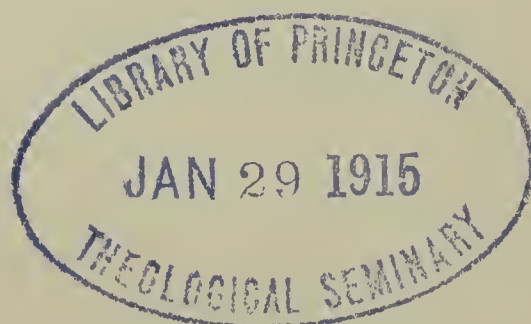


JX1946  
.K162



Division JX1946  
Section .K162













# ETERNAL PEACE

AND OTHER INTERNATIONAL ESSAYS

BY  
IMMANUEL KANT

TRANSLATED BY  
W. HASTIE, B.D.

WITH AN INTRODUCTION BY  
EDWIN D. MEAD

BOSTON  
THE WORLD PEACE FOUNDATION  
1914





CONTENTS

	PAGE
INTRODUCTION, BY EDWIN D. MEAD . . . . .	v
I. THE NATURAL PRINCIPLE OF THE POLITICAL ORDER . . .	1
II. THE PRINCIPLES OF POLITICAL RIGHT . . . . .	27
III. THE PRINCIPLE OF PROGRESS . . . . .	55
IV. ETERNAL PEACE: A PHILOSOPHICAL ESSAY . . . . .	67
V. PUBLIC LAW, FROM THE METAPHYSICS OF MORALS . . .	129
NOTES TO "ETERNAL PEACE" . . . . .	169



## INTRODUCTION

In 1795, during Washington's administration, just as our great American experiment in self-government had been inaugurated, Immanuel Kant published in Königsberg his memorable tractate on "Eternal Peace." It was in many respects the most remarkable prophecy and program ever made of the day when the war drum shall throb no longer, and the battle flags shall be furled in "the parliament of man, the federation of the world." The prophecy is never forgotten by those who are in earnest about having it fulfilled. The name of Immanuel Kant, greatest of modern philosophers, is honored in Europe and America alike as that of the preëminent philosopher of the peace movement. But few perhaps remember the words in his immortal essay which seem a special prophecy of the part which our republic seems destined to take in the promotion of the cause in which the great philosopher was a pioneer. "If happy circumstances bring it about," wrote Kant, "that a powerful and enlightened people form themselves into a republic, — which by its very nature must be disposed in favor of perpetual peace, — this will furnish a center of federative union for other States to attach themselves to, and thus to secure the conditions of liberty among all States, according to the idea of the right of nations; and such a union would extend wider and wider, in the course of time, by the addition of further connections of this kind."

It was a remarkable insight of Kant's that universal peace could come only with the universal republic. The republican

constitution, he said, founded on the principle of the liberty and equality of its citizens and the dependence of all on a common legislation, is "the only one which arises out of the idea of the original compact upon which all the rightful legislation of a people is founded. As regards public right, the republican principles, therefore, lie originally and essentially at the basis of the civil constitution in all its forms; and the only question for us now is as to whether it is also the only constitution that can lead to a perpetual peace." Kant declares that the republican constitution, having its original source in the conception of right, does include the prospect of realizing perpetual peace; and the reason of this, he says, may be stated as follows:

"According to the republican constitution, the consent of the citizens as members of the State is required to determine at any time the question whether there shall be war or not. Hence nothing is more natural than that they should be very loath to enter upon so very undesirable an undertaking; for in decreeing it they would necessarily be resolving to bring upon themselves all the horrors of war. And in their case this implies such consequences as these: to have to fight in their own persons; to supply the costs of the war out of their own property; to have sorrowfully to repair the devastation which it leaves behind; and, as a crowning evil, to have to take upon themselves at the end a burden of debt which will go on embittering peace itself. On the other hand, in a constitution where the subject is not a voting member of the State, resolution to go to war is a matter of the smallest concern in the world. For in this case the ruler, who as such is not a mere citizen, but the owner of the State, need not in the least suffer personally by war, nor has he to sacrifice his pleasures of the table or of the chase, or his palaces. He can therefore resolve for



war from insignificant reasons, as if it were but a hunting expedition; and he may leave the justification of it without concern to the diplomatic body."

It is certainly true that the development of the idea of international arbitration has been coincident with the growth of modern democracy. The peace movement altogether is strong in precisely those nations where freedom obtains and self-government is stable. The founders of our republic, Washington, Jefferson, Franklin, were the most illustrious group of men in their day who condemned the war system and urged its supplanting by the methods of law and peace. The peace movement as an organized movement naturally began here, in 1815. It was no accident which made the United States and England the leaders of the nations in the preaching and the practice of arbitration. With Jay's Treaty, in 1794, the history of modern arbitration may fairly be said to begin; and it was no accident which brought about the conference at Washington in 1896, looking to a permanent system of arbitration between these two greatest republics in the world. It was the logic of Kant's philosophy and of the nature of political things. Such a union as it was the object of that memorable Washington conference to bring about should logically extend by the addition, first, of those nations which have advanced farthest in self-government or have become republics in the sense in which Kant uses that term. It was natural for the French republic to unite with Great Britain in the arbitration treaty of 1903, which has prompted so many similar treaties. The contributions of Switzerland, the Netherlands and the Scandinavian republics (for republics all are) to the movement for broader arbitration have been notable; and any haltings on our own part have been at times when imperialist temptations have prejudiced our real democracy.

The republican constitution of Kant's thought is not of course to be confounded with the democratic constitution. Self-government is often better realized under monarchical than under democratic forms. "Republicanism regarded as the constitutive principle of a State is the political severance of the executive power of the government from the legislative power. Despotism is in principle the irresponsible executive administration of the State by laws laid down and enacted by the same power that administers them, the ruler exercising his own private will as if it were the public will. If the mode of government is to conform to the idea of right, it must embody the representative system; for in this system alone is a really republican government possible. Without representation, no government can possibly be any other than despotic and arbitrary." Great Britain is to-day among the leading nations of the world the truest republic, according to Kant's definition, after our own republic, if we may venture to claim preëminence, because her people are most truly and completely self-governed. There was never a more conspicuous instance of failure to distinguish between names and realities than that of our Secretary of State's characterization of the issue between England and Venezuela, in his correspondence with the English government in 1895, as a collision between monarchical institutions and the principle of self-government. England and the United States, one hemmed and hampered still by the specter of a crown and the social power of a hereditary aristocracy, the other shackled and encumbered in so high degree by a lawless plutocracy and consuming mammonism, nevertheless stand side by side as the leading exemplars of representative government in the modern world; and the logic of history and of the profoundest political philosophy decrees the establishment between these republics of a permanent system

of unreserved international arbitration, with the sure pledge and prospect that such a union will extend wider and wider until it eventuates in the "universal cosmopolitical institution" of Kant's prophecy.

