there are other remedies to over-population which are less extreme and run less risk of endangering the peace of the world.

Free access to foreign markets will often enable a State to make up for the lack of raw materials necessary for its industry.

Emigration will allow a State to send abroad the excess population it cannot provide for, so long as it is not countered by exaggerated restrictive policies. Doubtless this will often mean the loss of nationality by emigrants. But a State must not consider itself injured by this very natural consequence of emigration. Its former subjects will not forget, in their new country, the bonds which unite them to their fatherland, and the latter will find ample compensation for the sacrifice it has made in the expansion of its economic and cultural influence.

One must not lose sight of the fact that the tropical countries which the advocates of a colonial redistribution chiefly have in mind, offer few opportunities for the settlement of white people, or even for their economic expansion. Furthermore the interests of the inferior races submitted to colonization must not be overlooked, and it is only too obvious that a change of sovereignty is not always beneficial to them.

#### (ii) *Personal Sovereignty*

53. Personal sovereignty gives the State the right of ruling over the members of the social body, of defining their rights and duties and of directing their activity towards the common good of the collectivity. In the exercise of this sovereignty over its subjects, the State is answerable to none of the other States taken individually; the Society of States alone could have the power to intervene for the protection of minorities or the rights of the human personality, in cases of oppression.

The State still exercises its sovereignty over its subjects when the latter are travelling, and reside or have a

domicile abroad, with all due respect to the rights of territorial sovereignty which the foreign State possesses over its soil.

Private international law and the agreements connected with it are very useful for avoiding conflicts in these difficult matters and for harmonizing the action of rival sovereignties for the greater good of all.

(iii) *Emigration and Immigration*

54. The great problem of emigration and immigration is closely connected with both territorial and personal sovereignty.

Man cannot live outside the bounds of all society, but he is not chained to the land of his birth and to his family stock to the extent of not being able to break these bonds and start afresh in another social organism. As the maker of his own destiny, he has the right to "go forth out of his country, and from his kindred, and out of his father's house" (Gen. xii, 1) and to seek under other climes and in foreign nations the means of realizing the end for which he was created.

Furthermore, civilization can only spread itself among the various branches of the human family by a continuous and reciprocal communication of material goods and spiritual values. And it is evident that these fruitful exchanges are not possible without a wide and easy circulation of people and things throughout the world.

No State can absolutely forbid this circulation by right of sovereignty. In order to safeguard the interests under its care it may make certain conditions for the departure of emigrants and the entry of immigrants. But its policy in this matter must always conform itself to the higher needs of the common good of humanity.

55. The country of origin has the right to make the emigration of its subjects conditional on the previous fulfilment of certain social duties, such as military service and the payment of taxes. Even more drastic measures could be taken to prevent collective emigration on a scale

that would be gravely harmful; for in this case the interests of the social body must naturally prevail over those of the individuals anxious to leave their country.

The country of origin can also exercise, in full agreement with the authorities of the country of destination, a certain tutelary supervision of its emigrants, in providing as far as possible for their material, moral and religious needs. But these motives can never justify systematic opposition to all movement of emigration.

56. A policy of rejection on the part of the State of destination is generally just as reprehensible. The latter has no right to consider that its own subjects are to be the sole beneficiaries of the resources of its territory and to keep a jealous monopoly for them. Its restrictions upon emigration must be justified by a reasonable concern for its own self-preservation. It may make conditions for the admission of emigrants which will prevent the latter becoming dependent upon it or disturbing order and public security (health, education, morality, private means, etc.)

57. Certain countries are particularly severe towards emigrants who, by reason of their low standard of life are likely to compete seriously with native labour, or whose racial difference is so great that they cannot be assimilated. These motives, which an exaggerated nationalism tends to magnify, justify a closer limitation of entries and appropriate measures of protection.

The bitter competition between native and foreign labour, which all agree in deploring, would be notably reduced by a proper control of the employment and wage-rates of the workers.

The pretext of racial differences is a far more serious one. The differences between the various branches of the human family are so great that the fusion of races, though it always remains physiologically possible, is fraught with so many moral and social dangers that it is not in any way desirable. One cannot therefore condemn absolutely any measure designed to prevent a harmful

fusion of races. But justice and charity demand that the people so affected should be allowed a proper field of expansion on those continents which nature itself seems to have prepared for them.

58. The State must endeavour to establish cordial and peaceful relations between those immigrants which it accepts and its own nationals, and it has undoubtedly the right to prepare, gradually and without violence, for their complete assimilation. With this object in view, it may impose its nationality on the foreigners definitely settled on its territory, or at least on their children born there, and expect from them a sincere and undivided loyalty.

59. The problem of political emigration, which various post-war events have made sadly topical, is closely connected with the questions we have been examining.

At all times a noble humanitarian feeling has led States to offer hospitality to political refugees or to victims of civil or religious persecution, on condition that they should not abuse this welcome in order to plot against the country or political régime which they had fled.

When restricted to a few individuals, this forced emigration only places upon the welcoming States a comparatively light burden, which could not justify any intervention on their part in the internal affairs of the country of origin. But it is quite a different matter when a civil, religious or racial persecution brings about a wholesale departure of people, most of them without any means of livelihood, whose sheltering and upkeep raises almost insoluble problems for the charity of the neighbouring States. A State whose vicious policy causes this migratory panic is sinning grievously against the most elementary duties of humanity and international solidarity, and its cruel methods call for the exercise of the just sanctions of the civilized world. In these circumstances it is the duty of the international authority to organize the protection of refugees and to facilitate their settlement.

**VI.—The Right to Equality**

60. The fundamental identity of their nature and end confers in principle on all States, regardless of their importance, the same essential rights which the fulfilment of their mission demands.

61. One must not conclude that this basic equality, which is a consequence of their similarity of nature and end, allows all States to claim absolute equality of treatment on every occasion. As in the case of individuals, the actual conditions of structure, life and cultural development create accidental differences between States which must be taken into account in the organization of international relations. It would be quite unjust to wish to apply an equal treatment to societies which in fact differ very much from one another in features and character.

62. Unequal treatment can therefore be justified:

(a) By the need of certain States, whose weakness demands the help of other nations.

(b) By special circumstances arising from neighbourly relations, common racial descent, particular promises of mutual aid and assistance.

(c) By the incapacity of a State to fulfil its international obligations or to protect efficaciously the lives and property of foreigners residing on its territory. (Capitulations.)

(d) By the risks which the excessive ambitions of a State would cause to the safety of its neighbours or to world peace. (Compulsory disarmament.)

63. Capitulations or compulsory disarmament must not be considered as determining for ever the international status of a nation. But the latter can only claim perfect equality of rights when it has previously dissipated the legitimate mistrust which caused those special measures to be applied.

64. Equality of right is one thing, actual equality is another. Just as the right to private property which every man possesses should not entail as a consequence

the complete levelling of fortunes, so a State cannot avail itself of equality of rights to claim its share in the territories of which other States have secured the just possession in the course of their evolution.

#### VII.—The Right to Promote National Interests

65. Since States have been entrusted with the mission of promoting to the utmost the prosperity of the society committed to their care, they quite rightly claim the right to work without hindrance for the accomplishment of this task.

The spiritual and moral progress of nations comes about in an essentially peaceful manner. Here there is no monopoly, no jealous covetousness; the scientific, artistic or religious values which enrich a nation radiate beyond its frontiers, without any loss to it, for the greater good of humanity; *licet divisus detrimenta non novit*.

It is quite different in the case of material progress. Here the resources and possibilities are limited, and their exploitation cannot fail to bring about ardent competition between the nations, which must be restrained by the law of international justice and charity if more serious conflicts are to be avoided.

66. Pope Pius XI lays stress, in his Encyclical *Quadragesimo Anno*, on the "two-fold aspect of ownership, which is individual or social according as it regards individuals or concerns the common good." (Q.A. 45.) We must likewise admit a two-fold aspect, national and international, of the right which a nation possesses over the riches and resources of its soil. We shall not be misinterpreting the thought of the Holy Father if we transpose this passage of the Encyclical from the civil to the international order, by slightly altering certain words: "The right of *using the resources of their territory* has been given to *nations* by nature, or rather by the Creator Himself, both in order that *each one* may be able to provide for its needs of self-

*preservation and the subsistence of its members, and also that by means of it the goods which the Creator has destined for the whole human race may truly serve this purpose. Now these ends cannot be secured, unless some definite and stable order is maintained."*

67. A State would be disturbing this order if it claimed the right to use its national heritage for its sole convenience, without any regard for the higher interests of humanity, by leaving its natural resources undeveloped or refusing to place them at the disposal of other nations who were in great need of them.

68. Nor can one allow the policy of absolute self-sufficiency of a State which, having retired within itself and being content with its own resources, would refuse its contribution to the economic progress of humanity.

This policy of self-sufficiency, far from promoting the interests of the country which practises it, deprives it of all the advantages which follow, for individuals as for nations, from the division of labour and the exchange of goods and services.

69. By its unequal distribution of capacities and resources among the nations, Providence has clearly shown its desire to bring about between States an active system of exchanges, which are equally profitable to all who take part in them.

The definite and well-regulated order which must preside over international commerce does not forbid a State to defend against over-zealous foreign competition the industries which are already established on its territory, or which it rightly desires to set up. But it will endeavour to use moderately, and only to the extent demanded by real necessity, the weapons provided by the over-stocked arsenal of Protectionism. For the close solidarity which the Creator has established between nations and the mutual assistance which it implies demand that the barriers which are placed to the free circulation of goods should be reduced to a minimum.

It may even happen that charity can oblige certain States, in helping a country in distress, to promote the disposal of excess products which gravely threaten the balance of its economic system.

70. A similar concern for international good-will should also moderate the bitterness of the competition which is witnessed in the search for international markets and in their exploitation. International order and peace demand that these efforts, which are legitimate in themselves, should finally result in a just equilibrium of commercial exchanges and in a fair division of markets between the competing nations.

Treaties of commerce, negotiated in a spirit of justice and equity, agreements between producers of various countries, a proper adjustment of the various commercial policies brought about by wide and comprehensive international agreements, will effectively contribute to bring about this desirable result.

71. Such an adjustment is only possible if all nations allow their economic policy to be guided by those fundamental truths which, according to Cardinal Pacelli, constitute the "spiritual framework of a sound international economy": "First of all, there is the fundamental unity of the great human family, whom Christ has told that it has One Father Who is in Heaven; all the members of the various nations have the duty to reflect generously on other nations the love they are bound to manifest towards their own country; it means also that every nation has the duty to respect the legitimate interests of other countries. Furthermore, all nations are bound to practise justice and charity towards one another; this means above all, for all the States taken collectively, the furtherance and service of the international common good, in the same way as the citizens and rulers of each one of them have to further and serve a more proximate and less extensive common good; at the same time, all nations must realize their interdependence, and adapt corresponding

methods of collaboration to each aspect of their solidarity; so that if they must, generally speaking, reorganize their national economic systems, they shall not systematically concentrate on themselves behind more and more impassable economic barriers, but shall rather bring into honour the strict virtues which His Holiness Pius XI recommends in his last Encyclical." (Letter of 28th June, 1932, to M. E. Duthoit, President of the "Social Weeks" of France, on the occasion of the Social Week held at Lille.)

#### VIII.—The Duties of States

72. States have not merely rights with regard to one another; they have also duties. These duties are of two kinds; duties of justice and duties of charity. Duties of justice, according as they regulate the relations of States among themselves or direct the activity of a State towards the common good of international society, depend in their turn upon commutative justice or social justice.

We must likewise distinguish in international charity a double impulse, according as it moves a nation to will the good of each State taken separately or the common good of the collectivity of nations.

73. The essential rights we have attributed to every State imply, on the part of the rulers of the other States, a corresponding obligation to respect them strictly.

A State which fails to fulfil this obligation lays itself open to the legitimate reactions of the injured party, and if it persists in its injustice, it may be brought back by international law or by force within the limits of right, under conditions and restrictions which shall be explained later.

74. It sometimes happens that injustice aided by force will prevail over right. Success in itself cannot legitimate such a victory; but prescription may at last validate the "*fait accompli*." However well-founded their grievances may be, the needs of the common good

will not allow States which have been the victims of an injustice to question perpetually the concessions they have been forced to yield. The order and peace of the world cannot suffer continuous upheavals of the international situation. This necessary sacrifice will not prevent those States from seeking by peaceful means the redress of the wrongs they have suffered.

It follows that "historic rights" are quite groundless and cannot justify the aims of bellicose nationalism.

75. Justice alone cannot suffice to obtain for humanity the inestimable benefits of peace. "It should be tempered with no less charity, the virtue most adapted to bring about reconciliation among men . . . The Angelic Doctor expresses it most aptly, as is his wont, saying that peace, true peace, is a thing rather of charity than of justice, for the work of justice is only to remove the impediments to peace, such as offences and damage; peace itself is really and specifically an act of charity." (IIa-IIae, q. 29, a. 3, ad 3.) (Pius XI, *Ubi Arcano Dei*.)

76. For the universal law of charity binds States as well as individuals. "The Gospel has not one law of charity for individuals and another for States and nations, which are indeed but collections of individuals." (Benedict XV, *Pacem Dei Munus*. cf. Eppstein, *C.T.*, p. 239.)

This universal law of charity bids all States to practise sincere benevolence, both towards one another and towards the community of nations.

77. This benevolence will be evidenced, in the normal course of international life, by the customary signs of mutual respect and friendship, by a cordial exchange of information and services, by an open-handed welcome to strangers, by generous assistance of the victims of a national disaster, etc.

In times of conflict charity, far from losing its rights, must govern more than ever the attitude of the disputants. It will lead rulers and people to make praise-

worthy efforts to understand the mind of the enemy and to recognize how far its grievances are well-founded, to seek honestly the means of satisfying it, whilst trying to lessen in a spirit of conciliation the harshness of the letter of the law which they oppose to its demands.

Even when it has made concessions to the utmost limit, charity will not always succeed in appeasing a State whose ambition or cupidity knows no bounds. To violence which scorns every right one must finally oppose force in the service of justice. But even in a war which it was unable to prevent, charity will still remain active. In the words of St. Augustine, it can only desire victory "for the good of the vanquished, and to bring them back to justice."

As far as possible it will limit the use of force to the extent needed for the triumph of Right, and will always refuse to give way to a spirit of vengeance.

Once the unjust aggressor has been vanquished, it will impose moderate and merciful conditions, which alone can obtain, together with the restoration of Right, the re-establishment of concord and harmony. "There can be no stable peace or lasting treaties, though made after long and difficult negotiations and duly signed, unless there be a return of mutual charity to appease hate and banish enmity." (Benedict XV, *Pacem Dei Munus*. cf. Eppstein, *C.T.*, 236.)

78. History tells us that the law which governs the relationships between nations has only been purified and perfected by the gradual substitution of more rational and just rules for the empirical and imperfect ones long sanctioned by custom and tradition. It is unfortunately true that war has been so far the chief agent of this evolution; nearly always the new law has been set up on the ruins of the old, which had been violently destroyed for not having known how to yield spontaneously to the needs of a constantly progressing social life.

A more active exercise of international charity would

easily prevent many an unfortunate conflict from taking place, by moderating the intransigence of nations obstinately attached to outworn rights, and by leading them to make opportune and salutary concessions, even in the case of most genuine rights.

79. Nevertheless there are limits to international charity. Though it may in certain circumstances advise and even command governments to make certain sacrifices, it can never allow them to compromise the rights of the nation entrusted to their care, and which it is their bounden duty to defend against any encroachment.

## PART II.

### RIGHTS AND DUTIES DERIVED FROM POSITIVE INTERNATIONAL LAW

80. The fundamental rights and duties of States, which we have just summarized, flow from the very nature of man and the needs of social life for which he has been made. But in order that they may govern effectively the life and conduct of nations, they need to be made more explicit, to be completed and adapted to the varying conditions of time and place by the constant additions of custom and agreements.

81. In the international order as well as in the more restricted sphere of private law, custom is a rule of conduct which has the force of a command of justice and equity. The compulsory nature of custom distinguishes it from mere international usage, and raises it to the dignity of an unquestionable rule of law.

82. The existence of an international custom presupposes the consent of several States, who agree in allowing it binding force. Thus there will be universal customs which all States are bound to respect, and particular customs which only concern a continent, or an even smaller group of States. But this custom does not create law; it merely expresses it, and it is therefore evident that the refusal of one or the other States

to yield to custom does not in itself dispense from the observation of a customary rule which has been generally received.

For a long time custom alone has governed the relationships between nations, gradually extending its sphere and adding to its content as civilization grew and international life developed. But it remained uncertain and subject to dispute so long as its precepts were not defined in precise legal terms. In the case of certain very important matters—commercial relations, status of foreigners, territorial administration—States soon felt the need of determining by written agreements the mutual rights and duties they allowed one another. Eventually the advantages of this method ensured its permanence, and contractual law has gradually replaced customary law, without entirely eliminating it.

83. As States truly possess juridical capacity, they can create legal relationships between themselves by mutual consent, and can modify and even annul them. The document in which they set down their agreement is called a *treaty* in the broad sense of the word. But custom usually restricts the use of the term to those more important diplomatic documents, the purpose of which is to settle naturally divergent interests; treaties of peace, commerce, etc. It also terms them *Pacts* and *General Acts* when they are supposed to embody the common views of the signatories. Other terms such as *covenant*, *agreement*, *understanding*, *protocol*, *codicil*, are commonly used to signify less important undertakings.

Treaties are said to be *bi-lateral* or *multi-lateral* according as they are arrived at between two or several States. The latter are sometimes left open to the accession of other States who agree to assume the same liabilities. In that case, if they have been signed by many States, they are considered as treaties having the

force of law, in contrast with contractual treaties which only bind a few signatories.

84. Treaties are to States what contracts are to individuals. Therefore, as regards the conditions of validity and binding force, one can rightly apply to them, *mutatis mutandis*, the same principles which govern in private law the agreements concluded between private persons.