It was in 1784, almost a dozen years before the publication of "Eternal Peace," that Kant used this prophetic term and confidently foretold the end of wars and the reign of international law, in his essay here published under the title of "The Natural Principle of the Political Order, considered in connection with the Idea of a Universal Cosmopolitical History." It is to be remembered that this essay appeared five years before the outbreak of the French Revolution, and one year after the Treaty of Paris recognized the success of the American Revolution, in which Kant had taken so deep an interest. "Eternal Peace" was published just after the peace of Basel had recognized the French Republic, seeming to inaugurate a new era of peace in Europe. The later essay was received with far the greater interest at the time, fifteen hundred copies, we read, being sold in a few weeks, and a second edition appearing the following year; and it is a celebrated essay, while the former essay is but little known save by special students of Kant. Yet this former essay is one of the most remarkable works ever written; and in the revival of interest in political speculation which we are now happily witnessing, it is to be hoped that it will at last receive that attention among ourselves which it deserves. The work is much more than a political essay. It is a work which may be compared, on one important side, with such an American treatise as Fiske's "Destiny of Man." It is a survey of the whole movement of nature and of human history, with a view to determine the final end; and its spirit and outcome are singularly like those of Mr. Fiske's



treatise, which it preceded by a hundred years. It sees clearly that a serious study of evolution tends to the teleological principle; a study of the character and destiny of man, to the idea of God. Nothing is more needed at this time than the inculcation of precisely this philosophy in the field of our politics, as well as of our natural science. It is a question whether our modern doctrines of evolution have not in both fields done as much harm as good through having come in predominantly, in Germany as well as in England and America, upon the saddle of a shallow philosophy of secondary cause.

The following are the principal of the nine propositions which Kant lays down, and to the unfolding and defense of which his essay is devoted: "All the capacities implanted in a creature by nature are destined to unfold themselves, completely and conformably to their end, in the course of time." "In man, as the only rational creature on earth, those natural capacities which are directed toward the use of his reason could be completely developed only in the species, and not in the individual." "The means which nature employs to bring about the development of all the capacities implanted in men is their mutual antagonism in society, but only so far as this antagonism becomes at length the cause of an order among them that is regulated by law." "The greatest practical problem for the human race, to the solution of which it is compelled by nature, is the establishment of a civil society universally administering right according to law." "The problem of the establishment of a perfect civil constitution is dependent on the problem of the regulation of the external relations between the States conformably to law; and without the solution of this latter problem it cannot be solved." "The history of the human race, viewed as a whole, may be regarded as the realization



of a hidden plan of nature to bring about a political constitution internally and, for this purpose, also externally perfect, as the only status in which all the capacities implanted by her in mankind can be fully developed."

This is a remarkable body of doctrine; and the careful study of this essay is commended to every inquirer for the central philosophical principles of the peace movement, which at bottom is the movement toward the World State, the organization of the family of nations as we have measurably organized the nation. The essay throughout is instinct with the principle of progress as the cardinal principle for the interpretation of history, a subject to which Kant a few years afterward devoted a special essay. "The idea of human history," he says, "viewed as founded upon the assumption of a universal plan in nature, gives us a new ground of hope, opening to us a consoling view of the future, in which the human race appears in the far distance as having worked itself up to a condition in which all the germs implanted in it by nature will be fully developed and its destiny here on earth fulfilled. Such a *justification of nature* — or rather, let us say, of *Providence* — is no insignificant motive for choosing a particular point of view in contemplating the course of the world. For what avails it to magnify the glory and wisdom of the creation in the irrational domain of nature, and to recommend it to devout contemplation, if that part of the great display of the supreme wisdom which presents the end of it all in the history of the human race is to be viewed as only furnishing perpetual objections to that glory and wisdom? The spectacle of history, if thus viewed, would compel us to turn away our eyes from it against our will; and the despair of ever finding a perfect rational purpose in its movement would reduce us to hope for it, if at all, only in another world."

This is precisely in the spirit of the glowing final pages of those most modern books, Mr. Fiske's "Destiny of Man" and "The Idea of God," which proved the precursors of many salutary popular presentations of evolutionary biology and sociology in the terms of a comprehensive and solvent idealism. Kant believes in Providence, in God, in nature and in history informed by divine purpose, in the omnipotence of the right; he believes that the fact that a thing ought to be is the sure reason that it will be, that "what is valid on rational grounds as a theory is also valid and good for practice," is the only thing that is ultimately good for practice, and is inevitably bound to be reduced to practice in due order.

The consideration of the rational law of progress here stated brings Kant, in his essay here published under the title of "The Principle of Progress," to the idea of internationalism. He shows how the lawlessness and caprice of individuals involve evils which alone are sufficient to compel the establishment of the State; "and in like manner," he says, "the evils arising from constant wars by which the States seek to reduce or subdue each other must bring them at last, even against their will, also to enter into a *universal or cosmopolitical constitution*." This may not, he held, assume the form of a universal commonwealth or empire under one head, but of "a *federation* regulated by law according to the *right of nations* as concerted in common." In this essay as powerfully as in the earlier essay on "The Natural Principle of the Political Order" and in "Eternal Peace" does he picture the irrationality and monstrosity of war and assure himself that, just so surely as the world becomes republican, so surely will war yield to arbitration and to federation. "When the decision of the question of war falls to the people [it is essentially the same word

as that already quoted from "Eternal Peace"], neither will the desire of aggrandizement nor mere verbal injuries be likely to induce them to put themselves in danger of personal privation and want by inflicting upon themselves the calamities of war, which the sovereign in his own person escapes. And thus posterity, no longer oppressed by undeserved burdens, and owing not to the direct love of others for them, but only to the rational self-love of each age for itself, will be able to make progress in moral relations. For each commonwealth, now become unable to injure any other by violence, must maintain itself by right alone; and it may hope on real grounds that the others, being constituted like itself, will then come, on occasions of need, to its aid."

It was but yesterday, we remember as we read this firm prophecy of a century ago, that Sir Edward Grey predicted the early coming of the time when nations would run together to stop a war as readily and naturally as neighbors run to put out a fire; and is not the disarmament of the nations likely to come — Kant's declaration makes us ask the question with more definite confidence — through some sort of League of Peace between a few great powers insuring each other against disaster through any possible attack upon any of them as a result of brave and trustful ventures in the reduction of its armaments?

There is no possible remedy against the evils of war, Kant declares, but "*a system of international right* founded upon public laws conjoined with power, to which every State must submit, according to the analogy of the civil or political right of individuals in any one State." To all skepticism about this program and to the allegation that it has always been laughed at by statesmen and still more by sovereigns, as an idea fit only for the schools from which



it takes its rise, Kant answers roundly: "I trust to a theory which is based upon the principle of right as determining what the relation between men and States *ought to be*, and which lays down to these earthly gods the maxim that they ought so to proceed in their disputes that such a universal International State may be introduced, and to assume it therefore as not only possible in practice, but such as may yet be presented in reality."

Thus everywhere that Kant discusses political relations does the great vision of internationalism and of universal peace secured by law, just as peace is secured in the State because justice is dependent on the court and not on the fist, hover before him. Leaving the essay on "Progress," we must, before returning to "Eternal Peace," revert once more to the pages of "The Natural Principle of the Political Order," for the sake of citing a noteworthy passage already hinted at, following one of Kant's powerful arraignments of war as wasting so ruthlessly the treasures which might be applied to the advancement of enlightenment and the highest good of the world, as burdening peoples with debts almost impossible to extinguish, and as settling nothing finally and reliably, since might never makes right and every unjust issue in war is the sure seed of future war. Here again, in his consideration of the economic issues of the war system, does he come to the ground given such peculiar attention by the founders of our republic, especially Jefferson and Franklin. So intimate have the political and trade relations of nations become, he urges,—and how vastly truer has the intervening century made it!—that every political disturbance of any State becomes a disturbance of all, which are thus more and more forced by the common danger to offer themselves as arbiters. "In doing so," says Kant, with marvelous insight and impressiveness,



"they are beginning to arrange for a great future political body, such as the world has never yet seen. Although this political body may as yet exist only in a rough outline, nevertheless a feeling begins, as it were, to stir in all its members, each of which has a common interest in the maintenance of the whole. And this may well inspire the hope that, after many political revolutions and transformations, the highest purpose of nature will be at last realized in the establishment of a universal *cosmopolitical institution*, in the bosom of which all the original capacities and endowments of the human race will be unfolded and developed."

Kant's "Eternal Peace," which has a somewhat scholastic form, opens with a section containing several preliminary articles of peace between States, such as: "No conclusion of peace shall be held to be valid when it has been made with the secret reservation of the material for a future war." "Standing armies shall be entirely abolished in the course of time." "No national debts shall be contracted in connection with the external affairs of the States." "No State shall intermeddle by force with the constitution or government of another State." The reasons for these articles, touching the principal causes of war in his own time as well as in ours, he elaborates at length.

As touching especially Kant's sharp exposure of the menace of secret treaties and diplomacy, we Americans may dwell with pride upon the spirit and practice which have ever, and with growing influence, marked our own diplomacy, and upon the strong demands for the utmost publicity in international action made by such leaders as President Eliot.

The menacing condition following the war of 1894 between China and Japan, with the interposition of the European powers which ensued, illustrated the evil of secrecy which

Kant condemned, and out of it in some measure grew the war between Japan and Russia ten years later. The Alsace-Lorraine situation, created by the Treaty of Frankfort in 1871, still disturbs Europe. The Treaty of Portsmouth in 1905 contained clauses dangerous to future peace, happily removed by subsequent agreements. The Treaty of Lausanne in 1912 was largely occupied in removing material for future war; and European diplomacy is striving for similar ends in the Balkans to-day. The world's leaders in statesmanship and finance alike are coming to Kant's position concerning war loans, to which subject the third Hague Conference is likely to devote more explicit attention than has ever before been given it by an international conference. Kant's impeachment of treacherous and inhuman practices in war finds impressive and detailed indorsement in the provisions of the Hague conventions regulating war; and in other ways it might strikingly be shown how the theory and practice of nations are gradually catching up with the insight and morality of the Königsberg prophet. Every one of his specific injunctions has either been practically realized or recognized as obligatory in principle by modern international action.

But it is in the second section of "Eternal Peace," devoted to the definitive articles of a perpetual peace between States, that Kant's three great constructive principles are stated. (Those principles are (1) that the civil constitution of every State shall be republican; (2) that all international right must be grounded upon a federation of free States; and (3) that right between nations must be limited to the conditions of universal hospitality. The balance of the essay is devoted to discussions of the guarantee of perpetual peace, the present discordance between morals and politics, and the accordance of politics with morals according to the transcendental conception of public right. The guarantee of perpetual peace

is furnished, Kant maintains, "by no less a power than the great artist Nature herself"; and he surveys again the course of evolution, with all its struggles and antagonisms, to show that just as individual men, with all their conflicting interests and inclinations, are forced out of a condition of aloofness and lawlessness into the condition of a State, so individual nations are being gradually forced toward arbitration and federation by the sheer dangers and evils of the present disorder, self-interest itself pointing the same way which morality commands. To the objection of the practical politician, that great reforms theoretically admirable cannot be realized because men are what they are, Kant wisely answers that many have large knowledge of *men* without yet truly knowing the nature of *man*. The process of creation cannot be justified if we assume that the human race never will or can be better. Kant's cardinal position is that the pure principles of right and justice have objective reality and can be realized in fact, that it is precisely our vocation to proceed about their realization as fast as we apprehend them, and that failure to do this is really opposed to nature and is dangerous politics. "A true political philosophy cannot advance a step without first paying homage to the principles of morals. The union of politics with morals cuts in two the knots which politics alone cannot untie." When men and States once make up their minds to do their clear duty instead of being selfish and specious, then things which seem hard will rapidly become simple. "Seek ye first the kingdom of pure practical reason and its *righteousness*," is Kant's exhortation, "and then will your object, the benefit of perpetual peace, be added unto you."