85. The validity of a treaty is subject to the three following conditions: competency of the authority concluding the treaty, freedom of consent, lawfulness of object.

86. The method followed nowadays by all modern States in the making of a treaty hardly allows for a plea of lack of proper authority on the part of the chief negotiator of the treaty. Long negotiations usually take place before the signature of the diplomatic document, and the treaty only acquires binding force when it is ratified by the authority which the internal public law of each country empowers for that purpose.

87. In this matter a doubt can only arise if the treaty has been made by an usurper who has seized power in defiance of constitutional rules. Would such a treaty still continue to bind a State on its return to constitutional legality? Jurists agree in upholding the validity of the treaty if the usurping government had been recognized by the other Powers. This purely external criterion does not satisfy the moralists, who are more concerned with the real consent of the nation which the usurper claims to represent.

They solve the problem affirmatively if the nation submitted to the usurpation without opposing any effective resistance; in the negative if it never ceased to show, by stubborn resistance, that it did not accept the intruding power.

88. A treaty is only valid if its purpose is lawful. Furthermore, no treaty of alliance or friendship can

force a State to co-operate in an unjust venture of its associate.

89. It is essential for the validity of a treaty that the consent of the contracting parties should not be vitiated by error, fraud or violence.

There is no need to discuss the first two faults, since the close discussion which takes place between the negotiators of the treaty, and the very searching and critical examination which it undergoes before ratification, make any objection on the ground of error or fraud extremely unlikely.

90. Threats and violence can furnish a more plausible argument to a weak State which has had to surrender to an ultimatum, or to a vanquished State which has had to accept the conditions of the victor. But the objection is only valid in the case of unjust threats or violence. A State which is defending a just cause, is entitled, in the absence of an organized international jurisdiction, to use force in order to compel its adversary to respect or to restore its well-founded rights. But on the other hand, if force has favoured the designs of an unjust aggressor, a treaty made under such conditions could not in itself validly bind the State compelled to sign it. But other motives, derived from the interests of its subjects and the common good of international society, may oblige a victim of unjust violence to fulfil the obligations it has been forced to accept.

91. Treaties must be carried out in good faith according to the letter and spirit of the provisions they contain. As regards the interpretation of their terms, disputes may arise which neither party can settle unilaterally. To avoid the conflicts which easily arise in such matters, the contracting parties often nominate beforehand the arbitrators who will be called upon if necessary to decide between them. In practice many States have agreed to have recourse to the jurisdiction of the Permanent Court of International Justice.

92. The parties remain bound in regard to one

another all the time the treaty lasts. The latter normally ends either by the fulfilment of the stipulated terms, or by the ending of the period for which it was made. If it was made for a very long period, or does not contain any time-limit, it can, as a rule, only be annulled or modified by the common consent of the parties. But if the latter are not able to reach an agreement, can one allow one of them the right to denounce unilaterally the agreements which circumstances have rendered unworkable or too burdensome?

This right cannot be denied; but in order to avoid the disappearance of all stability from the juridical relations between States, its application can only be tolerated under strict conditions and in clearly defined circumstances.

The existence of States stretches far beyond the narrow limits assigned to the life of individuals, and may cover centuries. If we consider the extraordinary changeableness of human things, we shall realize the grave imprudence of measuring the length of international agreements by them. In consequence, permanent treaties can only reasonably be accepted under reservation of the tacit clause *Rebus sic stantibus*: an agreement is only valid so long as things remain as they were.

To allow this interpretation does not imply the acceptance of the theory of the "conditional value of treaties," according to which an agreement ceases to bind a State when the latter no longer derives any advantage from its fulfilment. This argument is quite unacceptable, and its admission into international law would soon ruin the value of treaties.

93. The unilateral denunciation of a treaty can only be allowed under a double condition:

1. The state of affairs must have altered so much that if the State could have foreseen it when it made the contract, it would certainly have refused consent.
2. Before having recourse to unilateral denunciation,

the State wishing to be freed from its intolerable burden must have exhausted every means of fulfilling the letter of the treaty and of bringing about, in conformity with its spirit, the modifications made necessary by the new circumstances.

It is only when the defendant refuses to discuss and persists in demanding the literal fulfilment of the treaty, that the plaintiff can free himself from his obligations by a unilateral act of will.

94. It follows from what has just been said that no State has the right to cling obstinately to the letter of a treaty which events have rendered unworkable or excessively burdensome to the other party. Extreme justice approximates to extreme injustice, and the true spirit of every treaty demands that the contracting parties should share equitably the advantages and the burdens.

For a long time international law provided no means of making these necessary readjustments. The authors of the Covenant of the League of Nations were well inspired when they decided that "the Assembly may, from time to time, advise the reconsideration by Members of the League of treaties which have become inapplicable." (Art. 19).

### PART III.

#### THE RELATIONS BETWEEN UNEQUALLY DEVELOPED POLITICAL SOCIETIES

##### I.—The Problem

95. The end of the political groups which divide up the human family is to procure for their members the "full good of human life" (see No. 8). They approximate to this ideal aim, which their effort will never fully achieve, in very unequal degrees. Certain States have attained at an early stage of their existence a high level of material development and moral culture. Others have not gone very far in the process of civilization.

And there are some nations which seem incapable of escaping by their own means from the bonds of ignorance and savagery. On the other hand, civilization is not the monopoly of a small number of privileged nations; all are invited to partake in its benefits, and the more advanced societies are bound to help the backward nations to lift themselves up gradually to a level of existence more in conformity to the designs of Providence. International solidarity finds its most fruitful form of application in this kind of assistance.

96. This educative influence cannot be exercised without a more or less close subordination of the assisted nation to the State which has undertaken to attempt its improvement. It may take the form of a freely accepted guardianship exercised by means of advice, suggestions and persuasion, which respects to a very large extent the independence of the protected State. But this formula is rarely applied. Quite naturally the protecting State is led, in its efforts to fulfil its educational task, to substitute its authority for that which previously governed the territory it wishes to civilize. The assisted nation loses its status as an independent political society to become a protectorate or a colony. This raises the very thorny problem of the legitimacy of colonization.

Various titles have been invoked in order to justify it, and we must now try to determine their value.

## II.—The grounds on which Colonization may be justified

97. Let us first of all put aside the alleged need of an over-industrialized State for assured sources of raw materials and easily accessible markets for its goods. A wise and far-sighted economic policy would always lead it to adjust its productive capacities to its normal resources and to the possibilities of sale on which it can reasonably rely; if it has been lacking in moderation and prudence, it must bear the responsibility alone, and it

has no right to rectify its mistakes at the expense of the rights and liberties of others.

The reason brought forward has no foundation in fact. Many States which do not possess colonies are nevertheless gifted with prosperous industries and a flourishing trade; the extensive intercourse they maintain with other nations ensures for them an abundant supply of raw materials and numerous facilities for export.

98. Neither is the over-population of a State a more solid argument, as we have shown above (see No. 52).

99. Colonial conquest may take place, on the grounds of first occupation, in territories occupied by savage clans or tribes whose social relationships are anarchical, and thus present an insuperable obstacle to civilization. In this case—which is a very rare one—there is no dispossession of a pre-established sovereignty. Authority, which constitutes organized society, does not exist; by enforcing its own, the colonizing Power acts as a first occupier, and acquires without usurpation the undoubted right to rule the territory it submits to its domination.

100. A civilized State can rightly dismiss from office a native sovereign who has provided it with a grave and just cause for intervention, such as attacks against the life and goods of his subjects, breaking of solemn promises, constant infringement of common frontiers. This is only a natural application of the right of conquest, which we shall deal with later.

To assert the theoretical validity of this title does not imply the justification of all the conquests which have taken place by the force of arms. Impartial history is bound to declare that many colonial wars have been mere acts of brigandage, devoid of any rightful title.

101. Modern colonizers seem to prefer a title which appears to show greater respect for the rights of the colonized nations; that of contractual transfer.

By treaties of friendship, alliance or protection,

attempts are made to secure the voluntary surrender by native potentates of their sovereign rights. In theory there is nothing wrong in this process; but the actual circumstances which accompany these contracts make their validity very doubtful. There is little in these agreements to guarantee the validity of the powers and the full consent of the ignorant and barbaric chieftains who accept them.

102. All the titles discussed so far are only valid in very special circumstances, and cannot serve to justify any sort of colonial expedition. So attempts have been made to discover titles of more universal application, capable of justifying in all circumstances the subjection of backward peoples.

This has led theorists to put forward the idea of the providential destination of the world's resources, and of the civilizing mission of colonization.

103. The Creator, who has shared out the riches of this world between the various parts and peoples of the globe, has nevertheless given them for the use of all men. The plan of Divine Providence must be respected, and the various human groups have no right to consider themselves as the sole beneficiaries of the wealth and advantages of the territory they occupy. Thence it follows that a harmonious and fruitful division of labour must be established between the nations in order to place at the disposal of all the members of the human community the resources of each part of the world.

The divine plan is distorted and humanity frustrated of its due when backward nations, through incapacity, slackness or laziness fail to develop the potentialities of their territory. So long as there is no authority whose task it is to remedy to this disorder, any State, provided it has the means and the will, may undertake this mission and can withdraw if necessary from the native sovereignty the rights which it has proved itself incapable of exercising for the common advantage of all nations.

104. God has united men by close bonds of solidarity and made each one responsible for the fate of his fellow-creatures: *Unicuique mandavit de proximo suo*. In national societies the education of the uncouth and ignorant masses comes from above and is the work of an élite. The same law governs the members of international society. The savage and degraded peoples, which are victims of vice, ignorance and superstition, nearly always need to receive stimulus, help, guidance from an external source, that is, from a more civilized country, in order to lift themselves out of barbarity. Here again, in the absence of a properly organized international authority to whom this civilizing task would normally pertain, any nation which is willing and capable has the right, and sometimes even the duty, to take under its protection a still untutored population and to lead it as far as it can in the ways of progress and civilization.

105. It is argued against every justification of colonization, that so long as a true society of nations has not been organized, humanity remains divided into equal and independent societies, none of which has the right to exercise over the others any sort of jurisdiction or control. This objection is quite groundless. If a duly organized international society really existed, its task would doubtless be to ensure, either directly or indirectly, the development of the common patrimony of humanity for the good of all men and to exercise a beneficent tutelage over the still backward nations. These functions are necessary to the good order and progress of human society, and in the absence of an international society capable of fulfilling them, they pertain by rightful occupation to the first State which can and wills to exercise them.

106. In order that its work may not be incomplete and more harmful than useful, the colonizing State must not content itself with procuring for those under its care the material advantages of a higher culture; it

must also give them, together with the higher blessings of mind and heart, the treasures of revealed religion. A purely material civilization, far from lifting up the soul of a nation, enslaves and paralyzes it, and stifles the powerful natural instinct which makes it aspire to a higher ideal.

107. History is unfortunately a witness to the fact that, in the past as in the present, less disinterested motives have inspired the action of civilized nations, and when we remember the atrocities and pillages which have marred the beginnings of practically all colonial ventures, we may begin to doubt the value of an institution open to such terrible abuses.

Nevertheless an objective study of the actual results must lead one to a less pessimistic conclusion. In spite of the faults and crimes which have spoilt their beginnings, colonial ventures have on the whole given the subjected peoples more benefits than evils. They have abolished cannibalism, slavery, human sacrifices, the tyranny of barbarous potentates; a relative affluence has replaced the abject misery which starved the body and degraded the soul. It is true that one generation has had to pay for the establishment of foreign protection by excessive sacrifices; but a long posterity will benefit by the new régime it has brought about.

### III.—Rights and duties of the Colonizing Power

108. Once the colonizing State has been rightfully invested with sovereign authority over the nation it has undertaken to civilize, it exercises the plenitude of power in the territory it has taken over. It will use it wisely and prudently in order to abolish practices contrary to the natural law, to purify customs and morals, to teach the habit of civilizing work, to provoke the rational development of natural resources, to ensure the defence of the country and to administer justice.

109. All these activities, which are chiefly performed for the good of the subject peoples, entail sacrifices on

the part of the State which undertakes them, and they are compensated by the rational exploitation of the territories it controls. According to the plans of Divine Providence, international co-operation must benefit equally all the parties concerned. The colonial powers are therefore perfectly justified in demanding that colonization should pay its way and should remunerate their efforts.

110. A nation which has devoted its wealth and manpower to the humanitarian work of colonization has the right to demand in its turn, when necessity arises, the help of the natives to defend the parent-state. When answering this call the colonial subjects are simply defending, as is their duty, the patrimony of material and cultural civilization which they share with those who have protected and educated them.

The serious objections to the use of native troops on the territory of the parent-state must force one to consider it as an extreme measure, to which recourse should not be had except in cases of very pressing necessity.

111. According to the fine maxim, *Rule for Service*, the rights justly claimed by the colonial authority are only given to it for the well-being of the population under its care. The interests of the latter must never be sacrificed to those of the parent-state; one must not allow the natives to be dispossessed of their land for the sake of settlers, or permit a disguised serfdom to replace officially abolished slavery under pretence of educative work.

112. The education of the natives must take place gradually. It should neither imply systematic assimilation nor absolute conservation of ancestral customs. All that is good and respectable in the latter should be retained, and a wise temporization should preside over the elimination of abuses. Above all one should be careful to attenuate the dangerous crisis which nearly always arises, to the harm of the less advanced races, when two unequal civilizations meet.

113. In order to meet strong and lasting results the colonial authority must, as far as possible, associate the natives with the task of civilization, and make use of their natural leaders, whose prerogatives have been maintained, as useful and influential collaborators.

114. All civilizing efforts will be fruitless if they are simply confined to the material order and neglect the moral and spiritual betterment of the natives. The colonizing State must add a fruitful religious activity to its economic work. It is obvious that it cannot itself actively engage in this apostolate; but it is bound to help to the fullest extent the official organisms delegated by the Church for this purpose.

#### IV.—The Intangibility of the Colonial Domain

115. So long as it conscientiously fulfils its tutelary mission, the State has an incontrovertible right to the peaceful possession of the colonial domain it has created. This right can only be challenged for one of the three following reasons; abuse of power by the colonizing State, incapacity to assume its responsibilities, transfer imposed as a sanction following a war unjustly provoked.

116. In the first two hypotheses, the deposition of a colonial power in favour of a State which is more capable or better disposed, can be justified by the same reasons which warrant the dethronement of the native holders of sovereignty in cases of manifest deficiency.

117. As for the colonial transfers imposed on a vanquished unjust aggressor, they take place on the same grounds and the same conditions as the annexation of home territories by the victor of a just war. (See No. 192).

It is obvious that in this matter the well-being of the native races must be especially taken into consideration.

118. The sharing-out of Africa which took place during the nineteenth century seems to have closed the era

of colonial acquisition, as there are no more territories left for peaceful annexation.

Certain nations which have been comparatively late in expanding, and have few or no colonial possessions, are now demanding a re-distribution of colonies in order to establish a just balance between States of fairly equal standing.

This demand cannot be based on any claim of strict justice. (See Nos. 52 and 64.) The latter does not require an equal distribution of goods and resources between States any more than between individuals. Otherwise it would also be possible to claim periodical revision of colonial holdings, in order to adjust them to the ever-changing equilibrium of civilized States.

The question raised by the revisionists is only a matter for international good-will. The latter demands that nations abundantly provided with colonial possessions should allow free access in them to the labour and capital of less fortunate States, and should place at the disposal of all the resources they obtain from them. It can even, for the sake of peace, suggest to them to make certain liberal concessions to States which lack a proper field for expansion.

119. In these proceedings for revision, the plaintiffs tend to consider colonies as possessions which civilized States can dispose of or sell, grant or exchange at their own mutual convenience. International Ethics cannot accept this over-materialistic point of view. It is more concerned with the native societies than with territories. It considers the education of the former to be a sacred work and a very delicate task which demands patience, sympathy, and especially continuity. Results which have caused much difficulty to obtain will be upset by the changes of method, legislation and régime which a substitution of sovereignty implies. This point is extremely important, and must not be forgotten in discussions of a possible distribution of colonial possessions.

**Y.—The Emancipation of Colonies**

120. Once a colonized nation, thanks to the protection it has enjoyed, has become capable of self-government, it naturally desires to be freed from subjection and to gain full independence. Thus a conflict arises between the colony demanding emancipation and the parent-state which is reluctant to grant it. It can only be solved by taking into account the equally respectable rights and interests of both parties.

121. Colonization means civilization, and civilization means emancipation. Under pain of betraying its mission, the colonial power must listen to the rightful demands of its colonial subjects who have attained a higher level of individual and communal life, and must associate them to an ever increasing extent with the government of the country. Like education, colonization must aim at becoming superfluous. As soon as its efforts are successful, it will be changed into a protectorate; and the protectorate will one day make way for a cordial and lasting collaboration between two free and equal nations.

122. Once emancipation has been achieved, the former colony must not break all the bonds which united it to the parent-state. A very real association has arisen between the two nations, which one of the parties must not repudiate at will to the detriment of the other, thus frustrating it of the just reward of its long effort.

This collaboration, which must be the final aim of the relationships between the parent-state and the emancipated colony, preserves for the former the legitimate advantages it is entitled to demand from a land which has been rendered fruitful by the life and labours of its loyal sons, and ensures for the latter the permanence of those beneficent influences to which its betterment is due.

If faithfully practised it will benefit equally the interests of both parties and will become the rule of their mutual relations.

Secession would only be justified if, by reason of profound changes in the international balance of power, loyalty to the union would entail sacrifices to one of the parties out of proportion with the benefits derived by the other.

## PART IV.

### PEACE AND WAR

#### I.—International Order and Disorder

123. Peace, according to Saint Augustine, "is a good so great, that even in this earthly and mortal life there is no word we hear with so much pleasure, nothing we desire with such zest, or find to be more thoroughly gratifying." (*De Civitate Dei*, Book XIX, ch. xv. Eppstein, C.T., p. 232.) It is nothing else but the tranquil security of an order of justice and charity which procures for each State, together with the full enjoyment of its rights, the most efficacious means of fulfilling its social mission and of contributing its share to the common good of international society.