Self-government, a federation of free States, universal hospitality, — these are the features of Kant's great program. "Every form of government which is not representative,"



he declares, "is a spurious form of government." "For States viewed in relation to each other [thus he concludes his discussion of federation] there can be only one way, according to reason, of emerging from that lawless condition which contains nothing but occasions of war. Just as in the case of individual men, reason would drive them to give up their savage, lawless freedom, to accommodate themselves to public coercive laws, and thus to form an ever-growing State of Nations, such as would at last embrace all the nations of the earth." His final words in the section upon universal hospitality are these: "The social relations between the various peoples of the world have now advanced everywhere so far that a violation of right in one place of the earth is felt all over it. Hence the idea of a cosmopolitical right of the whole human race is no fantastic or overstrained mode of representing right, but is a necessary completion of the unwritten code which carries national and international right to a consummation in the public law of mankind."

The (British) Peace Society published a translation of "Eternal Peace" by J. D. Morell some twenty years ago; and later the American Peace Society published a translation of the same by Dr. Benjamin F. Trueblood. In 1891 the essay was translated, along with Kant's other popular political essays, by W. Hastie of Edinburgh, who had previously translated Kant's "Philosophy of Law," and it was issued in a little volume (Edinburgh: T. & T. Clark) entitled Kant's "Principles of Politics," with a scholarly and valuable introduction. Besides "Eternal Peace," "The Principles of the Political Order," and "The Principle of Progress," already referred to, this volume also contains the essay on "Principles of Political Right," written in 1793, which the translator properly characterizes as the philosophical counterpart and ultimate expression of the American Declaration of

Independence and the French Declaration of the Rights of Man. "The one thinker," says Mr. Hastie, "who completely understood the purpose and end of the whole movement [of the eighteenth-century revolutions, viewed as the culmination of the political science of the centuries] and who was capable of giving it its profoundest and largest expression was Immanuel Kant." The obligations of English readers of Kant to Mr. Hastie, who also published a volume of translations of Kant's papers on cosmogony, is very great. The present volume is made up from the translations published in his little volume on Kant's "Principles of Politics," together with a brief section from his translation of Kant's "Philosophy of Law." His titles are sometimes free and popular, but have here usually been respected. A few changes have been made in his text; and certain notes, which he did not translate, have been taken from the translation of "Perpetual Peace" by Miss Mary Campbell Smith (Swan Sonnenschein and Co., 1903), which was the first complete English translation of that famous essay to include all the notes. Miss Smith's translation is accompanied by an introduction longer than the essay itself; and this introduction is distinctly worth the attention of the student of Kant and of the peace movement, on account of its careful survey of the advance of that movement in history and the varied factors in evolution which have contributed to it. An entirely new industrial and political status has come in international relations through the steady development of those forces which Kant outlined. Once war had its profits for victors; but to-day, the writer well emphasizes, "war is death to the industrial interests of a nation. It is vain to talk, in the language of past centuries, of trade between civilized countries being advanced and markets opened up or enlarged by its means." Our age sets a higher value upon human life, in this respect

coming closer to that "feeling for humanity" which dominated Kant's heart and his political philosophy. International law has developed amazingly since Kant wrote, and the First Hague Conference marked an epoch. "The federation of Europe will follow the federation of Germany and of Italy," because thinkers and bodies of thinkers are more and more being stirred by Kant's penetrating and pervasive conception of the federation of the world, the imperative of justice, and the unity of mankind. One danger our writer points out — as others in this day have frequently been obliged solemnly to emphasize — which Kant perhaps did not adequately foresee. With the passing of military power from kings to people and the cessation of dynastic wars, something of the passion for war has also passed from kings to people, and repeatedly governments are now found more lawful, self-controlled and just than the populace. "In the people the love of peace is strong, but so too is the love of a fight, the love of victory." Just here is the field for education in international relations and the principles of peace.

It was Kant's intention to crown his philosophical achievements by a "System of Politics," worked out in accordance with the general principles of his philosophy; but he was reluctantly compelled in his seventy-seventh year to abandon this long-cherished intention. But the political essays which he wrote, and which Mr. Hastie placed in the hands of the English reader in such admirable form, indicate sufficiently what the lines of his system of politics would have been. It is an impressive fact that the interests of social and political reconstruction were those which in the closing period of his full life chiefly engaged the greatest thinker of the modern world. For that Immanuel Kant was. He revolutionized philosophy. His



contributions to physical science were hardly less brilliant and fruitful than his contributions to metaphysics. He was one of the greatest mathematicians and astronomers of all time. To him, and not to Laplace, belongs the merit of the origin of the nebular theory. Mr. Hastie is not extravagant in saying that, had he never written anything but his "Universal History of Nature and Theory of the Heavens," he would have ranked as the first of the modern evolutionists and the founder of scientific cosmology. His work in ethics was yet greater and more far-reaching in its results than his work in physics. To quote Mr. Hastie again, referring to Kant's later, practical works: "In all these works he shows himself to be the universal philosopher of humanity, the greatest of the modern moralists, and the initiator of a new era of political science."

It is to Kant's greatness on this side that men are now awaking as never before. The philosophers have long been shouting, "Back to Kant!" This now begins to be the cry of the politician and the humanitarian. "I have not yet lost my feeling for humanity," were the great philosopher's last words. It was to humanity, to the State, to the peace and federation of the world, that his last labors were given. "By inclination," he once said, "I am an inquirer. I feel all the thirst for knowledge and the eager unrest of striving to advance, as well as satisfaction with every kind of progress. There was a time when I thought all this could form the glory of mankind; and I despised the rabble who know nothing. Rousseau brought me to the right view. This blinding superiority vanished. *I learned to honor men*; and I should regard myself as much more useless than the common laborers, did I not believe that this way of thinking could communicate a value to all others in establishing the rights of mankind."

It is the logic of events, of history and progress, which has now brought the world to the necessity and the determination of practically and definitely establishing the reign of peace and international law. But it should be an inspiration and a reassurance to all who are working for this high end to know that this is the logic, the prophecy and the program of the greatest philosopher of modern times. "England," says the English translator of these political essays of Kant, "has acted out the principles which Kant has thought out and held up for universal imitation and embodiment; and this holds even more literally of the New England of America. In Kant the student will find the fundamental principles of all the best political and social science of the nineteenth century, the soundest exposition of constitutional government, and the first clear adumbration of the great doctrines of federation and universal law, which are now stirring in the hearts of the peoples."

It is because this last is so true, and because the writer was undoubtedly correct in his belief that "the New England of America," — by which he meant the United States, — had preëminently acted out the political principles of Kant, that this collection of his international writings should here receive a peculiar welcome. The principles of our founders and the principles of our federal organization are alike a prophecy and a preparation for the international polity, the universal peace and order and coöperation, of Kant's philosophy. Our family of states anticipates the family of nations, and the supreme court of our federation anticipates the supreme court of the world. A Congress of Nations to create a Court of the Nations to interpret and administer the law of the nations was the program and demand of our American delegates at the great International Peace Congresses in Europe two generations ago; and this "American

way," as our European friends then popularly called it, simply emphasized thus long in advance the cardinal features of The Hague programs of to-day. But these American international leaders of 1850 knew well their obligations for their doctrine. "The name of Immanuel Kant," said Elihu Burritt at the Frankfort Congress in that year, "is identified with it, and it would be an act of injustice to the memory of that remarkable man to ascribe to the American mind a plan which he had presented to the world with such clearness and force before it was ever mentioned on the other side of the Atlantic." He quotes Kant's statement as to the kind of world federation which at that writing the great thinker had in mind, however closer and more organic was the "universal cosmopolitical institution" contemplated in other passages: "What we mean to propose is a General Congress of Nations of which both the meeting and duration are to depend entirely upon the sovereign wills of the League, and not an indissoluble union, like that which exists among the several states of North America, founded upon a political covenant. Such a Congress and such a League are the only means of realizing the idea of a true public law, according to which the differences between nations would be determined by civil proceedings, as those between individuals are determined by civil judicature instead of resorting to war, a means of redress worthy only of barbarians."

Such a coöperative union of independent and sovereign nations was all that was contemplated in the "American plan" of the second quarter of the last century, the program proposed by Burritt in the European congresses and earlier here by William Ladd; and such only is the form of union we may wisely work for at The Hague to-day, leaving the future to determine the ultimate organization and



character of the World State. But whatever the genesis and history, through Kant's inspiration and all inspirations, the inspirations chiefly of our own free and federal national life, the idea of international federation and the World State is here among ourselves to-day most native, most common and most dynamic. Here writings upon world organization and world law multiply fastest; and the doctrine of Kant becomes at last the teaching of our schools. "The World State" finds place as the closing chapter in one of the most scholarly and popular textbooks of modern history in our schools, showing the youthful student how the long processes, collisions and struggles which crowd the pages of the past find their justification and interpretation only as we see that they have all been informed by the increasing purpose and have been preparations for the fraternity and coöperation of peoples and a true world order. Such chapters will find place to-morrow in all school histories and in the common books of the people. Germany, with the deeper understanding born of new experience, harking back to her great prophet, will put his truth into her life and into her education, with that thoroughness and power which made her in the age of her sovereign idealism the teacher and inspirer of the nations. In that better and hastening time of trust in justice, vision and the broadening thoughts of men, to-day's reliance upon materialism and force will appear to all men as the deadly and the futile thing it is, and Immanuel Kant will come into his own.

EDWIN D. MEAD

Boston, 1914

I

THE NATURAL PRINCIPLE OF  
THE POLITICAL ORDER

CONSIDERED IN CONNECTION WITH

THE IDEA OF A UNIVERSAL COSMO-  
POLITICAL HISTORY

1784





## THE NATURAL PRINCIPLE OF THE POLITICAL ORDER

Whatever metaphysical theory may be formed regarding the freedom of the will, it holds equally true that the manifestations of the will in human actions are determined, like all other external events, by universal natural laws. Now history is occupied with the narration of these manifestations as facts, however deeply their causes may lie concealed. Hence in view of this natural principle of regulation, it may be hoped that when the play of the freedom of the human will is examined on the great scale of universal history a regular march will be discovered in its movements; and that, in this way, what appears to be tangled and unregulated in the case of individuals will be recognized in the history of the whole species as a continually advancing, though slow, development of its original capacities and endowments. Thus marriages, births and deaths appear to be incapable of being reduced to any rule by which their numbers might be calculated beforehand, on account of the great influence which the free will of man exercises upon them; and yet the annual statistics of great countries prove that these events take place according to constant natural laws. In this respect they may be compared with the very inconstant changes of the weather, which cannot be determined beforehand in detail, but

which yet, on the whole, do not fail to maintain the growth of plants, the flow of rivers and other natural processes, in a uniform uninterrupted course. Individual men, and even whole nations, little think, while they are pursuing their own purposes—each in his own way and often one in direct opposition to another—that they are advancing unconsciously under the guidance of a purpose of nature which is unknown to them, and that they are toiling for the realization of an end which, even if it were known to them, might be regarded as of little importance.

Men, viewed as a whole, are not guided in their efforts merely by instinct, like the lower animals; nor do they proceed in their actions, like the citizens of a purely rational world, according to a preconcerted plan. And so it appears as if no regular systematic history of mankind would be possible, as in the case, for instance, of bees and beavers. Nor can one help feeling a certain repugnance in looking at the conduct of men as it is exhibited on the great stage of the world. With glimpses of wisdom appearing in individuals here and there, it seems, on examining it externally as if the whole web of human history were woven out of folly and childish vanity and the frenzy of destruction, so that at the end one hardly knows what idea to form of our race, albeit so proud of its prerogatives. In such circumstances there is no resource for the philosopher but, while recognizing the fact that a rational conscious purpose cannot be supposed to determine mankind in the play of their actions as a whole, to try whether he cannot discover a universal purpose of nature in this paradoxical movement of human things, and whether in view of this

purpose a history of creatures who proceed without a plan of their own may nevertheless be possible according to a determinate plan of nature. We will accordingly see whether we can succeed in finding a clew to such a history; and, in the event of doing so, we shall then leave it to nature to bring forth the man who will be fit to compose it. Thus did she bring forth a Kepler, who, in an unexpected way, reduced the eccentric paths of the planets to definite laws; and then she brought forth a Newton, who explained those laws by a universal natural cause.

#### FIRST PROPOSITION

**All the capacities implanted in a creature by nature are destined to unfold themselves, completely and conformably to their end, in the course of time.**

This proposition is established by observation, external as well as internal or anatomical, in the case of all animals. An organ which is not to be used, or an arrangement which does not attain its end, is a contradiction in the teleological science of nature. For, if we turn away from that fundamental principle, we have then before us a nature moving without a purpose, and no longer conformable to law; and the cheerless gloom of chance takes the place of the guiding light of reason.



## SECOND PROPOSITION

In man, as the only rational creature on earth, those natural capacities which are directed toward the use of his reason could be completely developed only in the species and not in the individual.