124. It is evident that peace is the normal state of humanity, since it corresponds at once to the most pressing demands of human nature and to the law of Christ our Saviour, who Himself became Our Peace. *Ipse enim est pax nostra.* (Eph., xi, 14.)

Yet by a strange and distressing contradiction, the life of humanity seems to have been governed more by the rule of war than by the rule of peace. Paganism has not hesitated to give in all its mythologies a place to the god of war. The spread of the Gospel Law of love has not succeeded in pacifying or disarming men.

The reason for this is that justice and charity do not hold undisputed sway over the affairs of this world, but have to contend with the cupidity and ambitions of nations and their rulers which are powerful and active agents of conflicts and discord. And it often happens that the short-sighted judgement of man does not suc-

ceed in disengaging the sane and impartial solutions of justice and right from the confused conflict of pretexts and excuses invoked by the contending parties.

Harmony is disturbed and disorder replaces order once a State's peaceful exercise of its right is disputed by another.

This initial disorder is increased when the contending parties, having failed to solve their dispute by other means, resort to arms in order to settle their quarrel.

In former times the comparative isolation of States made it fairly easy to localize disputes and to prevent them from involving other States. Things are quite different to-day, and the close solidarity which unites all the members of international society implicates them, whether they will it or not, in any dispute which may arise in any part of the world.

125. The great precariousness of peace to-day imposes therefore on all governments the grave and sacred obligation of doing everything in their power to retain for the world the priceless benefit of this "most beautiful gift of God." (Benedict XV, *Pacem Dei Munus*.)

First of all they must try to prevent, by a constant and straightforward exercise of justice and charity, the beginnings of any conflict likely to disturb order and peace between nations. If their efforts are unavailing, the parties in dispute are strictly bound to exhaust all means of peaceful solution before having recourse to war.

War itself, though lawful in extreme cases, is subject to laws which no pretext can allow the belligerents to disobey.

## II.—The Peaceful Solution of International Conflicts

126. One can rightly deplore the fact that ever-recurring disputes threaten at every moment peace and harmony between States; it would be foolish, however, to be surprised at it. Relationships between States should be governed by Right; but Right itself is not

always self-evident to the limited reason of rulers and nations, which itself is often obscured by passion. Besides, the constant increase of international relationships cannot fail to multiply to an equal degree the possibilities of clashes and conflicts. But peace will not suffer if the contending parties are sincerely desirous of settling these disputes in accordance with the demands of charity and justice.

127. Once a dispute arises between two States, their first and most pressing duty will be to seek the solution which is demanded by Right, and not by their interests or ambitions. This is a matter for reason and not for violence. Force can, in some cases, strengthen the demands of Right; it can never find or create it.

Conciliatory proceedings must therefore take place between the contending States. The inventiveness of man has devised so many forms of conciliation that there can be no legitimate excuse for avoiding this duty.

128. Very often straightforward *negotiations* between the interested parties will suffice to bring out their mutual good faith, to clear away misunderstandings and to simplify the complex elements which obscured the rule of Right to which both parties profess submission. To achieve such a desirable result, it is very important that a real spirit of good-will and understanding should inspire the transactions between the negotiators.

129. It happens however only too often that the parties, obstinately clinging to their respective points of view, fail to reach an agreement. In this case the activity of an international authority, juridically constituted and having sufficient competence, could be usefully exercised in order to solve difficulties. In its absence, the disinterested and impartial intervention of a third Power could help to bring about an harmonious conciliation between the parties. Every State has the right, and sometimes even the duty, to offer its *mediation* to the contending parties, so long as it

possesses the necessary authority. The mediator must intervene between the two adversaries and suggest the terms of an equitable settlement, which takes into account at the same time their legitimate interests and the claims of justice. Sometimes, if the conflict has become a violent one, the mediator may, in order to hasten the restoration of peace, strengthen its good work by a military demonstration. This is called *armed mediation* and is perfectly legitimate when it is not destined (as, unfortunately, has been too often the case) to forward the selfish ends of the intervening third party.

130. The duty of the mediator is to propose the terms of compromise; it cannot impose them; the parties in question have alone the right to make a final decision. The latter, however, will often feel it difficult to accept the conciliatory solution suggested to them. Compromise always means the abandonment of some original claims, and either side is loath to make any concession which would look like surrender. Their self-esteem is better safeguarded by an arbitral or judicial sentence which determines impartially the demands of right to which no one is ashamed to give way.

*Arbitral sentences* are pronounced by an organism freely constituted by an agreement between the parties concerned; *judicial sentences* by a tribunal which is permanent and therefore not likely to be influenced in any way by the litigants. Arbitral sentences and judicial decisions, when they are freely administered and honestly accepted by the contending parties, constitute the best means of settling international disputes in a peaceful manner.

131. International law distinguishes between juridical conflicts and political conflicts. This distinction has a certain practical value, but it is difficult to justify it in theory. Every dispute, whatever its object may be, can always be finally reduced to a question of law—either natural or positive.

In practice, those disputes which concern a rule of

positive law are regarded as juridical conflicts. Non-judicial or political conflicts are those which can as yet only be solved by the application of the very general laws which reason deduces from the primordial needs of human nature.

It is always possible to question, with more or less good faith, the validity of these deductions and consequently the binding force of the rules formulated in accordance with them. For this reason it has been a long-standing practice never to impose these rules on the contending parties by means of a judicial or arbitral sentence; it was thought that political conflicts could only be solved by the more supple methods of conciliation. Only juridical conflicts properly so-called, bearing on a question of positive law (interpretation of a treaty or a point of international law) or on the verification of some actual reality (materiality of the fact complained of, nature and extent of damage caused) could be submitted to an arbitral or judicial sentence.

Nowadays this distinction is tending to disappear, and there is an increasing tendency to consider conciliation and arbitral and judicial settlements as two successive steps of the same peace-making procedure which are applicable to all international disputes without exception, whatever their nature or object may be.

132. Progress in this direction is still impeded by notions difficult to eradicate. In the absence of an organized international society, superior to individual States and exercising a real power of jurisdiction over them, it is argued that a nation cannot give over to others the care and defence of certain essential values, for example its honour, dignity, or vital interests.

It has therefore happened that until recent times these matters have remained the exclusive province of the States concerned and have been removed from any arbitral or judicial competency.

This is purely a matter of prejudice, and happily seems to be disappearing.

The honour of a nation, its dignity, or even its vital interests, can never be incompatible with respect for the rights of others. When a dispute arises about the requirements of the law, private citizens agree to submit their differences to the judgement of an impartial tribunal. It is difficult to see how the sovereignty and independence of States cannot allow them, in similar circumstances, to submit their quarrel to arbitrators or judges freely chosen by them. It is quite possible to constitute international courts of arbitration or justice which offer every guarantee of fairness and impartiality.

In the absence of this peaceful procedure, what remains to the contending parties except recourse to war? Who will dare to maintain that the latter will bring out and ensure the triumph of Right more surely than the well prepared and carefully grounded judgement of impartial and disinterested judges or arbitrators?

133. One objection still remains. In civil life there is a police force to enforce the decisions of the Courts, but in the international order there does not yet exist any supra-national authority armed with sufficient coercive powers to enforce the submission of recalcitrant States to the judgement passed on them. This obvious gap will only be filled up by the foundation of a perfectly organized society of nations. But it does not excuse the nations from consulting arbitral or judicial organizations when disputes arise. These organizations will formulate the rule of law which they will have to accept. It is only when one of the parties refuses to accept the award that the other can have recourse to war.

134. Certain States claim the right to reject all proposals of arbitral or judicial procedure. The reason invoked is not valid.

First of all, because self-deception is very easy to fall into in these matters; secondly, because the common good of international society demands that no effort

should be spared to settle disputes without useless shedding of blood.

135. Immediate recourse to war can only be justified in two hypotheses; when a State has to repulse the sudden aggression of its adversary, or when the adversary refuses to suspend its military preparations and only prolongs negotiations in order to strengthen its means of attack. It is needless to add that in these circumstances a State can only commence hostilities if it has really suffered injury or is certain of being in the right.

136. Since the Great War a widespread and generous campaign has been carried on to generalize the peaceful solution of international disputes, to make it obligatory and thereby to "outlaw war." From what we have just said it follows that all States have the duty of giving their full and loyal support to these peaceful and humanitarian efforts.

### III.—War

#### (i) *Its Nature and Lawfulness\**

\* Some may be surprised to find such a large amount of space devoted to War in this *Code of International Ethics*. Can it be that Christian morality considers war in the same light as did the great pagan tradition, as a normal institution of international life? Certainly not. War is a terrible evil, and everything must be done to avoid it. But it is not an absolute evil, and a State may in certain circumstances (which occur very rarely) have recourse to it. These circumstances must be defined very carefully. Furthermore, though war substitutes force for the normal methods of law in the settlement of international disputes, it nevertheless remains subject to law. Morality must lay down for the belligerents those rules of justice and charity to which the very exercise of violence remains subject.

War has nowadays lost its prestige; the vast majority of nations reject it; nearly all governments have agreed to "outlaw" it. In spite of all this, however, war remains a terrible possibility, and nothing has prevented it from breaking out several times since 1918. By severely determining the rare cases

137. War is an armed struggle which equal and sovereign societies engage in between themselves in order that what they consider to be their right or interest may prevail.

It is *offensive* from the point of view of the State which begins hostilities; it is *defensive* from that of the State which has recourse to armed force in order to repel an attack. A war of *intervention* is one waged by a third party State which sides with a belligerent already engaged in battle and gives it armed help.

War must not be confused with certain acts of force used by States in difficult diplomatic negotiations in order to bring pressure to bear on the other party and to make it accept its demands more rapidly; for example, reprisals, seizures, temporary occupation of territory, peaceful blockade, embargo. The method is a dangerous one, and runs the risk of developing into actual warfare; "peaceful restraint" is very often nothing else than an hypocritical euphemism to disguise a definite act of war, especially when it is exercised by a powerful State.

138. By the evils it inflicts on the territories on which it is waged, the confusions it brings about in international relations, the setback it inevitably causes to morality and civilization, war is always a terrible calamity and therefore cannot be considered as the normal means of settling disputes between nations. It should not find place in a perfectly-organized international society; in the absence of such organization, the peaceful methods we have discussed above must always be preferred. Nevertheless war may be lawful in certain extreme cases.

139. In a society of independent States which have not yet succeeded in placing a supra-national authority

when recourse to force is allowed, and by making the belligerents feel their heavy responsibilities, international morality will do far more towards the suppression of war than the powerless anathema of nations and the guarded pronouncements of governments.

over themselves, it is above all necessary that the order of Right and justice should prevail in order to ensure peace, which is an indispensable condition of prosperity and an essential element of the common good. If this order is seriously threatened by the perverse will of one of the associates and peaceful methods are unable to maintain it, all that the injured State can do is to take the protection of its rights, or the redress of the injury suffered, into its own hands. Thus reason justifies a defensive war by which a State endeavours to repel an unjust aggression, an offensive war by which it seeks the restitution of an essential right, and a war of intervention by which an allied or friendly power gives armed assistance to a belligerent in similar circumstances.

Even in a perfectly organized international society, recourse to arms must be considered as the ultimate means left to the international authority or the community of nations to overcome a State which obstinately disregards the law and disturbs international order.

140. The commandment of the Decalogue, "Thou shalt not kill," and the Gospel law which prescribes non-resistance to violence and the pardon of injuries, have been quoted to prove the unlawfulness of war. This objection is based on a wrong interpretation of this double commandment.

The commandment, "Thou shalt not kill" does not deprive individuals of the right of legitimate self-defence against an unjust aggressor. Nor does it do so, *a fortiori*, in the case of societies.

Nor does the evangelical command not to resist evil and to pardon enemies imply the absolute repudiation of every war. Charity may command us to acquiesce without murmuring to the personal wrongs we have suffered; it does not in any way dispense public authority from its very definite duty of defending the interests and rights of the community under its care from all unjust attacks. As for the pardon of injuries and the charity we must show even towards our enemies, they are quite

compatible with the conditions of a just war. "These precepts concerning patience," wrote St. Augustine, "ought to be always retained in the habitual discipline of the heart, and the benevolence which prevents the recompensing of evil for evil must be always fully cherished in disposition. At the same time, many things must be done in correcting with a certain benevolent severity, even against their own wishes, men whose welfare rather than their wishes it is our duty to consult. . . . And on this principle, if the commonwealth observe the precepts of the Christian religion, even its wars themselves will not be carried on without the benevolent design that, after the resisting nations have been conquered, provision may be more easily made for enjoying in peace the mutual bond of piety and justice. For it is a good thing to be vanquished, if thereby one loses the possibility of doing evil." (*Ep. 138 ad Marcellinum*. Eppstein, *C.T.*, pp. 76-7.)

As St. Thomas Aquinas justly remarks, "The pardon of injuries one has suffered oneself is an act of perfection if to do so is useful to others; but to tolerate patiently injuries suffered by others is an act of imperfection and even a vice if it is possible to resist the aggressor." (*S.T.*, IIa IIae., Q. 188, art. 3, ad 1.)

Scripture and tradition, far from pronouncing an absolute condemnation of war, contain many passages affirming the lawfulness of a recourse to violence, especially when it is the only way to secure respect for justice and right.

141. In the face of the unanimous testimony of Christian tradition, certain pacifists will agree that in the past war may have been lawful. But they pass an absolute condemnation on modern warfare in view of the present development of armament technique, its unequalled destructive power, and the increased solidarity of nations which causes the smallest local dispute to have world-wide repercussions.

Even when restricted to modern warfare, the intransigence of such pacifism is indefensible.

First of all, it is by no means certain that modern wars are more terrible than the conflicts of the past, which made no distinction between the battle-front and back areas, devastated huge territories, delivered the civilian population to the exactions and violence of a mercenary soldiery which often changed sides but ever remained grasping and unruly, and brought with them famine, plagues and other nameless horrors.

It must however be admitted that the system of armed nations and technical progress have made modern combats more murderous than those of former times. This must be remembered when determining the lawfulness of recourse to arms, since it is only allowed, as we shall see later, when the advantage expected outweighs the inevitable evils which must result. It obliges the champions of right more urgently than ever to exhaust all peaceful means of settlement before taking up arms.

The more or less deadly effect of methods of warfare only affects the forms of war and not its essential nature, and is not sufficient in itself to alter its morality.

Furthermore, a refusal to allow Right the assistance of force in any circumstance simply allows force to take precedence over Right with impunity and delivers up humanity to the far more serious disorder of moral violence.

142. The very legitimate condemnation of the inevitable horrors of war must not lead one to include in its reprobation all belligerents without distinction. Only those deserve it whose injustice has brought about the commencement of hostilities; it cannot affect those who use force in perfect conformity with the demands of justice.

143. Catholic theologians and moralists, whilst refusing to condemn war absolutely, are careful to lay down the precise conditions with which a war must comply in order to remain within the limits of justice.

They have constantly and unanimously taught that for a war to be lawful, it must

(a) Have been declared by a legitimate authority.

(b) Have a just and grave cause, proportioned to the evils it brings about.

(c) Only be undertaken after all means of peaceful solution of the conflict have been exhausted without success. (See Nos. 127-136.)

(d) Have serious chances of success. (See No. 157.)

(e) Be carried out with a right intention.

It is also necessary that moderation should characterize the conducting of hostilities and should keep the demands of the victor within the limits of justice and charity.

The following paragraphs will be devoted to a detailed analysis of these conditions.

#### (ii) *Legitimate Authority*

144. The purpose of war is to maintain or assert the right of the community against external aggression. In the absence of a juridically constituted international authority, only those whose duty it is to defend and promote the legitimate interests of the social body can declare it. "The natural order of mortal things, ordained for peace, demands that the authority for making war and inflicting punishments should rest with the ruler. In obeying warlike commands soldiers should have an eye to peace and the common good." (St. Augustine, *Contra Faustum*, ch. lxxv. Eppstein, *C.T.*, pp. 69-70.)

145. Several modern constitutions reserve the right of declaring war to the body of national representatives alone. The latter, however, nearly always finds itself faced with a definite situation and with the results of previous diplomatic deals which leave it practically no freedom of decision. The responsibility for the war which it is thus compelled to declare must be shared by the first instigators of the trouble, and by the unskilful or

unbending negotiators who were unable or unwilling to solve it peacefully.

(iii) *Just Cause*

146. Christian morality only accepts war as an element of force at the service of Right. The defence of an essential right which is unjustly attacked is the sole justifying cause of a defensive war; the asserting of an essential right unjustly denied, that of an offensive war; and the helping of a belligerent who has a just cause for war, that of a war of intervention. In each of these cases, the re-establishment of order, and not its disturbance, is the purpose of recourse to arms. "War is waged in order that peace may be obtained." (St. Augustine, *Ep. 189 ad Bonifacium*, VI.)

Since the Sovereign should use his power only for the sake of the general interests of the community, war cannot be undertaken for private ends or for the interests of a class or party.

Nor has the Sovereign the right to compel his subjects to sacrifice their goods and lives for purely personal or dynastic reasons of interest or prestige.

147. Since in an actual case the contradictory claims of two contending parties cannot be equally right, it follows that both belligerents cannot have at the same time a just cause for war.

"It is the injustice of the enemy which forces the wise man to make just wars." (St. Augustine, *De Civ. Dei*, Bk. XIX, ch. vii.) War can therefore never be objectively just on both sides, though subjectively each of the parties may believe they possess a just cause for war.

On the other hand it may happen that war may be objectively unjust on both sides, neither belligerent having a just cause for war.

In doubtful cases, when it is not clear on which side right is to be found, the conflict should never be settled by force of arms; it should be dealt with by the peaceful methods of conciliation and arbitration.