Reason, in a creature, is a faculty of which it is characteristic to extend the laws and purposes involved in the use of all its powers far beyond the sphere of natural instinct, and it knows no limit in its efforts. Reason, however, does not itself work by instinct, but requires experiments, exercise and instruction in order to advance gradually from one stage of insight to another. Hence each individual man would necessarily have to live an enormous length of time in order to learn by himself how to make a complete use of all his natural endowments. Otherwise, if nature should have given him but a short lease of life — as is actually the case — reason would then require the production of an almost inconceivable series of generations, the one handing down its enlightenment to the other, in order that her germs, as implanted in our species may be at last unfolded to that stage of development which is completely conformable to her inherent design. And the point of time at which this is to be reached must, at least in idea, form the goal and aim of man's endeavors, because his natural capacities would otherwise have to be regarded as, for the most part, purposeless and bestowed in vain. But such a view would abolish all our practical principles, and thereby also throw on nature the suspicion of practicing a childish play in the case of man alone, while her wisdom must otherwise be recognized as a fundamental principle in judging of all other arrangements.

## THIRD PROPOSITION

Nature has willed that man shall produce wholly out of himself all that goes beyond the mechanical structure and arrangement of his animal existence, and that he shall participate in no other happiness or perfection than that which he has procured for himself, apart from instinct, by his own reason. .

Nature, according to this view, does nothing that is superfluous, and is not prodigal in the use of means for her ends. As she gave man reason and freedom of will on the basis of reason, this was at once a clear indication of her purpose in respect of his endowments. With such equipment, he was not to be guided by instinct nor furnished and instructed by innate knowledge; much rather must he produce everything out of himself. The invention of his own covering and shelter from the elements and the means of providing for his external security and defense, — for which nature gave him neither the horns of the bull, nor the claws of the lion, nor the fangs of the dog, — as well as all the sources of delight which could make life agreeable, his very insight and prudence, and even the goodness of his will, all these were to be entirely his own work. Nature seems to have taken pleasure in exercising her utmost parsimony in this case and to have measured her animal equipments very sparingly. She seems to have exactly fitted them to the most necessitous requirements of the mere beginning of an existence, as if it had been her will that man, when he had at last struggled up from the greatest crudeness of life to the highest capability and to internal perfection in his habit of thought, and thereby also —

so far as it is possible on earth — to happiness, should claim the merit of it as all his own and owe it only to himself. It thus looks as if nature had laid more upon his rational self-esteem than upon his mere well-being. For in this movement of human life a great host of toils and troubles wait upon man. It appears, however, that the purpose of nature was not so much that he should have an agreeable life, but that he should carry forward his own self-culture until he made himself worthy of life and well-being. In this connection it is always a subject of wonder that the older generations appear only to pursue their weary toil for the sake of those who come after them, preparing for the latter another stage on which they may carry higher the structure which nature has in view; and that it is to be the happy fate of only the latest generations to dwell in the building upon which the long series of their forefathers have labored, without so much as intending it and yet with no possibility of participating in the happiness which they were preparing. Yet, however mysterious this may be, it is as necessary as it is mysterious when we once accept the position that one species of animals was destined to possess reason, and that, forming a class of rational beings mortal in all the individuals but immortal in the species, it was yet to attain to a complete development of its capacities.

See BK  
Centen  
to him  
continues  
progress



## FOURTH PROPOSITION

The means which nature employs to bring about the development of all the capacities implanted in men is their mutual antagonism in society, but only so far as this antagonism becomes at length the cause of an order among them that is regulated by law.

By this antagonism I mean the unsocial sociability of men; that is, their tendency to enter into society, conjoined, however, with an accompanying resistance which continually threatens to dissolve this society. The disposition for this manifestly lies in human nature. Man has an inclination to socialize himself by associating with others, because in such a state he feels himself more than a natural man, in the development of his natural capacities. He has, moreover, a great tendency to individualize himself by isolation from others, because he likewise finds in himself the unsocial disposition of wishing to direct everything merely according to his own mind; and hence he expects resistance everywhere, just as he knows with regard to himself that he is inclined on his part to resist others. Now it is this resistance or mutual antagonism that awakens all the powers of man, that drives him to overcome all his propensity to indolence, and that impels him, through the desire of honor or power or wealth, to strive after rank among his fellow men — whom he can neither bear to interfere with himself, nor yet let alone. Then the first real steps are taken from the rudeness of barbarism to the culture of civilization, which particularly lies in the social worth of man. All his talents are now gradually developed, and with the progress of enlightenment a beginning is made in the institution of a mode of



thinking which can transform the crude natural capacity for moral distinctions, in the course of time, into definite practical principles of action; and thus a pathologically constrained combination into a form of society is developed at last to a moral and rational whole. Without those qualities of an unsocial kind out of which this antagonism arises — which viewed by themselves are certainly not amiable but which every one must necessarily find in the movements of his own selfish propensities — men might have led an Arcadian shepherd life in complete harmony, contentment and mutual love, but in that case all their talents would have forever remained hidden in their germ. As gentle as the sheep they tended, such men would hardly have won for their existence a higher worth than belonged to their domesticated cattle; they would not have filled up with their rational nature the void remaining in the creation, in respect of its final end. Thanks be then to nature for this unsociableness, for this envious jealousy and vanity, for this unsatiable desire of possession or even of power. Without them all the excellent capacities implanted in mankind by nature would slumber eternally undeveloped. Man wishes concord; but nature knows better what is good for his species, and she will have discord. He wishes to live comfortably and pleasantly; but nature wills that, turning from idleness and inactive contentment, he shall throw himself into toil and suffering even in order to find out remedies against them, and to extricate his life prudently from them again. The natural impulses that urge man in this direction, the sources of that unsociableness and general antagonism from which so many evils arise, do yet at the same time impel him

to new exertion of his powers, and consequently to further development of his natural capacities. Hence they clearly manifest the arrangement of a wise Creator, and do not at all, as is often supposed, betray the hand of a malevolent spirit that has deteriorated His glorious creation, or spoiled it from envy.

#### FIFTH PROPOSITION

The greatest practical problem for the human race, to the solution of which it is compelled by nature, is the establishment of a civil society, universally administering right according to law.