148. A State which has violated an essential right of another State and refuses to furnish the just reparation which is demanded, has no right to defend itself against the other party which has exhausted in vain all peaceful methods and resorts to arms in order to obtain justice.

149. Justice sometimes changes sides in the course of negotiations or hostilities. For example this may happen when a State which has a good and just cause for war refuses all sincere and reasonable offers of reparation. It can only use force to obtain satisfaction for the injustice it has suffered. Once this aim has been attained by the submission of the enemy, it cannot start or continue hostilities without being guilty in its turn of unjust aggression, and the State which it attacks can offer legitimate resistance.

150. It has been argued that it is useless to require the possession of a just cause to authorize war. "The ability to assign responsibility for aggression is always about the last thing to emerge, and belongs to the historian who studies and writes fifty years after a war and never to the politician who lives through the beginnings of a war." (J. Ramsay Macdonald, speech of September 4th, 1924, to the Assembly of the League of Nations.)

Without being quite so sceptical, one must admit that there exist some very intricate situations to which it would be difficult to give a safe and certain juridical interpretation. On the other hand, both rulers and ruled are prone to deceive themselves, under the influence of passion, as to the nature and extent of their rights. In the past these circumstances may have more or less excused the good faith of certain belligerents who had recourse to arms rather too readily. But nowadays, owing to the development of peaceful methods of conciliation and arbitration, we possess a very efficacious criterion for establishing the responsibility of the various parties concerned. At least the party which has rejected from the first all arbitral or judicial procedure which

could have established clearly the demands of Right, and pretends to settle the conflict by armed force alone, can never consider itself as authorized to declare war.

151. Other reasons apart from justice have been sought to legitimize the use of force, such as common consent of the belligerents, the need of the State, the prevention of future aggression. These reasons have no foundation in ethics, which considers that only the defence of an essential right can be a legitimate cause of war.

152. In the past some authors have maintained that, failing a just cause, war could become legitimate by the mere agreement of the parties concerned, who decide to leave the settlement of their quarrel to the fate of arms. This idea is no longer accepted by modern jurists, but it is still prevalent among many people who wish to see the conflicts which divide nations settled by force.

War, thus conceived as a simple exercise of force, may not in itself be a violation of commutative justice (the vanquished party having given up his rights in advance) or imply the obligation to make good the damage caused. But it is none the less shameful on the part of the rulers who unjustly sacrifice the lives of their subjects and the peace of international society for the sake of their pride or ambition.

153. Nor does the need of the State, by which is generally understood its interest or necessity, justify a war which has been declared in violation of right. To allow interest to take precedence over right would amount to confusing expediency with justice, denying justice itself, and shaking the very foundations of the order of human societies. Nor is necessity a more valid excuse; a State can only invoke it when it is equivalent to its right to existence, and thus becomes a just cause of war. (See No. 40.)

154. There also exists a theory of "preventive war" according to which the State has a right to attack on preventive grounds another State which is still inoffensive and peaceful, but which may be led at a future date.

on becoming aware of its increasing strength, to commit an unjust aggression. The war which is thereupon declared against it to ward off this danger is offensive from a military standpoint, but politically "defensive" and could thus claim a legally just cause.

The doctrine is indefensible, since it would leave the way open to arbitrariness and legitimate every kind of abuse.

A preventive war against a possible aggressor is iniquitous of its very nature. A ruler who would claim to regulate his policy according to a still uncertain future could allow himself every kind of surmise, and would have no difficulty in imagining a distant menace which would give a plausible pretext to his ambitious or rapacious aims. Peace and international order would soon disappear under a régime which allowed recourse to "offensive-defensive" war for the most imaginary grievances.

Only a very real and imminent menace—such as a systematically aggressive policy, an unusual concentration of troops, etc.—can authorize a State which considers that it is menaced thereby, to demand the cessation of these suspicious activities, and, in case of refusal, to impose it by force.

#### (iv) *A Grave and Proportionate Cause*

155. The justice of the cause for which a belligerent takes up arms does not in itself suffice to legitimate his decision. Right reason further demands that the importance of this cause should be proportioned to the gravity of the evils which inevitably follow upon a war.

156. It may sometimes happen that, owing to the circumstances which accompany it, a quarrel may become far graver than the trivial or unimportant incident which brought it about. In that case, the State which persistently refuses to grant the small reparation claimed greatly aggravates its original fault. Likewise an injury sustained by the ruler may, in consequence of an

obstinate refusal to make reparation, involve the honour of the whole nation represented by its head.

In minor conflicts, which do not immediately involve any of its vital interests, a nation will often find occasion to practise that charity which the law imposes on societies as well as on individuals. Secure in the self-evidence of its rights, it will know how to temper with a large hearted tolerance the demands of absolute justice, and will thus open the way, more surely than by arms, for a sincere and lasting reconciliation.

(v) *A Well-Grounded Hope of Success*

157. Even when it has a just cause for war, a State cannot engage upon or accept war which will obviously be disastrous for it and thereby worsen the injustice for which it sought redress. Under these conditions it would be useless to hope for a victory which would counter-balance the sacrifices imposed on its subjects.

In actual fact, however, it is very difficult to predict with sufficient certainty the results of a war, however unequal the chances of the belligerents may seem to be. Divine Providence often confounds the most objective human calculations; interventions may suddenly arise, which upset the initial balance of forces.

On the other hand, a higher obligation—that of respecting one's plighted word, of defending the higher values of religion and civilization, etc.—may sometimes lead to choosing an heroic defeat instead of an inglorious capitulation. The nations which have been martyrs to their duty render a supreme testimony to Right which echoes throughout the centuries and keeps humanity faithful to the cult of honour and justice.

(vi) *Concern for the International Common Good*

158. In weighing the legitimate advantages he expects from war, and the various evils which inevitably follow upon it, the just belligerent must take into account the heavy load of suffering and ruin which the conflict will impose upon other nations, both upon those whose

military help he expects and upon the neutrals who will feel the painful repercussions of the struggle. This comparison will often reveal such a disproportion between the fruits of victory and the price which the whole of humanity has to pay, that it will be a duty of charity to forgo the just reparation rather than to expose the world to a dreadful catastrophe.

(vii) *War, the Ultimate Argument of Kings*

159. "Only under compulsion and reluctantly should one come to the necessity of war," wrote Vittoria. (*De jure belli*, 467. 60. Eppstein, *C.T.*, p. 106.) War is an instrument which States are allowed to use, in certain circumstances, in order to enforce the respect of Right on those who would wish to disregard it. But it is a terrible instrument, which should be used only when all other means have failed. War will always remain the ultimate argument of kings; *ultima ratio regum*. Henry of Ghent has expressed this very well: "There are two ways of combatting: by discussion or by violence; the first being peculiar to man and the second to wild animals, one should only have recourse to the latter when the former is of no avail." (*Quodlib.* XV., q. XVI.) (See above, Nos. 126-136.)

(viii) *A. Right Intention*

160. As in every other human action, war, which is legitimate in itself, may be vitiated by the wrong intention of the one who wages it. That is why, according to the teaching of St. Thomas (*Summa Theologica*, IIa IIae, q. xl, art. 1) "the intention of those who make war should be a right one, namely that good should be promoted and evil avoided. Thus St. Augustine says that the true adorers of God regard those wars as peaceful which are not undertaken out of cupidity or cruelty, but are waged for the sake of peace, so that the wicked may be punished and the good assisted."

And St. Thomas concludes that "even though the war has been declared by a competent authority and for a

just cause, it may become unlawful by reason of the wrong intention of the one who wages it. For St. Augustine says that the desire to harm, the cruelty of vengeance, a warlike soul enemy to all peace, the fury of reprisals, the lust of domination, and similar things, must be condemned in war."

161. This right intention, demanded by the moralists as an essential condition of a legitimate war, may easily agree with other motives which are more interested, but still in conformity with right and reason.

#### IV.—The Conduct of Hostilities

##### (i) General Principle

162. Even under the state of violence constituted by war, the moral law keeps all its rights, and its precepts continue to govern all the acts of the belligerents.

These precepts in actual fact can be summed up in a few rules of very wide application, which need more positive definition if they are to govern effectively the conducting of war. In every age nations have attempted to do this. First of all custom, then later on pacts and bi-lateral treaties, and finally general conventions, have progressively worked out the set of rules codified by the Law of Nations under the title of "laws of war."

All belligerents are bound to conform their acts of war to these laws. "Even between enemies," wrote St. Ambrose, "certain rights and conventions must be respected" (*De Officiis*, Bk. I, ch. 29).

These rights have considerably helped to attenuate the original horrors of war, and any State which disregarded them would be guilty of a crime against humanity.

163. The force of passion unleashed by war too often leads belligerents to break these protective laws. Do these breaches in turn authorize the enemy, by way of reprisals, to free itself from the rules which limit its liberty of action?

If one of the parties indulges in practices forbidden

by the accepted laws of war, the other is quite entitled to apply the law of retaliation, provided the acts of reprisal do not violate the natural law. But no violation of any prescription of positive law by one of the belligerents will ever entitle the other to free himself of all the laws of war and revert to the most cruel methods of primitive barbarism.

(ii) *The Declaration of War*

164. We have seen that war is only allowed against an unjust State which obstinately persists in its wrongdoing. Before any forcible action is taken against the disturber of right order, time should be given him to repent and to make reparation for the damage he has caused. The original incident should be made the subject of preliminary negotiations, proposals of conciliation and arbitration, etc. If all efforts to solve the dispute peacefully fail owing to the obstinacy of the culprit, a solemn warning should inform him that the hour of diplomatic negotiations is over and that he has now to face his responsibilities. Hostilities cannot commence "without a previous and unequivocal warning, which shall take the form either of a declaration of war, giving reasons, or of an ultimatum with a conditional declaration of war." (Second Hague Conference, 1907. *Convention relative to the commencement of hostilities*.) It goes without saying that, in order to safeguard the last remaining chances of peace, there should be a reasonable delay between the notification and commencement of hostilities.

(iii) *The Acts of War*

165. In answer to the question, "what is permissible against enemies in a just war?" Vittoria replies that "In a just war, one has the right to do everything that is necessary for the defence of the public good." (*De jure belli*, No. 15.) But according to the great teacher of Salamanca—as can be seen from the context—this

right is limited by the demands of morality and natural law.

166. The needs of warfare will never allow belligerents to commit actions which are wrong in themselves, such as treason, the breaking of solemn oaths, assassination, slanderous charges, etc. The end does not justify the means, and no advantage, however great, must be gained at the expense of a violation of the moral law. The methods used by a belligerent to discover the secrets of the enemy should be judged in the light of the same principles.

167. Morality also forbids brutality and useless cruelty. No doubt "war is war" and cannot be undertaken without destruction, bloodshed, and the loss of human life. The just belligerent can cause these inevitable evils to his adversary, but only to the extent needed to curb his wrongful obstinacy. To overstep these bounds would be a violation of justice and charity.

168. Some have been sceptical enough to say that war, being essentially inhuman, cannot be made more humane. Others say that on the whole the most humane type of war is a relentless one which, by the terror it inspires, promptly breaks the enemy's resistance. All this is pure sophistry which Christian morality cannot countenance.

War is a struggle between men, not between wild beasts bent on mutual destruction; it is therefore something essentially human and subject to the laws of humanity. The just belligerent still considers his enemies as creatures made to the image of God who, in spite of their wrongs, are still entitled to his respect and love.

Since he is compelled to use force and violence against them, he will only do so to the extent required by the rightful cause he has undertaken to defend. These ethical requirements have been sanctioned by the positive law of nations. Article 22 of the Regulations respecting the law and customs of war on land adopted at The Hague in 1907, expressly says that "the rights

of belligerents to adopt means of injuring the enemy are not unlimited." This principle was unanimously adopted by all the States represented.

On the other hand, it is extremely doubtful whether the cruel and implacable severity of a belligerent would promptly disarm a terrorized enemy. On the contrary, experience has often shown that these barbarous methods, far from shortening the war, prolong the resistance of the exasperated enemy, provoke terrible reprisals, and transform the struggle into a blind and inhuman massacre.

169. The Church has always tried to humanize the methods of waging war because she considers that it is a human affair; others, who do not claim her patronage but are nevertheless inspired by her ideal of peace and charity, have tried to do the same; their united efforts have resulted in those "laws of war" which all civilized nations have accepted and which they are bound in conscience to respect.\*

\* Over and above the prohibitions contained in special agreements, the "Regulations respecting the Laws and Customs of War on Land" (Hague Conference, 1899 and 1907) especially forbid:

- (a) To employ poison or poisoned weapons.
- (b) To kill or wound treacherously individuals belonging to the hostile nation or army.
- (c) To kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion.
- (d) To declare that no quarter will be given.
- (e) To employ arms, projectiles, or material calculated to cause unnecessary suffering.
- (f) To make improper use of a flag of truce, of the national flag or of the military insignia and uniform of the enemy, as well as of the distinctive badges of the Geneva Convention.
- (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.
- (h) To declare abolished, suspended or inadmissible in a

170. It is unfortunately true that the disconcerting progress of science and technique offer to belligerents increasingly powerful means of dealing death and destruction; aerial war, submarine war, bacteriological war. It would be useless to refuse States the right to adapt to a certain extent their armaments and methods of warfare in the light of these new discoveries, and on many points the "laws of war" will doubtless be modified. Nevertheless it remains certain that the higher law of humanity will always forbid the use of the more destructive methods—chiefly chemical and bacteriological—which cause such terrible havoc that no cause of war, however legitimate, can ever justify them.

#### (iv) *Prisoners of War*

171. It is chiefly by the treatment meted out to prisoners that wars between civilized nations differ from those between barbarians. Savages merely consider prisoners as defenceless enemies on whom they can revenge themselves with impunity, or reduce to slavery. The progress of civilization has gradually im-

court of law the rights and actions of the nationals of the hostile party.

"It is likewise forbidden a belligerent to force the nationals of the hostile party to take part in the operations of war directed against their country, even if they were in its service before the commencement of the war." (art. 23.)

The five Powers which took part in the Washington Conference 1921-2—U.S.A., British Empire, France, Italy, Japan—spoke of "the use in war of asphyxiatory, poisonous, or other gases, and all analogous liquids, materials or devices" as justly condemned by the general opinion of the civilized world, declared their assent to their prohibition, and invited all other civilized nations to do the same. (Treaty of Feb. 6th, 1922.)

In 1925 a Protocol on broader lines, open to the signature of all nations, extended this prohibition to bacteriological methods of warfare. At the present time this Protocol has been ratified by about thirty nations.

proved the lot of prisoners, whose lives are now spared and who are granted means of subsistence, humane treatment, and, when peace has been signed, are sent back to their homes.

The older moralists show much less mercy to prisoners. Franciscus de Vittoria held that "there is nothing to prevent prisoners or those who have surrendered from being put to death, if they have been found guilty."

It is true that the writer supposes that the prisoners have been found guilty, and his further remarks soften this doctrine considerably; "In war there are many customs established by the law of nations, and it is generally admitted in the habits and usages of war that, once victory has been gained and all danger averted, the prisoners should not be put to death, unless of course they have fled; in this connection the law of nations must be obeyed to the extent that men are accustomed to do so." (*De jure belli*, No. 49.)

Nowadays, when armies are recruited by conscription, the combatants are rightly presumed not to be guilty, and the customs of modern warfare, which have been confirmed by the second Hague Conference (1907) explicitly forbid the execution of prisoners. It is therefore a ruling of positive law which belligerents are bound to obey in strict justice.

172. It is therefore absolutely clear that prisoners have a right to live. But it remains to be seen whether the just belligerent is obliged to accept the surrender of soldiers who lay down their arms, or can make a rule that no prisoners are to be taken.

The order to give no quarter, which is dictated by hatred or revenge, and turns the struggle into a ruthless massacre, is absolutely immoral. Some military regulations allow it "in cases of absolute necessity", but the second Hague Conference did not admit this exception and prohibits the "no quarter" order entirely.

It may sometimes happen that the military authorities forbid their troops to accept gestures of surrender, on account of previous misuse by the other side. In that case, this measure, however severe it may be, can be considered as a means of legitimate self-defence which is justified by the bad faith of the enemy.

(v) *The Treatment of Non-Combatants*

173. If recourse to force is only lawful against those who unjustly impugn a right or who, having violated it, refuse to make reparation for the damage they have caused, it follows that the just belligerent cannot, on principle, use violence against those who have not in any way sided with injustice.

174. But though the belligerent cannot make any direct and intentional attempt on the lives of peaceful inhabitants who take no part in the war, he is not forbidden to do certain things in the course of the struggle which will necessarily bring about the loss of innocent lives. This loss was not directly willed, as a means likely to break the resistance of the enemy; it is permitted or tolerated as a secondary effect which is inevitably bound up with the legitimate end in view.

For these reasons it is permissible to fire against centres of military resistance, even if by so doing there is a danger of hitting private houses, schools, hospitals, and causing the death of non-combatants. Likewise, unless there is a contractual agreement to the contrary, it is lawful to make use of bombing planes to attack munition factories and railway junctions situated far from the firing line, in spite of the inevitable loss of innocent lives brought about by these expeditions.

Nevertheless there must be a reasonable proportion between the lawful end sought by the belligerent and the harm to innocent people which results from it against his direct will.

"It is important to notice," writes Vittoria, "that great care should be taken to prevent war from caus-

ing greater evils than those it purposes to avoid; if there is no great gain, from the point of view of obtaining a complete victory in a war, in taking a citadel or fortified town which contains an enemy garrison and many innocent people, it does not seem allowable, for the sake of reducing a few enemies, to kill a number of harmless creatures by fire, machines, or other means which harm the innocent and the guilty without distinction." (*De jure belli*, n. 37.)

Morality will never allow a belligerent to attack non-combatants directly, so that the enemy may be led, under pressure of its terrorized subjects, to give up the struggle sooner (bombing of open towns, poison gas, bacillary infection, torpedoing of liners, etc.) In all these cases the harm inflicted on innocent people is directly sought as a means of bringing about the more rapid surrender of the enemy, and it is never lawful to do evil that good may result, for the end does not justify the means.

175. The older moralists had no difficulty in establishing a very clear distinction between combatants and non-combatants. The bands of mercenaries lived on the fringe of civil society, and more or less drew upon their own resources in the conducting of war. Things are very different to-day, when the whole nation identifies itself to a certain extent with its army, and industrialists, financiers, workers, railwaymen, sailors and civil servants work night and day to equip and provision it, when the patriotism of those at home efficaciously sustains those in the front line, and public opinion supports the Government and encourages it to persevere in resistance.

War has become a national affair, and all citizens in various ways take a very active part in it. It is sometimes very difficult indeed to distinguish between combatants and non-combatants. Is not the enemy therefore justified in taking the line of least resistance and attacking indiscriminately both civil and military ele-

ments, in order to dissolve this compact union?

The argument is not unreasonable, and belligerents have certainly the right to take into account the part played in modern warfare by the civilian population. The latter has ceased to be "innocent" in the sense of the older moralists. It is now permissible for the just belligerent to attack the enemy in the vital elements of its economic structure; militarized factories, railways, ports, sources of raw materials, etc. He is also allowed, by means of blockade, to exercise a gradual pressure which will end in the surrender of the adversary.

But the mass murder rendered possible by chemical or bacteriological war must be judged quite differently. The extermination of entire populations, which are not given any time to show repentance, is obviously a dreadful crime against the laws of humanity.

176. Already in the middle of the nineteenth century, Taparelli, anticipating modern methods of destruction, wrote that "to poison wells, spread epidemics, use certain over-powerful infernal machines and certain weapons causing terrible wounds, is illicit and forbidden by the law of nations. It is a praiseworthy thing to combat with equal armaments, and to use weapons more deadly than those of the enemy; victory depends upon breaking the balance between the opposing forces; an equal destruction of both sides is not the best means of upsetting this equilibrium and obtaining victory." (*Saggio*, Bk. vi, ch. I, No. 1354.)

These remarks are sound, though it may be observed that the breaking of the equilibrium in which victory consists will only be brought about by the superiority of one side over the other. But Taparelli clearly foresaw that any increase of the destructive power of one of the belligerents would be promptly countered by the other, and that this rivalry in violence and savagery, far from hastening the hour of victory, would prolong the struggle until both parties were completely exhausted.

Taparelli is perhaps asking for too much when he demands that both parties should be equal in their armaments; it must be agreed, however, that a civilized State cannot use the latest means of destruction provided by modern military technique against a semi-barbaric or insufficiently armed nation. For in this case the slaughter will be greatly in excess of that normally required by military necessity, and simply becomes useless and culpable cruelty.

(vi) *Enemy Possessions and Territories*

177. The older moralists, who were very anxious to preserve the lives of innocent people from unjust attacks by the enemy, were far more easy-going as regards the treatment of the possessions of the peaceful population. Vittoria writes in his *De jure belli* that "it is certain one can take from innocent people goods and other things the enemy would make use of against us, such as arms, ships, engines of war. For otherwise, victory, which is the purpose of war, could not be attained. Furthermore one can take away the money of the innocent people, and burn or destroy wheat, if that is necessary to weaken the enemy forces. (No. 39.) But he adds immediately an important proviso: "If war can be carried on properly without despoiling the peasants and other innocent people, it seems that it is not permissible to despoil them." (No. 40.)

These principles are correct and continue to govern nations, though happily they have been mitigated and stated more precisely by the modern laws of war.

178. Though it is comparatively easy, at least in theory, to make a distinction between combatants and non-combatants, it is not so easy to make a similar distinction between goods which are or are not used for purposes of war. In point of fact all the enemy's resources, wherever they may be, can be used to prolong resistance, and the adversary should be permitted to take or even destroy them, if necessary, without re-

gard to the rights of their lawful owners, by bombing, fires, requisitioning, etc.

Nevertheless, the laws and customs between civilized nations make it a duty for them to spare, as far as possible, those buildings which, by their very nature, cannot be put to military uses: churches, libraries, historical monuments, etc.

179. Those things which the necessities of war permit in combat naturally cease to be lawful once the struggle is ended and the victor occupies, at least provisionally, the territory he has invaded. The régime of occupation has its laws which the just belligerent is bound to observe.

180. Until the nineteenth century, custom allowed that the mere of fact of military occupation—*occupatio bellica*—gave the occupying power full sovereignty over the territory it had taken. It could therefore govern it as a true and final possession, impose its laws, raise taxes, and use both its people and its goods in the struggle against the former possessor.

This practice is unacceptable, since it implies that force alone can be a source of Right.

A fairer principle is applied to-day. The territory remains *de jure* under the authority of the evicted sovereign, but as he can no longer rule it, the occupying Power takes his place in the very interests of the inhabitants and fulfils the functions of a legal Government until the conclusion of peace, which will finally settle the fate of the occupied territory.

“Of themselves the acts of public administration of the occupying power have no validity, but the legitimate authority (of the legal Government) tacitly ratifies those which are demanded by the general interest, and this ratification alone gives them juridical value.” (Cardinal Mercier. Pastoral Letter, *Patriotisme et Endurance*, Christmas 1914.)

181. The Regulation concerning the Laws and Customs of War on Land which resulted from the de-

liberations of two Peace Conferences (The Hague, 1899 and 1907) has defined the rights and duties of the occupying authority and successfully reconciles the real necessities of war with the imprescriptible demands of justice and humanity.

The occupying power shall endeavour to restore and make secure both public order and life by respecting whenever possible the laws already in force in the country. The inhabitants are not to be forced to take part in warlike operations against their own country. The honour and rights of the family, the life of individuals, as well as religious beliefs and the practice of religion, must be respected. Private property cannot be confiscated. If the occupying power collects taxes instead of the legal Government, it must use them for their normal purpose. If it raises other taxes, they can only be used for the needs of the army or the administration of the occupied territories. No collective fine shall be levied on the population by reason of individual acts for which it cannot be considered as jointly responsible. Requisitioning of goods and services can only be demanded when accompanied with a just indemnity.

182. The occupying Power provisionally owns the possessions of the enemy State situated in the invaded territory. But on principle it is only allowed to administer them. Goods which can be made use of in military operations may nevertheless be taken by the occupying army, even if they belong to private individuals. Municipal property, and goods belonging to religious, charitable, educational, artistic or scientific institutions, shall be treated in the same manner as private property.

183. The inhabitants of the occupied territory retain their allegiance to the legal government of the country; they merely owe to the occupying power an external submission which does not affect their loyalty. They are not allowed to commit acts of individual or collective violence against the army or administration of the enemy; these acts, which are useless for their cause,

simply lead to repressive measures against their fellow-citizens. They may act as spies on behalf of the legal government; but this patriotic activity obviously renders them liable to suffer the penalties which the law of nations authorizes the occupying power to decree against those who menace its security.

#### Y.—The Re-establishment of Peace

184. "It is with the desire for peace that wars are waged," wrote St. Augustine. (*De Civ. Dei*, Bk. XIX, ch. xii, Eppstein, *C.T.*, p. 233.) Peace, which according to the same writer, is the "tranquillity of order," necessarily implies the restoration of justice and charity between nations. A truly just and lasting peace is the supreme aim which morality assigns to victory.

In theory, it is the just belligerent who is entitled to victory. In actual fact, however, it often happens, (by the permission of Divine Providence, whose inscrutable though merciful designs cannot always be fathomed by the limited understanding of men), that military success foresakes the cause of justice and crowns the wicked designs of a criminal State. We must therefore examine two hypotheses; the just belligerent overcomes his adversary; or is defeated by the latter.

##### (i) *The Just Belligerent is Victorious*

185. War is only allowed when it is the sole and necessary means of defending an essential right which is unjustly attacked, or, if it has been violated, of obtaining adequate reparation. This purpose is attained as soon as the unjust aggressor gives up his attempts and sincerely offers to give full satisfaction. From that moment the victor gravely compromises his cause if he rejects these proposals and continues hostilities.

The principle is quite clear, but its application raises thorny problems which the mere application of the law of "rigid justice" does not suffice to settle.

186. First of all, what are the conditions which the

just victor has a right to dictate to an enemy who surrenders unconditionally?

These conditions have been summed up by Suarez under four headings, which in modern terms may be called *restitution, reparations, sanctions* and *guarantees*.

"Complete satisfaction comprises:

1. The restitution of all the goods unjustly detained by the adversary.

2. The reimbursement of expenses incurred owing to the injustice.

3. It is permitted to use certain sanctions by reason of the fault committed, for in war there is place for vindictive as well as commutative justice.

4. It is also permitted to demand all that is necessary for the conservation and defence of peace, since the chief purpose of war is to lay the foundations of a lasting peace." (*De tripl. virt. Theol.*, T. III, disp. XIII, sect. vii, no. 5.)

These lucid and precise formulæ do not call for any further comment.

187. In principle, reparations should cover all the expenses and damage which war has caused to the just victor. But this demand of "rigid justice" will often be seriously mitigated by considerations of advisability, the requirements of the common good, and especially the law of charity.

The disasters caused by the great wars of modern times are nearly always catastrophic in extent, and the transfer of sums owed in reparation raises almost insoluble technical problems. The wholesale removal of enormous sums of money causes economic perturbations which affect even those who benefit by them. Furthermore, charity does not allow one to require from a State, however culpable, more than it can normally pay.

There are two ways of avoiding this difficulty.

First of all, one may spread out the payment of the sums demanded over a great number of years, by adjust-

ing the annuities to the capacity of the debtor State. This would satisfy both technical requirements and the demands of charity. But this method, by making the vanquished nation feel for too long the effects of defeat, tends to foster resentment and is hardly likely to bring about the re-establishment of a sincere and lasting peace.

The victor may also seek indemnification by finally taking possession of a portion of the enemy's territory. This raises the problem of annexation, which we shall deal with later.

In the letter *Quando nel principio* which he wrote on June 24th, 1923, to his Secretary of State, Cardinal Gasparri, H.H. Pius XI showed how it was possible, in the thorny problem of reparations, to conciliate the demands of justice and those of charity:

"When, with the intention of repairing the very important damages suffered by populations and districts formerly prosperous and flourishing, the debtor (i.e., the State owing this reparation) gives proof of a serious determination to arrive at an equitable and final agreement, soliciting an impartial decision upon the limits of his own solvency and pledging himself to furnish the arbiters with every means of arriving at a true and exact estimate of his resources, then justice and social charity, as indeed, the very interest of the creditors and of all the nations, exhausted by wars and athirst after tranquillity, seem to oppose the claiming from the debtor what he would be incapable of giving without draining himself entirely of his own resources and of his own capacity of production. For this would result in an irreparable injury to the debtor as well as to the creditors themselves and in the danger of social upheavals which would be the definite ruin of Europe, and of rancours which would keep up a continued menace of new and more disastrous conflagrations.

"Similarly, it is just that the creditors should possess guarantees proportionate to the amount that is owed to them and which assure the recovery of it, upon which

depend interests equally vital to them." (Eppstein, *C.T.*, p. 220.)

188. All theologians allow the just victor to punish the culprits who unjustly provoked the war. Vittoria considers this as a natural right, "seeing that otherwise society could not hold together unless there was somewhere a power and authority to deter wrongdoers and prevent them from injuring the good and innocent." (*De jure belli*, no. 19. Eppstein, *C.T.*, p. 102.)

It is however necessary to restrict the right of vindicating society which belongs to the just victor.

(a) "It sometimes happens (indeed often) that not only the subjects, but even the rulers, who actually do not have a just cause, go to war in such good faith that they cannot be considered as guilty." (Vittoria, *De jure belli*, No. 59.)

(b) Suarez shrewdly remarks that "reason demands that vindictive justice should be exercised to the least possible disadvantage of the common good." (*De tripl. virt. Theol.*, Sect. VIII, No. 3.)

The punishment of culprits is not an end in itself; it is demanded by the interests of society, and the latter will often prefer a generous pardon which contributes to the consolidation of peace to an inflexible justice which fosters resentment, hatred, and a desire for revenge on the part of the vanquished nation. "Nations do not die," wrote Benedict XV in his Apostolic Exhortation of July 28th, 1915; "humbled and oppressed, they chafe under the yoke imposed upon them, preparing a renewal of the combat, and passing down from generation to generation a mournful heritage of hatred and revenge." (Eppstein, *C.T.*, p. 211.)

(c) A collective punishment affects the whole nation, which very often was not originally responsible for the unjust war. It would be fairer to punish those individuals, however highly placed, whose perversity, ambition or intransigence have brought about the conflict. Vittoria was of the same opinion, and was not

afraid to write, in a time of absolute monarchy; "This (judgement) should involve the offending State in the least degree of calamity and misfortune, the offending individuals being chastised within lawful limits; and an especial reason for this is that in general among Christians all the fault is to be laid at the door of their princes, for subjects when fighting for their princes act in good faith, and it is thoroughly unjust, in the words of the poet, that

*Quidquid delirant reges, plectentur Achivi.*

(For every folly their Kings commit the punishment should fall upon the Greeks.)" (op. cit. no. 60, Eppstein, C.T., 106.)

However well-founded on reason may be the right of punishment which the whole of Christian tradition recognizes to the just victor, its practical exercise gives rise to many difficulties. Who is qualified to point out the culprits? Who will provide judges and guarantee their impartiality? On what criteria will the findings of the tribunal be based? So long as a League of Nations provided with appropriate machinery is not working, governments are wise in declining to exercise a mission of vindication for which they do not feel sufficiently qualified.

189. Of the four conditions which the just victor can impose upon his vanquished enemy, *restitution*, which restores his impugned or violated right, is obviously the most important; it was the essential and immediate reason for undertaking the war. The fourth—*security*—has both for himself and for the collectivity of States, an importance equal to the first; war is made in order to obtain a lasting peace. *Reparations* and *sanctions* are not so much ends of war as means of reinforcing peace, and the victor must primarily consider them under that aspect when he makes up his list of demands.

190. There are two ways open to the just victor in providing for his security; he may either morally disarm the enemy and gain his esteem by the Christian modera-

tion and meekness of the terms imposed, or make him physically incapable of renewing the struggle (limitation of armaments, territorial annexations).

The first method is certainly more in conformity with the law of charity and must be preferred to the other when it is likely to result in a sincere and full reconciliation. It would be wrong to under-estimate its efficacy, and history flatly contradicts on this point the opinion of prejudiced sceptics. But both parties are needed for reconciliation; the generous offer of the victor must be met by the open and sincere acceptance of the vanquished enemy. If the latter refuses to make this gesture, or if his previous conduct leads one to doubt his promises, the victor has only one way left to provide for his security, namely disarmament or territorial annexations.

191. In itself, there is nothing wrong in disarmament imposed on an unjust aggressor, so long as it does not leave the vanquished enemy defenceless against the eventual attack of a third power. But unless there is a general and simultaneous reduction of armaments, how can one prevent the State on whom this obligation is imposed from considering itself, rightly or wrongly, as being subject to some exterior menace and unjustly deprived of any means to counter it? On the other hand, the control implied by this sanction will either be illusory and useless, or inquisitorial to the point of being odious. It therefore seems that this measure is hardly likely to promote the re-establishment of peace and security.

192. Annexation, which deprives the enemy of an important part of its territory, of useful strategic positions, of a portion of its man-power, revenues, and raw materials, and renders it incapable of ever challenging its victor, is a far more efficacious measure.

All moralists have recognized the lawfulness of annexation which takes place on the grounds of reparation, sanctions or security. For if the victim of

an unjust aggression is allowed to indemnify himself with the goods of the enemy, to punish the unjust aggressor and to prevent effectively the renewal of such attacks, there is no reason why the territory of the enemy should alone always escape the effects of such a right.

At the present day, however, annexation is less easily accepted as a legitimate condition of peace, and this attitude is supported by an argument which is not without weight. In former times, annexation involved far less disadvantages for the transferred populations than it does to-day. The very strong particularism of their local life lessened their consciousness of a true national unity, if it did not sometimes entirely obliterate it; the wide political decentralization then prevalent allowed them to change allegiance without losing their autonomy, and they accepted their fate quite readily. But in our modern unified and strongly centralized States, the loss of a province is a very painful amputation, and the conquered populations are very unwilling to submit to a transfer of sovereignty which is equivalent to complete de-nationalization. This inevitably creates irredentisms, which in turn become sources of irreconcilable antagonisms and hardly serve the cause of peace, for which the war was made. Nowadays annexation can only be an extreme solution, except in very rare cases which concern provinces formerly belonging to the victor and which had been taken from him in previous disputes.

193. Such are the "aims of war" which the just belligerent may lawfully assign to his enterprise. It remains to be seen whether he can continue war until he gains a decisive victory which enables him to impose them upon his adversary, or whether he is bound to accept sooner the pacific gestures of the enemy.

The unjust aggressor who sees his chances of success diminishing will first of all try to make the best possible use of the advantages he may have gained at the begin-

ning of the campaign. He will therefore begin by showing peaceful intentions and will even suggest the opening of negotiations, which the material advantages he still holds will allow him to exploit for his own ends. These first overtures cannot in themselves oblige a State which has a just cause for war to open negotiations with the enemy without delay. The latter must first of all give unmistakable proofs of the sincerity of his intentions. The just belligerent can quite rightly demand the restitution by the enemy of those advantages he wrongfully detains, and which can never form the subject of diplomatic negotiations.

194. Kindly mediators, who do not wish to judge the merits of the conflict, but are anxious to put an end to excessive bloodshed, often recommend a "blank peace" which will simply re-establish the *status quo ante bellum*. This proposal may be interpreted in two ways. If the just belligerent is asked to give up all his demands, including the restoration of his injured or violated rights, he is in no way obliged to accept it; if the "blank peace" merely implies the renunciation of reparations, sanctions or guarantees, justice, which demands that he should not require useless sacrifices from his own subjects, and charity, which he owes even to his enemies, may impose upon the just belligerent the duty of accepting it as a conciliatory form of settlement.