It is only in a society which possesses the greatest liberty, and which consequently involves a thorough antagonism of its members — with, however, the most exact determination and guarantee of the limits of this liberty in order that it may coexist with the liberty of others — that the highest purpose of nature, which is the development of all her capacities, can be attained in the case of mankind. Now nature also wills that the human race shall attain through itself to this, as to all the other ends for which it was destined. Hence a society in which liberty under external laws may be found combined in the greatest possible degree with irresistible power, or a perfectly just civil constitution, is the highest natural problem prescribed to the human species. And this is so because nature can only by means of the solution and fulfillment of this problem realize her other purposes with our race. A certain necessity compels man, who is otherwise so greatly prepossessed in favor

of unlimited freedom, to enter into this state of coercion and restraint. Indeed, it is the greatest necessity of all that does this; for it is created by men themselves whose inclinations make it impossible for them to exist long beside each other in wild, lawless freedom. But in such a complete growth as the civil union these very inclinations afterward produce the best effects. It is with them as with the trees in a forest; for just because every one strives to deprive the other of air and sun they compel each other to seek them both above, and thus they grow beautiful and straight; whereas those that in freedom and apart from one another shoot out their branches at will grow stunted and crooked and awry. All the culture and art that adorn humanity and the fairest social order are fruits of that unsociableness which is necessitated of itself to discipline itself and which thus constrains man, by compulsive art, to develop completely the germs of his nature.

#### SIXTH PROPOSITION

- ✓ This problem is likewise the most difficult of its kind, and it is the latest to be solved by the human race.

The difficulty which the mere idea of this problem brings into view is that man is an animal, and if he lives among others of his kind he has need of a master. For he certainly misuses his freedom in relation to his fellow men; and although as a rational creature he desires a law which may set bounds to the freedom of all, yet his own selfish animal inclinations lead him,

The all-valued  
distinction  
between the universal  
and the particular self



wherever he can, to except himself from it. He, therefore, requires a master to break his self-will and compel him to obey a will that is universally valid, and in relation to which every one may be free. Where, then, does he obtain this master? Nowhere but in the human race. But this master is an animal too, and also requires a master. Begin, then, as he may, it is not easy to see how he can procure a supreme authority over public justice that would be essentially just, whether such an authority may be sought in a single person or in a society of many selected persons. The highest authority has to be just in itself, and yet to be a man. This problem is, therefore, the most difficult of its kind; and, indeed, its perfect solution is impossible. Out of such crooked material as man is made of, nothing can be hammered quite straight. So it is only an approximation to this idea that is imposed upon us by nature.\* It further follows that this problem is the last to be practically worked out, because it requires correct conceptions of the nature of a possible constitution, great experience founded on the practice of ages, and above all a good will prepared for the reception of the solution. But these three conditions could not easily be found together; and if they are found it can only be very late in time, and after many attempts to solve the problem have been made in vain.

\* The part that has to be played by man is, therefore, a very artificial one. We do not know how it may be with the inhabitants of other planets or what are the conditions of their nature; but, if we execute well the commission of nature, we may certainly flatter ourselves to the extent of claiming a not insignificant rank among our neighbors in the universe. It may perhaps be the case that in those other planets every individual completely attains his destination in this life. With us it is otherwise; only the species can hope for this.

1 can do it similar to the one by which Kant

very Kantian is the law - how

and the subject of the law

✓

that he did the same for him.

that he pressed himself in similar terms, when he says that

this state is more than we the Americans

it may not be at all

## SEVENTH PROPOSITION

✓ The problem of the establishment of a perfect civil constitution is dependent on the problem of the regulation of the external relations between the states conformably to law; and without the solution of this latter problem it cannot be solved.

What avails it to labor at the arrangement of a commonwealth as a civil constitution regulated by law among individual men? The same unsociableness which forced men to it becomes again the cause of each commonwealth's assuming the attitude of uncontrolled freedom in its external relations, that is, as one State in relation to other States; and consequently any one State must expect from any other the same sort of evils as oppressed individual men and compelled them to enter into a civil union regulated by law. Nature has accordingly again used the unsociableness of men, and even of great societies and political bodies, her creatures of this kind, as a means to work out through their mutual antagonism a condition of rest and security. She works through wars, through the strain of never-relaxed preparation for them, and through the necessity which every State is at last compelled to feel within itself, even in the midst of peace, to begin some imperfect efforts to carry out her purpose.

And, at last, after many devastations, overthrows and even complete internal exhaustion of their powers, the nations are driven forward to the goal which reason might easily have impressed upon them, even without so much sad experience. (This is none other than the advance out of the lawless state of savages and the entering into a federation of nations.) It is thus brought about that every

7. This means  
that the  
"good effect"  
nature was  
at any rate  
unavoidable

Parallel  
between

the state and the well ordered

which Plato's method

in his last work Ethics - Politics

(the state)



State, including even the smallest, may rely for its safety and its rights not on its own power or its own judgment of right, but only on this great international federation (*foedus amphictionum*), on its combined power and on the decision of the common will according to laws. However visionary this idea may appear to be — and it has been ridiculed in the way in which it has been presented by an Abbé de St. Pierre or Rousseau (perhaps because they believed its realization to be so near) — it is nevertheless the inevitable issue of the necessity in which men involve one another. For this necessity must compel the nations to the very resolution — however hard it may appear — to which the savage in his uncivilized state was so unwillingly compelled when he had to surrender his brutal liberty and seek rest and security in a constitution regulated by law.

All wars are, accordingly, so many attempts — not, indeed, in the intention of men, but yet according to the purpose of nature — to bring about new relations between the nations; and by destruction, or at least dismemberment, of them all to form new political corporations. These new organizations, again, are not capable of being preserved either in themselves or beside one another, and they must therefore pass in turn through similar new revolutions, till at last, partly by the best possible arrangement of the civil constitution within, and partly by common convention and legislation without, a condition will be attained, which, in the likeness of a civil commonwealth and after the manner of an automaton, will be able to preserve itself.

Three views may be put forward as to the way in which this condition is to be attained. In the first place,

it may be held that from an Epicurean concourse of causes in action it is to be expected that the States, like little particles of matter, will try by their fortuitous conjunctions all sorts of formations, which will be again destroyed by new collisions, till at last some one constitution will by chance succeed in preserving itself in its proper form, — a lucky accident which will hardly ever come about! In the second place, it may rather be maintained that nature here pursues a regular march in carrying our species up from the lower stage of animality to the highest stage of humanity, and that this is done by a compulsive art that is inherent in man, whereby his natural capacities and endowments are developed in perfect regularity through an apparently wild disorder. Or, in the third place, it may even be asserted that out of all these actions and reactions of men as a whole nothing at all — or at least nothing rational — will ever be produced; that it will be in the future as it has ever been in the past, and that no one will ever be able to say whether the discord which is so natural to our species may not be preparing for us, even in this civilized state of society, a hell of evils at the end; nay, that it is not perhaps advancing even now to annihilate again by barbaric devastation this actual state of society and all the progress hitherto made in civilization, — a fate against which there is no guarantee under a government of blind chance, identical as it is with lawless freedom in action, unless a connecting wisdom is covertly assumed to underlie the system of nature.