195. Lastly, when the enemy offers to give complete satisfaction, the victor has no longer the right to continue the struggle. He can however make the suspension of hostilities conditional to the signature of an armistice which will render the enemy incapable of renewing the fight.

#### (ii) *The Unjust Belligerent is Victorious*

196. Victory does not confer any rights on the unjust belligerent; it is as iniquitous as all the acts of war which preceded it.

197. Nevertheless, when every reasonable hope of success has disappeared, justice may demand the just belligerent to spare his own subjects the prolongation of useless resistance, and to accept the law of the victor, however heavy it may be.

In itself, the treaty imposed by an unjust belligerent is null and void; the force which has dictated it cannot create Right. The vanquished belligerent is nevertheless obliged to accept it, not on account of the victor's right (since this right does not exist), but in the interests of its own subjects and of the international community which it must preserve from the horrors of another war.

It follows from the absolute nullity of the rights assumed by the unjust victor that the vanquished enemy may continue to hope for a legitimate revenge. He may also, when another conflict takes place (not provoked by him, but involving his enemy) put forward his claims and demand the restitution of those goods and territories of which he was unjustly despoiled.

#### VI.—Intervention and Neutrality

198. When a war breaks out between two States, the other Powers, in the hypothesis of a still unorganized international society, have to choose between two courses; intervention and neutrality.

199. Intervention, as has already been said, is only lawful if it takes place on behalf of the belligerent who has a just cause for war.

It may sometimes become a strict obligation; it is an obligation of justice when a State has bound itself by treaty to assist another State unjustly attacked; it is an obligation of charity when exercised towards a State which is too weak to defend itself alone against unjust aggression and which can be helped without too much trouble.

Except in cases of contractual agreement, a State must first of all determine its attitude according to the

true interests of the community under its care. The latter will often demand abstention from any kind of intervention.

200. Neutrality is the situation of a State which refuses to declare itself for either of the belligerents and forbids itself any interference in their quarrel.

It may be obligatory, either by virtue of a perpetual status (perpetual neutrality) or of a declaration made before the beginning of hostilities (occasional or voluntary neutrality).

*Perpetual* neutrality forbids any treaty of alliance and is as often as not imposed on a State for reasons of general interest; it admits of no exception. The same cannot be said of occasional neutrality, for the latter cannot be allowed to prevail against an obligation of justice or of charity which would demand intervention in certain circumstances.

Neutrality is *conditional* when the State which proclaims it has taken care to lay down the terms on which it refrains from intervention.

It is *armed* when a State equips itself to defend its neutrality against any belligerent who might attempt to break it.

201. So long as a State refrains from taking part in the dispute, neither belligerent has the right to treat it as an enemy. Usually neutrality is spontaneously declared at the beginning of hostilities. The parties at war are vitally interested in knowing from the very start what opposition they will have to reckon with. A belligerent has the right to ask very definite questions of a Power which has not yet made known its intentions, and whose eventual intervention it has reasons to fear, and to demand a declaration which does not leave room for ambiguous interpretation. A refusal to reply or an evasive answer would naturally lead to the suspicion of hostile ulterior motives, and authorizes the interpellator to take all means necessary for his defence.

202. Neutrality implies certain rights and duties

which have taken a long time to define and codify. The task was not an easy one, for it meant the harmonizing of demands which are difficult to reconcile; those of neutrals who wish to keep their liberty of action in the face of a conflict which does not concern them, and those of belligerents who will not allow this liberty to interfere unduly with their strategic activity or to become a source of advantage to the enemy.

The rights and duties of neutrals were made the subject of two Conventions at the second Hague Conference (1907), the first concerning War on Land and the second, Naval War.

203. The duties imposed by neutrality are two-fold; first of all, refusal to partake either directly or indirectly in the hostilities; secondly, to show absolute impartiality towards the belligerents. The neutral State cannot therefore place its territory at the disposal of the belligerents, or supply them with troops, arms, munitions, etc. On the other hand it must give equal treatment to the two parties at war in all the measures the dispute obliges it to take.

Nevertheless, these rules only bind the neutral States themselves; their subjects are still free to enlist—at their own risk—in the belligerent armies, to furnish them with supplies, etc. It goes without saying that in conscience they can only support the adversary which has a just cause for war.

The neutral State may limit the exercise of this right and even forbid it absolutely. But if it takes this step, it must treat both belligerents equally.

This impartiality must be understood in a purely passive sense; the neutral State cannot do anything to favour one of the belligerents at the expense of the other. It is not active, in this sense that the neutral State is not bound to take any measures to ensure that the trade and help of its subjects is equally helpful to both States at war.

The neutral State is responsible for acts contrary to

neutrality which it performs or allows to be performed on its territory and which it could have prevented, and is bound to make good the damage which its fault or negligence causes to the injured belligerent. If these infringements of neutrality are of a definitely hostile nature, they may even become a legitimate *casus belli*.

204. Within the limits of these obligations, the neutral State has a right to the inviolability of its territory, the respect of its independence, and the free exercise of international commerce. As regards the latter, however, the liberty demanded must be harmonized with that claimed by the belligerents for the effective conducting of war. Positive international law has tried to conciliate, especially as regards naval war, the legitimate demands of both parties. (Second Hague Conference, 1907: *XIth Convention relative to the creation of an International Prize Court*.)

205. As regards the immunity of neutral territory, history has witnessed a remarkable evolution of doctrine in the course of centuries.

Following St. Augustine, moralists have long held that "harmless transit through a territory must be allowed in view of the very equitable right of human society." (Cf. Eppstein, *C.T.*, p. 81.) *Transitus innocuus* or harmless transit is therefore an indubitable right which can be claimed by all members of the community of nations, so long as they pursue honest ends. A just belligerent is therefore justified in claiming it from a third Power not concerned in the dispute. If the latter rejected his demand, it would be unjustly impeding the defensive action of the just belligerent, who would thereupon have the right of making his way through by force of arms.

From the point of view of the just belligerent, this interpretation is perfectly coherent and correct. But looked at from that of the third power in question, it gives rise to serious objections in practice. A State will

often find it very difficult to decide whether the belligerent who asks for passage has a just cause for war. When it is doubtful, must he transform his territory into lists where the adversaries may settle their quarrel at their convenience? The whole doctrine of *transitus innocuus* is based on an unproved assumption. Were the theorists who propounded it ignorant of the fact that no country allowed peaceful passage to the rowdy and disorderly soldiery of the mercenary armies? On the other hand, the acceptance of the demand of one of the parties inevitably meant the risk of reprisals on the part of the other, who would use this permission to justify his own crossing of the frontiers of the over-hospitable State.

In order to harmonize more equitably the right of the just belligerent and the legitimate interests of neutrals, the severity of the doctrine of *transitus innocuus* has gradually been mitigated by opportune restrictions. But since the eighteenth century an entirely different idea has arisen among the lay theorists of the Law of Nations. They no longer consider war as a defensive action in the service of Right; it is merely a trial of strength which, by mutual agreement, is to settle the dispute between the two adversaries. In this theory there is no longer any place for the doctrine of *transitus innocuus*, which is entirely based on the exclusive right of the just belligerent. As Père de la Brière remarks, "if war is to be regarded as a duel, in which the adversaries have equal rights, the third Powers have not the slightest obligation to make a distinction between the guilty belligerent and the belligerent who has a just cause for war, between the criminal and the policeman, but must deliberately hold themselves aloof from the struggle, respect impartially the conditions of the duel, and claim on principle an abstention and immunity which will take on a normal and juridical character, and become a condition of Right." (*L'évolution du droit des gens au sujet du*

*passage des armées belligérentes à travers les territoires neutres*, p. 35.)

Thus has been constituted the modern theory of neutrality, of which the absolute immunity of neutral territory is but the necessary corollary. This doctrine has been finally stated in the Hague Convention of October 18th, 1907:

"Art. 1. The territory of neutral Powers is inviolable.

"Art. 2. Belligerents are forbidden to move across the territory of a neutral Power troops or convoys, either of munitions of war or of supplies.

"Art. 10. The fact of a neutral Power repelling, even by force, attacks on its neutrality, cannot be considered as a hostile act."

206. The laws of neutrality are of fairly recent origin. What rights did neutrals possess in the past? None, or next to none. They were pushed aside and ignored—unless they happened to have force on their side. It is by their own struggle and association of efforts—for example, the "league of neutrals"—that these States have won respect for the right of neutrals.

Must this right become everything? By no means, since neutrality cannot have the last say in the life of nations.

In fact neutrality, which considers war as a *res inter alios acta*, is the very negation of that solidarity which must unite nations in the common defence of justice and international order. Whether it be an admission of failure, prudent abstention, or selfish move, neutrality is always an inglorious shift; it should not find place in a well-organized society of nations which denounces an unjust war as a crime against humanity and mobilizes against it the repressive power of all States.

In this eventuality, the problem of the passage of belligerent armies through neutral territories must be viewed from the same standpoint as that of the old moralists and canonists. The doctrine of *transitus*

*innocuus* replaces the theory of the absolute immunity of neutral territory, and it is not surprising that the Covenant of the League of Nations derives inspiration from it when it modifies the right of neutrality in this matter. Article 16, par. 3, lays down that "The members of the League agree . . . that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League."

### CHAPTER III

## THE CONTRACTUAL ORGANIZATION OF INTERNATIONAL SOCIETY

207. THERE are two sorts of natural institutions; some correspond to an absolute and immediate need of human nature; others only become necessary in certain very definite circumstances. The family group, without which the propagation of the human race could not take place normally, belongs to the first category; the second one includes political society and international society, which only become necessary under certain conditions of social density and interdependence.

The bonds of solidarity which lead families to unite into townships, the townships to group themselves into States, and the States to form an international community, have only been formed progressively, and it is easy to realize that the political and international institutions which correspond to these various stages have shaped themselves very gradually, evolving slowly according to circumstances and taking a long time to acquire any definite constitution. But sooner or later this evolution ends and the institution is crystallized in a definite juridical formula which leaves no room for any ambiguity.

208. The same thing has happened in the case of the League of Nations. As soon as States are united by bonds of mutual interdependence, this actual situation brings into existence a juridical order to which all must submit themselves: *ubi societas, ibi jus!* An international society has arisen which imposes duties, creates rights, and implies the existence of an authority.

But for a long time States have contented themselves with a purely empirical organization of international life, which they corrected, completed and perfected according to circumstances and needs. But this system was not without its drawbacks. Disputes arose as to the nature of duties, the extent of rights, the interpretation of the general will in which international authority rested.

Even before 1914 the pressing need was felt of a precise and definite juridical organization of the Society of States. It was found to be even more necessary after that terrible catastrophe, which a well-constituted international organism would have prevented. The Covenant of the League of Nations was the outcome of those events.

209. In order to promote international co-operation and to achieve international peace and security, the signatories of the Covenant solemnly undertook not to resort to war, to maintain open, just and honourable relations between nations, and to establish firmly the understandings of international law as their sole and intangible rule of conduct.

210. This Covenant is quite different from a treaty of a contractual type, which merely expresses the agreement of various wills, each seeking its own advantage; it is a treaty having force of law, a Statute by which the signatories subordinate their own particular interests to something higher, the common good of the human family.

"Its purpose," writes G. Renard, "is doubtless the individual good of each of the member States, but . . . it is the good of each one, *not as opposed* to that of others, but rather *as agreeing with that of others* in a synthesis of a common good in which they all partake. In ordinary contracts, the seller seeks the highest price for the least quantity, and the buyer the greatest quantity for the smallest price; this is the case in hiring, borrowing, etc. . . It is a transaction in which each one

gains as many points as are lost by the other. In this case, however, there is no transaction, but rather a combination of interests; the aim of the Covenant is a higher interest in which each one of the parties finds both its own personal interest and that of its fellow-members." (*Les grandes activités de la Société des Nations devant la pensée chrétienne*, p. 62.)

211. The League of Nations is a voluntary association open to "any fully self-governing State . . . provided it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments." (*Covenant*, Art. I.)

This admission is however subject to the agreement of at least two-thirds of the States already associated.

Any member may withdraw after two years' notice, provided it has fulfilled all its international obligations at the time of its withdrawal.

212. Supreme authority is vested in the general Assembly of the States. Its decisions, in order to bind all the members, must be unanimous, except when otherwise provided. This condition reduces the effective power of the Assembly to very little.

Furthermore, the latter shares the government of the League with a Council consisting of representatives of the chief Powers which have permanent seats, and nine non-permanent members nominated by the Assembly for a period which must not as a rule exceed three years.\*

A permanent Secretariate deals with the current affairs of the League and acts as a link between the members.

Two autonomous bodies, the Permanent Court of

\* In 1936 the Council raised the number of non-permanent members to eleven by provisionally creating two additional seats.

International Justice and the International Labour Office, complete the juridical system which is to ensure the just and peaceful collaboration of nations.

213. International co-operation, as organized by the Covenant of the League of Nations, has a double purpose; its first and most difficult task is to maintain order and peace between nations; secondly, it must create, with the help of this peaceful order, the best conditions for the full development of civilization.

214. In his Peace Message of August 1st, 1917, H.H. Benedict XV had pointed out the best method of obtaining this first result (see No. 38). It may be summed up in three words: *disarmament, arbitration, sanctions*. This method has been followed by the League of Nations.

(a) According to Art. 10 of the Covenant, its members "undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." The latter being henceforth guaranteed against any unjustified attacks, may reduce their armaments according to the provision of Art. 8 without undermining their security.

(b) Articles 11 to 15 are concerned with the judicial or arbitral procedure which the States agree to accept as a means of peaceful settlement of the disputes which may arise between them.

These provisions do not however do away with every possibility of an armed conflict. In the close network of measures taken by the Covenant to preserve world peace, there are still three gaps by which war may enter. War is allowable when the two parties refuse to accept the unanimous recommendations of the Council, when these recommendations have not been voted unanimously by the members of the Council, or when the dispute "is found . . . to arise out of a matter which by international law is solely within the domestic jurisdiction of (one) party."

These gaps were dangerous; an attempt was made to fill them by definitely outlawing war. This was the purpose of the Paris Pact of August 27th, 1928, known also as the Briand-Kellogg Pact, which has been signed by most States. War is once more solemnly condemned, and the signatories declare that they renounce it as an instrument of national policy in their relations with one another, agreeing that the settlement of all international disputes shall never be sought except by pacific means.

But this condemnation does not affect purely defensive war, or a collective war undertaken by way of sanctions in accordance with the Covenant of the League of Nations.

(c) All States are interested in the fulfilment of these promises; all will have to co-operate in the sanctions decreed by Article 16 of the Covenant against a State which illegally engages in war. "Should any member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League."

Article 16 envisages three kinds of sanctions against the offender; the severance of all trade or financial relations, military action, expulsion from the League.

The purpose of these sanctions is to compel the covenant-breaking State to forgo its unjust venture. The Council, which has to determine their application, is not bound to make use of all of them at once, but will choose according to circumstances those which seem most likely to bring about a certain and prompt re-establishment of order and peace.

215. The civilizing task of the League is very great, and the Covenant, in Articles 22 and '23, simply enumerates the chief headings; colonization and colonial mandates, protection of labour, fight against traffic in women and children, traffic in opium and other dangerous drugs, supervision of the trade in arms and ammuni-

tion, maintenance of communications and equitable treatment of commerce, prevention of disease, etc. Matters concerning these subjects are dealt with by various commissions within the League, and their activity has borne much fruit.

216. We have outlined above the constitution and general purpose of the League of Nations.

This institution was a much-needed one, and Benedict XV emphasized its timeliness. "What specially, amongst other reasons, calls for such an association of nations, is the need generally recognized of making every effort to abolish or reduce the enormous burden of the military expenditure which States can no longer bear, in order to prevent these disastrous wars or at least to remove the danger of them as far as possible. So would each nation be assured not only of its independence but also of the integrity of its territory within its just frontiers." And the Holy Father added that "the Church will certainly not refuse her zealous aid to States united under the Christian law in any of their undertakings inspired by justice and charity." (*Pacem Dei munus*: Eppstein, C.T., pp. 240-1.)

Nevertheless, in its present constitution, the Geneva organization is merely the first attempt at a juridical constitution of the community of States, and its shortcomings explain to a very large extent the heavy defeats of its attempts to promote peace.

217. It does not suffice to group States into a Society, and to endow the latter with well-devised machinery. It will be a lifeless body so long as there is no agreement of minds on the certain and immutable principles which must govern international life, or union of wills in the fulfilment of the same ideal of justice and charity. "There is no human institution which can impose on all peoples any code of common laws, adapted to the present times, such as was possessed in the Middle Ages by that true society of nations which was the community of Christian peoples." (H.H. Pius XI, *Ubi Arcano*.)

This does not mean that mere human reason is incapable of discovering and accepting the essential principles of natural law. In fact, the rules of justice and equity contained in the Covenant are exactly equivalent to those always proclaimed by the Church. But they risk remaining a dead letter if a higher and more profound influence, that of the Catholic Church, has not prepared the minds and wills of all to submit to them. "No real peace, most certainly not the longed-for peace of Christ, can exist unless the teaching, the commandments, the example of Christ are faithfully followed in public and private life; and so, in human society rightly constituted, the Church carrying out her divine mission could uphold these principles and commands of God Himself among individuals and in society as a whole." (*Ibid.*)

218. The Covenant proclaims the intangibility of the essential rights of States and places them under the collective guarantee of its members; it prescribes recourse to peaceful methods in the settlement of international disputes. But in order to be effective these principles and precepts need to be backed up by certain and immediate sanctions. But from this point of view, the Geneva institution is unfortunately very weak.

It is true that sanctions are envisaged, but their application is not made the subject of any precise or detailed agreements. If, in theory at least, economic sanctions are applied automatically, the Council must determine the application of military sanctions, and it possesses no effective authority for that purpose over the associated States. It may *recommend* a course of collective action, but each one will decide with full sovereignty whether it will accept this invitation or not.

The inadequacy of the Covenant is so manifest that the Geneva Assembly has several times attempted to supplement it by additional agreements; Draft Treaty of Mutual Assistance (1923), General Protocol (1924). Neither has been accepted. The various States are

divided between two solutions: either a *general guarantee* of all the members, the organization of which could unfortunately not be brought about, or *regional agreements*, which imply definite and precise pledges, but threaten to revive the pernicious rivalries of the alliances of former times. Nevertheless the Locarno agreements of 1925, on which rested for at least some years the precarious security of Europe, were based on this formula.

219. Failing certain and effective guarantees, who can reasonably blame any Power exposed to threats of aggression, for refusing to think of any reductions in its means of defence?

Certain utopian theorists, by arbitrarily transposing the terms of the problem, have vainly thought it was sufficient to institute general disarmament, after having led all States to accept compulsory arbitration, in order to achieve perfect security. To their trilogy, *arbitration, disarmament, security*, sound realism opposes a more rational formula *arbitration, security, disarmament*. Nations can only disarm if their security is guaranteed against any power which, in violation of its agreements, would refuse to have recourse to arbitration or submit to its decisions. So long as this security does not come under a collective guarantee, each State will have to provide its own means of defence. One should therefore not be surprised at the failure of the Disarmament Conference and the growing military strength of the various nations.

220. These facts are very disappointing and naturally tend to discourage those who, for so many years, have endeavoured to strengthen the peace of the world. At the same time one should not be unduly pessimistic. The existence of a society of States corresponds to the natural demands of international life and should be juridically organized. The Covenant of 1919 is merely a preliminary outline of this organization, and may receive corrections and alterations as experience suggests or necessity com-

mands. Least of all, have Catholics the right to ignore this work of adaptation and improvement; on the contrary, they must share in it with all their might and good-will, in order that humanity may one day achieve "that magnificent unity of universal society which is in the plans of Divine Providence and the innermost tendencies of our nature." (Taparelli, *Saggio*, No. 1401.)

221. The shortcomings and deficiencies of the present organization of the League of Nations cannot in any way affect the binding force of the principle which governs all agreements: *Pacta sunt servanda*. Each State has the grave obligation of fulfilling all the pledges it took when it signed the Covenant. No considerations of interest or national prestige can excuse, let alone justify, the violation of solemn promises. It is true that the Covenant itself allows each member the right to withdraw from the League, but this was rather a concession to the mistrust and touchiness of States which still hesitated to express in terms of treaty obligations the bonds of co-ordination and subordination imposed on them by natural law. Unless it were found that the League of Nations, in betrayal of its mission, only promoted the interests and ambitions of a few States, no State has the right to withdraw from co-operation with it, on plea of recovering its independence and of shaping its conduct according to its own interests. On the contrary, all are bound to give their whole-hearted support to an institution which will be able to fulfil its mission entirely only when it has grouped together all the States of the world.

222. Furthermore it would be wrong to say that the League of Nations is completely unable to maintain order and ensure the respect of the right of nations. On several occasions it has succeeded in preventing or settling dangerous disputes. The defeats it has undoubtedly met with were due either to material difficulties which made it impossible for it to act, or to

the refusal of the associated States to listen to its appeals.

A physical impossibility which occasionally prevents an institution from accomplishing its purpose does not prove the absolute uselessness of that institution; still less does it allow one to deny it the right of fulfilling its mission in more favourable circumstances. Many criminals escape from the searches of the police, but no one argues that the police force should on that account be abolished, or that it should be denied the right of putting into prison those it manages to capture.

A far more serious matter is the guilty action of those States which fail to keep their promises of mutual help and support. Normally the guarantees of the Covenant will only be effective if they are collectively applied. In some cases the default of a few leading States, and even of a single Power whose assistance is indispensable for the success of repressive action, will suffice to make the latter inoperative. This default will naturally excuse the other States and relieve them from their obligations. But in that case, it is not the institution which must be blamed, but rather the selfishness or duplicity of those Governments which have failed in their duty. And the remedy will not consist in denying a solidarity which nature itself has created between nations, but in persuading nations to accept the law in its entirety.

223. This law, it has been said, implies sacrifices, since it subordinates particular interests to the general good. This is especially true with regard to the actual organization of the League of Nations in the matter of the mutual guarantee given by the States, and the sanctions which confirm it.

Peace is the tranquillity of order; and order is only present in international life when each State can fulfil its purpose in absolute security. But this security can only exist if the collectivity as a whole undertakes to protect each one of its members against any possible menace. The smaller States obviously cannot repel

single-handed the aggression of a stronger and better armed neighbour; the great Powers themselves will often find it difficult to defend themselves against a coalition of States. Only a collective guarantee can give to all full and entire security; and this guarantee must, on occasion, be able to take the form of action or effective sanctions.

This is a sufficient justification of the pledges contained in Articles 10 and 16 of the Covenant.

224. Both guarantees and sanctions have been the subject of many criticisms, which do not, however, bear examination.

Some States have demanded their suppression, declaring that they are unable to fulfil their promises in this respect. This would amount to suppressing the whole Covenant, returning to the unstable pre-war equilibrium, and denying the very notion of international solidarity.

225. Other States have denied that this solidarity obliges them to interfere in any kind of quarrel which might arise in any part of the world, even the most remote, and to enlist the goods and lives of their subjects in a cause which does not interest them immediately. This shows complete ignorance of the practical working of guarantees and sanctions. Obviously—and this has been pointed out many times—armed intervention in any given dispute will chiefly devolve on those States which are closest to the field of hostilities. But economic sanctions must be applied by all the members of the League, even though this may involve them in some losses; none of the States which are conscious of their international solidarity and of the primary importance of maintaining order and security will ever refuse to make these sacrifices.

226. It has also been said that "the League of Nations was founded to maintain peace; but sanctions, which are measures of compulsion and sometimes even

of violence, have quite the opposite effect; far from preventing the beginning of a dispute, they often run the risk of spreading its havoc and of transforming a purely local blaze into a general conflagration." The argument is a specious one, and unduly shifts the responsibility. It is true that the purpose of the Covenant is to ensure the reign of peace; but there can be no peace without order, and there is no order but that which is based on Right. In order to impose respect for right on one who is about to violate it, force may sometimes be necessary. If war breaks out, it is not the fault of the States which apply sanctions, but rather of the one whose injustice has obliged them to have recourse to it. "For it is the wrong-doing of the opposing party which compels the wise man to wage just wars; and this wrong-doing, even though it gave rise to no war, would still be matter of grief to man because it is man's wrong-doing." (St. Augustine, *De Civ. Dei*, Bk. XIX, ch. vii, Eppstein, *C.T.*, p. 74.)

But there is no danger of sanctions bringing about an armed conflict if they are applied with resolute unanimity. No State will dare to resist the collectivity of nations if the latter is firmly resolved to demand the full respect of the Covenant. The possible extension of the conflict to a whole continent or to the world could only take place if a great number of States were disposed, in disregard of their definite promises, to take the side of the covenant-breaking Power. But in this very unfortunate case there would no longer any question of sanctions, since the collective action these imply would be impossible owing to the failure of an important section of the associates to do its duty.

227. Some have imagined that a strong sentiment of solidarity would suffice to establish peace and agreement between nations without the help of any sanctions. "Our interests for peace," declared Mr. Ramsay Macdonald on September 4th, 1924, to the Assembly of the League of Nations, "are far greater than our interests in creat-

ing a machinery of defence. A machinery of defence is easy to create, but beware lest in creating it you destroy the chances of peace. . . We have to instil into the world confidence in the order and rectitude of law, and then nations—with the League of Nations enjoying the authority, with the League of Nations looked up to, not because its arm is great but because its mind is calm and its nature just—can pursue their destinies with a feeling of perfect security, none daring to make them afraid." This is undoubtedly a very noble and generous programme. But the "calm mind and just nature" of the League of Nations will inspire little confidence if it is unable to impose on the world its "will of peace and order." Pascal was nearer the truth, when he wrote: "Justice without power is unavailing, power without justice is tyrannical. Justice without power is gainsaid, because the wicked always exist, power without justice is condemned. We must therefore combine justice and power, making what is just strong, and what is strong just."

228. Sanctions are nothing more than the use of force for the establishment of Right, and must on that account find a place in a Covenant designed to promote effectively the rule of justice and peace among nations. In point of fact it is not a juridical problem, but a moral one. It is a question of knowing whether civilized nations care sufficiently for Right and justice to make certain sacrifices for their defence or restoration. If they are fully aware of the obligations arising out of their international solidarity and are all wholeheartedly determined to fulfil them, then the Covenant is workable, and, with certain possible and desirable improvements, capable of bearing fruit. If, on the other hand—and experience seems to suggest it is so—nations are not yet capable of appreciating the certain and legitimate demands of international life, they have no right to make their selfishness a fundamental principle, and to dismiss as vain imaginings the ideals of order and justice

which presided over the constitution of the League of Nations.

229. In view of the obstacles which are being continually placed in the path of the League of Nations by the stubborn selfishness of some, many disillusioned persons are to be found who repudiate "Genevan mysticism" and propose, instead a wise and sound "realism," a policy which is "solely and exclusively" national. Between the struggle for Right and the maintenance of peace, we are told, realism will not hesitate to choose peace; Right is merely a creation of the human mind, ever uncertain and changing, and always questionable; whereas war is a dreadful reality which must be avoided at all costs.

Christian morality cannot accept this arbitrary opposition between justice and peace. Before rejecting "Genevan mysticism" it is essential to know what those words mean. In politics as in religion, there is a true and false mysticism. A false and blameworthy mysticism of international justice is one which obstinately clings to outworn juridical forms, and refuses to examine any changes in the relationships between nations, and consequently in the rights to which they give rise; which is ready to sacrifice everything for the sake of an unattainable ideal: *Fiat justitia, pereat mundus!* But a true and acceptable mysticism is one which, whilst it takes into account both facts and circumstances as well as material and psychological possibilities, remains unswervingly faithful to the precepts of a Right which is based on human nature itself and is therefore entitled to govern with full sovereignty all human affairs.

This true mysticism is also the best possible realism. One cannot separate peace from justice with impunity. The only lasting peace is one based on justice, for it rests upon the true order of things. If it is exclusively based on force it will always be precarious, since force

is the servant of ambitions which are naturally insatiable and can become the cause of perpetual upheavals.

230. True realism, which is nothing else but Christian wisdom, does not reject the ideal of an international society based on the demands of human nature: it must however, in the application of the principles of justice and Right, adjust its efforts to what is actually feasible in given circumstances.

A State guided by this wise and sound realism will not allow itself any action or claim which is contrary to justice; even if right is on its side, it will know how to moderate its demands by kindness and equity and will always be ready, if necessary, to subordinate its own particular interests to the common good of the community of nations.

It will always refuse to support an unjust cause, or to take sides in any rivalries within the League of Nations itself. Rather will it try, as far as it can, to conciliate rising antagonisms and clear away suspicions and misunderstandings.

In the event of an irrespressible conflict, it will wholeheartedly take its share in any collective action against the disturber of right order who has unlawfully resorted to war. But it is in no way obliged to set itself up as a lonely champion of Right, and the consideration it owes to its own subjects will not allow it to sally forth rashly on a crusade which the backsliding of too many States condemns to inevitable failure.

231. The Geneva institution has undeniable faults; but it is quite possible to eliminate them. The ideal of solidarity and justice which it embodies is still far above the moral level of modern States; this divergence calls for caution and clear-sighted temporizing until nations have been educated, by a long and patient effort, to appreciate the tasks imposed on them by the natural law of sociability. But neither the defects of the institution nor the failure of those responsible entitle

Catholics to condemn the principle of the League of Nations, since it "belongs to the Christian tradition, was embodied in the Christendom of the Middle Ages, and has been invoked in memorable circumstances by the Holy See." (Memorandum of the International Union of Social Studies to the League of Nations. 30th September, 1925.)

## CHAPTER IV

### THE ORGANIZATION OF INTERNATIONAL SOCIETY ACCORDING TO THE DEMANDS OF NATURAL LAW AND CHRISTIAN ORDER

232. THE Covenant of 1919 has only achieved the organization of the international society of States in a very imperfect manner. Nevertheless the pledges it contains imply, for those States which have accepted them, very definite obligations sanctioned by morality, which abolish many rights and privileges hitherto lawfully enjoyed by sovereign States. All States are bound to assist in this praiseworthy effort of organization; none has the right to refuse under the false pretext of keeping its liberty of decision and its full sovereignty.

The science of ethics cannot content itself with defining the rights and duties of nations under the present conditions of international life; it must pave the way to further progress by inviting all men of good will to complete the work already begun and to bring into existence an organization which corresponds in the most perfect way possible to the true demands of human nature and the designs of Divine Providence.

Nevertheless Christian morality does not put forward its principle of an ideal international society as a substitute for the present League of Nations; rather does it aim at its necessary improvement and completion.

233. The whole problem resolves itself into conciliating two apparently contradictory tendencies, internationalism and nationalism, and in holding an equal balance between those things which are demanded by the undeniable unity of the human race, and the respect due

to the many forms assumed by humanity in actual existence.

It must be admitted that the authors of the Covenant have not succeeded in finding an adequate solution to this problem; they have not been able to make a fitting synthesis of nationalism and internationalism.

At first sight it seems that a wide and generous international point of view has inspired their work; since it includes the safeguarding of order and international peace, the collective guarantee of security and integrity, the international organization of labour, the setting up of international jurisdiction, etc.

The role allotted to nationalism seems in comparison a small one; but in reality the concessions which were made in its favour are so great that they enable the persistent individualism of the associates to avoid the fulfilment of their promises without any difficulty. The League of Nations is based on an agreement freely accepted by the parties, which the latter are always entitled to denounce; collective decisions only bind the members to the extent of their acceptance (principle of unanimity or of *liberum veto*); arbitration is obligatory; but the verdict cannot be enforced if the two parties agree to reject it; disarmament can only take place according to a plan previously accepted by all nations.

It was thus easy to foresee that in a world distracted by war and seeking a new type of equilibrium, each State would only consult its own interests and try to make the most of circumstances, and that the feeling of international solidarity would soon be swept away by the claims of a suspicious and exaggerated nationalism, similar to that which existed before the Covenant.

234. It would be unjust only to blame the authors of the Covenant for this failure. Public opinion in the various States was not sufficiently educated to appreciate fully the natural demands of international life; it would not allow any more stringent limitations to national sovereignty for the sake of the community of nations.

It is nevertheless essential that this conflict between nationalism and internationalism should be settled, and the bold solution implied by a more perfect organization of the Society of States will run counter to many deeply rooted prejudices, for it will ask nationalism to make sacrifices which no one has yet dared to propose. In most countries—perhaps it would be more accurate to say in all countries—public opinion refuses to make those necessary sacrifices; certain governments have re-emphasized their national policy. But no matter; morality is not accustomed to bow down before mere opinion; it is not the servant of any policy. Its mission is to submit the public opinion of nations and the policy of those who govern them to the law of reason. The ideal it proposes cannot be carried into effect immediately; it is nevertheless bound to uphold this ideal and to propose it as the indispensable condition of a peaceful and ordered international life in which all nationalisms, in agreement and at peace with one another, will develop under the rule of justice and charity.

235. The great principle of order enunciated by St. Thomas Aquinas demands that the common good should always have priority over the particular good. "It is obvious," he wrote, "that the parts are ordained to the perfection of the whole; the whole does not exist for the parts; it is the parts which are made for the whole." (*Contra Gentiles*, Bk. II, ch. cxii, 5.)

The same rule will allow one to harmonize with fairness the apparently contradictory demands of nationalism and internationalism.

Both terms, nationalism and internationalism, may be interpreted in very different ways, and it is important to determine their precise significance.

#### I.—Nationalism

236. In one of the first senses of the word, nationalism is closely connected with patriotism, without however having exactly the same meaning.

Patriotism is a moral virtue which leads us to love our country, and to render all the duties prescribed by filial piety towards all those who have some claim to be responsible for our existence. The first thing which patriotism leads us to venerate is our ancestral land (*terra patria, vaderland, vaterland, country*) which we love, not for its own sake, (we love our country, whether it is great or small, rich or poor, according as nature has made it), but because it is the cradle of our race, because it gave us birth, because it is the home in which we share the thoughts and feelings of men of the same blood and culture.

Nationalism is primarily concerned with this community of race and blood (*nasci*: to be born); it is not necessarily confined to the territories of the State; for irredentist nations, it exists beyond the frontiers; it is even found in nations which have no fatherland, such as the nomadic peoples and the Jews.

Even when it most closely resembles patriotism, nationalism may still be distinguished from it by its more vigilant concern to strengthen the bonds which exist between people of the same nation, and to proclaim the undeniable priority of the common good over the interests of classes or parties. For it is when internal dissensions threaten to divide the social body and imperil its very existence, that patriotism changes into nationalism and endeavours to rally all good citizens around a programme of unity and concord.

237. In countries where several nationalities are to be found, nationalism sometimes opposes itself to patriotism; national minorities wish to detach themselves from the common fatherland, and claim the right to dispose freely of their new autonomy. We have seen elsewhere the moral judgement to be passed on these separatist tendencies. (Cf. art. 35.)

238. Nationalism and patriotism do not confine their activity to the internal life of the country; both have an external aspect which brings them into contact, and often

into conflict, with similar passions which hold sway over neighbouring nations.

Since it is the duty of the State to ensure the prosperity of its subjects, patriotism claims that it has the right to fulfil this task with full independence, and to take a large share in the advantages offered by international life. Nationalism adds the duty of maintaining, developing and spreading those traits and characteristics which belong to the temperament and specific genius of the nation.

239. In itself this double preoccupation is perfectly legitimate. Since nature has entrusted this mission to the State, the latter has undoubtedly the right to seek its accomplishment with full independence and responsibility within the wider framework of international society.

On the other hand, it is a fact, willed by the Author of nature Himself, that humanity, in itself a unity, should be diversified in individuals and societies according to heredity, natural and social surroundings, education and customs. The traits and characteristics which constitute a nationality are therefore natural values which each national group has the right to maintain, enrich and defend against any attempt at assimilation or absorption.

240. Though nationalism is a good and sound thing in itself, it becomes a lawless and baneful passion when national culture, which is truly valuable and important, is made an absolute value. In its exclusiveness it forgets that "each nation is the vehicle of a type of human culture, more or less elevated; but that none fully expresses the ideal of human culture or civilization. No given national culture may be identified with culture or civilization as such and absolutely; for none is anything more than one possible form, a contingent consequence of historical development." (R.P. Delos, O.P., in *International Relations from a Catholic Standpoint*, pp. 24-5.)

Exaggerated nationalism does not hesitate to sacrifice the cultural values of other nations to this relative value which it has arbitrarily made absolute; it will even claim to subordinate to it the transcendental and universal notions of Right, Morality, Truth and Religion.

241. When nationalism has reached this pitch, it can no longer be reconciled with the precepts of Right and Christian Ethics. "On the contrary," writes Père Delos, "we must hold that the realization of man's ideal is not bound up, in any final and exclusive way, with any one particular form of nationality. Each national culture plays its part in the task, but none has the whole secret. That is why Catholicism, with the complete ideal of human nature before its eyes, is not essentially bound up with any national form, judging all by the value of their educative function, and seeing, in all, natural and providential supporters of the supernatural education which itself is destined to bring to mankind." (*Ib.*, p. 25.)

242. "It leaves to the people of countries most favoured by their respective nationality the duty of sympathizing with whatever measure or degree of the human ideal the other nationalities may embody. It points out to them the duty and obligation of endeavouring to enrich their own nationality (intellectually and spiritually), and of avoiding on the one hand immobilization in a national type narrowly conceived, and on the other a spirit of exclusiveness towards other national types." (*Id.*, *ibid.*)

## II.—Internationalism

243. Internationalism, when kept within just limits, is an effective antidote to excessive nationalism. But here again we must avoid exaggeration. Internationalism may also have a good and a bad meaning.

244. The fervent support given by Socialists and Communists to Internationalism has greatly helped to discredit both the term and the reality in Catholic circles,

and not altogether without reason, since internationalism thus patronized implies the suppression of frontiers, the abolition of nationalities, making the world a vast battleground in which a merciless class war will replace national antagonisms. This idea may have been useful for Marxist propaganda, but it is utterly chimerical, since it ignores the natural law of differentiation which will ever continue to endow each nation with special characteristics.

245. There is another Internationalism which we would rather call—if usage allowed—*universalism*, so as to emphasize its complementary nature with regard to national particularism.

This type of internationalism does not disdain the very diverse cultural values which distinguish the various national groups and form their heritage. It respects them fully, for it knows their worth. But it goes beyond these contingent aspects of human life to discover and retain as a higher reality that identity of nature which makes all human beings to be members of one family, and all nations the constituent parts of a much vaster, supra-national, universal society.

Since they are equally based on the demands of human nature, particular societies and universal society, far from being mutually exclusive, have a need of one another for their mutual completion. The national societies must find their place in international society, without being absorbed by it. They remain responsible for the common good of their subjects, but must subordinate this special good to the universal good, which is the specific end of international society. This subordination does not really imply any sacrifice. Of itself the national common good implies the universal common good; nations are working for the fulfilment of their own special mission when they help in the achievement of the universal common good, upon which their own is dependent.

**III.—A Just Synthesis**

246. From the ethical point of view there is no absolute opposition between national duty and international duty. A Christian must and can fulfil both, following the example of the Church, whose wonderful catholicity includes the salvation of individuals, the prosperity of nations and the good of humanity in its universal solicitude.

Man must not separate in his affections the particular society into which he was born and the human family to which he belongs by nature. The love he bears his country will be one of preference, not an exclusive passion, since that country could not prosper apart from or in conflict with the higher good of universal society. Devoted attachment to his country should make him desire its sincere collaboration in the task of achieving this higher good, and the subordination of its own particular ends to this good, for their better safeguard.

Thus will the Christian conscience harmonize in a perfect synthesis the equally founded demands of nationalism and internationalism, of national particularism and human universalism.

**IV.—Necessary Changes**

247. This solution, solidly based on the order of primacy of values, is still opposed, even in Catholic circles, by a wrong and all-too prevalent notion of national sovereignty.

It is true that the absolutist doctrine, which predominated in the seventeenth and eighteenth centuries, and which makes sovereign authority the sole and supreme rule of Right, is nowadays largely discarded.

The primacy of Right over the arbitrary will of the sovereign power is commonly admitted to-day; but independence of any higher authority is still regarded as an essential characteristic of sovereignty. The State would cease to be sovereign if it accepted any control or

submitted to the law of any human will. This notion, which is still too absolutist, needs revision.

248. The powers of an authority are proportioned to the tasks it has to fulfil.

Since the State has to secure the common good of its subjects, it quite justly demands the right of fulfilling this task freely, without having to submit to the interference of another State which has no competence or responsibility in the matter. "The independence of a nation," notes Taparelli, "is found essentially in the fact that it does not depend on another nation, and in its power to give itself its own laws in the civil and political order." (*Saggio*, 1374.)

But this national common good, which is a particular good and therefore subordinate to the universal good, does not allow the State to be equally independent of the authority responsible for the higher common good of humanity. On the contrary, since this higher good can only result from the collaboration of all the members of international society, the authority entrusted with the task of guiding and co-ordinating their efforts must obviously be provided with adequate powers for its mission.

It must be able to command, control, arbitrate and judge in all that pertains to international life. It holds these powers by virtue of its natural mission, not by any voluntary delegation of the associated States; the latter have no right to question them; they must accept them with submission, even though it may be their task to actualize them.

249. Thus the sovereignty of States does not in any way imply their total independence of every created power; in accepting the law of a higher international authority, they do not lose any of their autonomous rights. "Just as the family," wrote Taparelli, "does not lose its domestic liberty when united to civil society, a nation does not lose its political liberty when it belongs to international society." (*Saggio*, 1374.) And else-

where: "The political authority of each nation does not lose any of its rightful independence by becoming a member of an international society; it only meets with obstacles when it wishes to do wrong." (*Saggio*, Bk. VIII, ch. VI, prop. xv.)

The true sovereignty which States need to fulfil their mission properly, far from losing anything by this submission to international authority, is greatly strengthened by it. On the contrary it is never so badly guaranteed and so frequently flouted as in a purely individualistic régime, for "there is no worse State than an anarchic State, that is, one in which there is no government or authority; where everyone does what he likes, no one does what he likes; where there is no master, everyone is master; where everyone is master, everyone is a slave." (*Bossuet*.)

250. If States reject this beneficent and tutelary international authority, they will have to choose between complete isolation or voluntary association. The former leaves their precarious sovereignty open to all the attacks of force and violence. The latter implies at least a partial renunciation of that total independence which they were so anxious to safeguard; yet the guarantee it brings cannot be compared with those which a universally recognized and respected international authority could give.

251. The authors of the 1919 Covenant chose the latter alternative. The League of Nations, which is on a purely contractual basis, has no powers of its own; the authority it holds is the result of a collective delegation of the States and does not go beyond the narrow limits assigned to it by the Covenant. It can only command, control or constrain to the extent allowed by the associates, and each State, provided it gives notice, can regain its independence at any time. This "social contract" between sovereign States is very far from being the supple yet strong organization required by an international life based on the demands of nature and Right.

252. The principles of morality are unchangeable,

since they are based on the very nature of man, but the actual demands deduced from them always take into account the varying contingencies of the life of men and societies. It commands the absolute respect of Right, and allows the use of force against those who would attempt to violate it. But the legitimate "custodians of justice" are not always the same persons. It entrusts this mission, according to the various stages of social life, to individuals or free associations in an anarchic régime; to the Township, when social relationships have been juridically established; to the State when a certain progress has been reached in social organization.

This evolution is not yet ended. At the present day the States are finding themselves linked up with a vaster group which is to assist them in the fulfilment of their mission. But this international society is not yet completely organized, and the authority which is to govern it is not finally constituted. But there is nothing to prevent the science of Ethics from anticipating the future and, without creating any premature obligations, it may determine here and now the main features of a more perfect organization of the collective life of nations.

#### V.—The Perfect International Society

253. International Society implies the existence of an authority which commands the respect of all, "which no less than society itself, has its source in nature, and has, consequently, God for its author." (Leo XIII, *Immortale Dei*.)

This authority will have power to govern with full sovereignty, to direct the collaboration of nations to the higher good of the human community, to summon to its supreme tribunal the disputes which may arise between nations, and to use necessary constraint against any State which would dare to disturb order and international peace.

254. States will have to obey the commands of this authority, in the same way as families are bound to submit to municipal or State laws. This subordination does not in any way affect their own rights. Under the rule of the international authority, each State will continue to provide with full autonomy for the good of its subjects, will make laws, govern its territory, and establish useful relations with its neighbours. The wise remarks of H.H. Pius XI concerning States themselves may equally be applied to the international authority: "Just as it is wrong to withdraw from the individual and commit to a group what private enterprise and industry can accomplish, so too it is an injustice, a grave evil and a disturbance of right order, for a larger and higher association to arrogate to itself functions which can be performed efficiently by smaller and lower societies . . . Of its very nature the true aim of all social activity should be to help members of the social body, but never to destroy or absorb them." (*Quadragesimo Anno*, 79.)

255. The international authority, as the supreme custodian of justice, is not called upon to lay down arbitrarily the rule of Right which must govern the conduct of nations. God, the Author of this rule, has written it in Nature itself, in letters which human reason can decipher if not blinded by pride and passion. Furthermore, the Sovereign Legislator has provided for the inevitable weakness of fallen humanity by making His Church the vigilant and infallible interpreter of His Law:

256. To the privilege of infallibility in the interpretation of morality and Right, the Roman Church adds that of catholicity, a sure token of the highest impartiality. When conflicts divide nations she is sure to have children in all camps; soaring above all nationalisms, and embracing in her maternal care all men, whom it is her mission to lead to their eternal destiny, she will know how to settle disputes in a spirit of calm justice and conciliating charity far better than any other arbiter.

It is a sad fact that the tumult of conflicting passions has too often drowned the voice of the Pontiffs, those "born mediators between the sovereign Powers." (Joseph de Maistre); their suggestions have been rejected and their intentions misunderstood. Often however, in the light of unhappy results, nations have had cause to regret that they did not prefer their advice in which Right was tempered by mercy, to the intransigent solutions of integral and rigid justice.

257. The authority entrusted with the temporal common good of nations will therefore accept to work in perfect agreement with the Church, which alone can assist humanity to conquer its supernatural good. Far from suffering any loss by this collaboration, its prestige and influence will be greatly increased thereby.

258. It is not the task of ethical science to lay down the constitution of this true League of Nations or to enumerate its features and describe its intricate workings. It is in no way competent to determine the actual forms which the completed work will take; this problem pertains rather to social and juridical science, to political wisdom and to experience. The science of Ethics contents itself with establishing the essential features of an organization of international life which is most in harmony with the designs of Divine Providence. It knows that its realization is distant, that nations will only get near to it by degrees, and it therefore does not look to any immediate fulfilment. But it demands that at least all the loyal and sincere aspirations and tendencies of all individuals, nations and governments should go to promote the fulfilment of this international order, which is alone in entire conformity with the nature of man and the will of God.

## CHAPTER V

### INTERNATIONAL ETHICS AND THE INDIVIDUAL CONSCIENCE

259. ST. THOMAS AQUINAS remarks that legal justice, which directs all the other virtues to the common good, "is found primarily in the Prince as chief commander, and secondarily in the subjects as agents of execution." (*Sum. Theol.* IIa IIae, q. 58, a. 6.) The same may be said of the duties laid down by International Ethics. The rulers are chiefly responsible for directing all the activities of the society under their care in accordance with its precepts. But the subjects must show respect for the same law of social justice and charity by assisting them in their efforts and obeying their commands.

Since the national will, with which all governments, even the most despotic, have to reckon nowadays, is formed by the union of the individual wills of all the citizens, it is most important that each one should fully understand his international responsibilities. According to whether it is more or less enlightened, public opinion will be able to confine public authority within just limits, or will lead it, often against its will, to transgress the rules of international law.

This Code of International Ethics would therefore be incomplete if, after enumerating the duties of rulers, it made no mention of the obligations of their subjects.

260. When faced with the problems of international life, the Christian must determine his judgements, his acts, and his whole attitude according to the precepts of justice and charity, which are the essential basis of all well-ordered human relationships.

261. He should not forget that "justice is the cause of the greatness of nations and the glory of States." The right of nations will be as sacred to him as that of individuals, and no considerations of national interest will ever make him consent to the violation of this right.

In obedience to the demands of social justice, he will agree that his country should subordinate its particular good to the common good of international society, "which must finally turn to the greatest and most lasting advantage of each individual nation." (H. H. Pius XI, *Il vivissimo desiderio*, Letter to the Cardinal Secretary of State, 29th April, 1922.)

262. His lawful attachment to his own country will not excuse the citizen from fostering sentiments of good will towards other nations and from sincerely desiring their welfare and prosperity.

Discerning goodness will soon lead him to recognize that every nation, side by side with peculiarities he cannot understand and which may often shock him, possesses qualities he can esteem and appreciate; especially will it enable him to discover, amidst the great variety of national characteristics, those common and universal traits which proclaim the brotherhood of man.

263. A Christian cannot forget that the Saviour has replaced the ancient precept: "Thou shalt love thy neighbour and hate thy enemy" by another which represents the full perfection of Divine charity: "Love your enemies, do good to them that hate you: and pray for them that persecute and calumniate you." (Matt. v, 43-4.) Though he may detest and fight against crime and injustice, he will always be careful not to include in his hatred of evil those who commit it.

At the end of even a deadly conflict, he will be ready to forget the injury he has sustained, and to "stretch the bounds of charity" (Benedict XV, *Pacem Dei munus*) so as to include the vanquished and repentant enemy.

264. It is certain that international ethics demands

that individuals should practise charity to a degree which cannot be attained by unaided human nature. It so happens that true peace can only be, in the words of Benedict XV, "the result of the life of faith." (Consistorial allocution of December 24th, 1919.) Only the higher and more penetrating outlook given by the light of Faith can enable men to realize their true fraternity in Christ who has redeemed them all; it alone can persuade them, in perfect conformity with the Gospel precept, to love other countries as they love their own, and to make all the sacrifices of interest and pride required for the peace and tranquillity of the great family of nations.

265. In the tumult of warlike passions, a few isolated voices will not be able to obtain a hearing for faith and reason. In order to lead the masses to a better appreciation of the demands of international life, an important educational effort is necessary, for which certain categories of citizens will be more especially responsible.

266. Teachers have a very important task to fulfil in this respect. It is certainly their duty to foster in their pupils those ideals and virtues which will make them good and loyal citizens; but they are equally bound to teach them the duties resulting from international solidarity. To this effect they will endeavour to inculcate a knowledge and appreciation of the qualities of other nations, they will stress the close interdependence of peoples; they will especially point out the benefits of concord and peace. As objective and impartial interpreters of historical events, they will avoid anything which is likely to foster false prejudices, keep up enmities, or enkindle hatred.

267. The school can only begin this work of education; it must be unremittingly pursued by those who have undertaken the very responsible task of enlightening and guiding public opinion. In this regard the press is a wonderful method of propaganda, which should not be allowed to support indiscriminately every kind of

national cause. Catholic journalists should always remember the wise counsels H. H. Pope Benedict XV gave them immediately after the War, and which are still very much to the point: "Catholic writers and journalists should be invited to clothe themselves as elect of God, holy and beloved, with pity and kindness. (Col. III, 12.) Let them show this charity in their writings by abstaining not only from false and groundless accusations, but also from all intemperance and bitterness of language, all of which is contrary to the law of Christ and does but reopen sores as yet unhealed, seeing that the slightest touch is a serious irritant to a heart whose wounds are recent." (*Pacem Dei munus*. Eppstein, C.T., p. 239.)

268. Priests have a most special duty, as the messengers of the God of Peace, to work without ceasing for the conversion of mind and hearts, so that the Peace of Christ we ardently desire, the "reign of peace, justice and love"\* may at last prevail over the dissensions of the human race. This great and noble task was given them by Pope Benedict XV when he wrote to his brethren in the Episcopate: "It is Our especial wish that you should exhort your priests, as the ministers of peace, to be assiduous in urging this love of one's neighbour and even of enemies which is the essence of the Christian life and, by being all things to all men and giving an example to others, wage war everywhere on enmity and hatred." (*Pacem Dei munus*. Ibid.)

269. The world cannot give humanity that peace it so ardently desires: it is "the most beautiful gift of God." (Ibid.)

Therefore, in answer to the call of Pope Pius XI, "all Christian peoples must pray fervently and unanimously to God, who holds in His Hands the hearts of rulers, that He may inspire all with *thoughts of peace and not of affliction*† and, together with these thoughts, the firm

\* Preface of the Feast of Christ the King.

† Jerem. xxix, 11.

purpose to put them into action and the strength to make them successful.

"Thus," adds the Holy Father, "for the great consolation of all, shall we see the fulfilment of the prayer which the Church places on the lips of her Ministers in the Sacred Liturgy: *Grant, O Lord, we beseech Thee, that the course of the world may be peaceably ordered for us by Thy Providence, and that Thy Church may rejoice in quiet devotion.*"\* (Letter, *Quando nel principio*, to Cardinal Gasparri, 24th June, 1923.)

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