Now, which of these views is to be adopted depends almost entirely on the question whether it is rational to recognize harmony and design in the parts of the

constitution of nature, and to deny them of the whole. We have glanced at what has been done by the seemingly purposeless state of savages; how it checked for a time all the natural capacities of our species, but at last by the very evils in which it involved mankind it compelled them to pass from this state, and to enter into a civil constitution, in which all the germs of humanity could be unfolded. And, in like manner, the barbarian freedom of the States, when once they were founded, proceeded in the same way of progress. By the expenditure of all the resources of the commonwealth in military preparations against each other, by the devastations occasioned by war, and still more by the necessity of holding themselves continually in readiness for it, the full development of the capacities of mankind are undoubtedly retarded in their progress; but, on the other hand, the very evils which thus arise, compel men to find out means against them. A law of equilibrium is thus discovered for the regulation of the really wholesome antagonism of contiguous States as it springs up out of their freedom; and a united power, giving emphasis to this law, is constituted, whereby there is introduced a universal condition of public security among the nations. And that the powers of mankind may not fall asleep, this condition is not entirely free from danger; but it is at the same time not without a principle which operates, so as to equalize the mutual action and reaction of these powers, that they may not destroy each other. Before the last step of bringing in a universal union of the States is taken — and accordingly when human nature is only halfway in its progress — it has to endure the hardest evils of all, under the deceptive semblance of outward prosperity; and Rousseau was not so far

Again  
the analogy  
of the State  
and the  
individual



wrong when he preferred the state of the savages, if the last stage which our race has yet to surmount be left out of view. We are cultivated in a high degree by science and art. We are civilized, even to excess, in the way of all sorts of social forms of politeness and elegance. But there is still much to be done before we can be regarded as moralized. The idea of morality certainly belongs to real culture; but an application of this idea which extends no farther than the likeness of morality in the sense of honor and external propriety merely constitutes civilization. So long, however, as States lavish all their resources upon vain and violent schemes of aggrandizement, so long as they continually impede the slow movements of the endeavor to cultivate the newer habits of thought and character on the part of the citizens, and even withdraw from them all the means of furthering it, nothing in the way of moral progress can be expected. A long internal process of improvement is thus required in every commonwealth as a condition for the higher culture of its citizens. But all apparent good that is not grafted upon a morally good disposition is nothing but mere illusion and glittering misery. In this condition the human race will remain until it shall have worked itself, in the way that has been indicated, out of the existing chaos of its political relations.

Andler  
Platonizing  
heart, who  
social treat  
justice or the  
injustice  
of estate  
defends  
when the justice of  
the injustice of its  
rules. - Hence his  
emphasis on education



## EIGHTH PROPOSITION

The history of the human race, viewed as a whole, may be regarded as the realization of a hidden plan of nature to bring about a political constitution, internally, and, for this purpose, also externally perfect, as the only state in which all the capacities implanted by her in mankind can be fully developed.

This proposition is a corollary from the preceding proposition. We see by it that philosophy may also have its millennial view, but in this case the chiliasm is of such a nature that the very idea of it — although only in a far-off way — may help to further its realization; and such a prospect is, therefore, anything but visionary. The real question is whether experience discloses anything of such a movement in the purpose of nature. I can only say it does a little; for the movement in this orbit appears to require such a long time till it goes full round that the form of its path and the relation of its parts to the whole can hardly be determined out of the small portion which the human race has yet passed through in this relation. The determination of this problem is just as difficult and uncertain as it is to calculate from all previous astronomical observations what course our sun, with the whole host of his attendant train, is pursuing in the great system of the fixed stars, although on the ground of the total arrangement of the structure of the universe and the little that has been observed of it, we may infer, confidently enough, the reality of such a movement. Human nature, however, is so constituted that it cannot be indifferent even in regard to the most distant epoch that may affect our

race, if only it can be expected with certainty. And such indifference is the less possible in the case before us when it appears that we might by our own rational arrangements hasten the coming of this joyous period for our descendants. Hence the faintest traces of the approach of this period will be very important to ourselves. Now the States are already in the present day involved in such close relations with each other that none of them can pause or slacken in its internal civilization without losing power and influence in relation to the rest; and hence the maintenance, if not the progress, of this end of nature is, in a manner, secured even by the ambitious designs of the States themselves. Further, civil liberty cannot now be easily assailed without inflicting such damage as will be felt in all trades and industries, and especially in commerce; and this would entail a diminution of the powers of the State in external relations. This liberty, moreover, gradually advances further. But if the citizen is hindered in seeking his prosperity in any way suitable to himself that is consistent with the liberty of others, the activity of business is checked generally; and thereby the powers of the whole State are again weakened. Hence the restrictions on personal liberty of action are always more and more removed, and universal liberty even in religion comes to be conceded. And thus it is that, notwithstanding the intrusion of many a delusion and caprice, the spirit of enlightenment gradually arises as a great good which the human race must derive even from the selfish purposes of aggrandizement on the part of its rulers, if they understand what is for their own advantage. This enlightenment, however, and along with it a certain sympathetic interest which the enlightened man

cannot avoid taking in the good which he perfectly understands, must by and by pass up to the throne and exert an influence even upon the principles of government. Thus although our rulers at present have no money to spend on public educational institutions, or in general on all that concerns the highest good of the world—because all their resources are already placed to the account of the next war—yet they will certainly find it to be to their own advantage at least not to hinder the people in their own efforts in this direction, however weak and slow these may be. Finally, war itself comes to be regarded as a very hazardous and objectionable undertaking, not only from its being so artificial in itself and so uncertain as regards its issue on both sides, but also from the after-pains which the State feels in the ever-increasing burdens it entails in the form of national debt—a modern infliction—which it becomes almost impossible to extinguish. And to this is to be added the influence which every political disturbance of any State of our continent—linked as it is so closely to others by the connections of trade—exerts upon all the States and which becomes so observable that they are forced by their common danger, although without lawful authority, to offer themselves as arbiters in the troubles of any such State. In doing so, they are beginning to arrange for a great future political body, such as the world has never yet seen. Although this political body may as yet exist only in a rough outline, nevertheless a feeling begins, as it were, to stir in all its members, each of which has a common interest in the maintenance of the whole. And this may well inspire the hope that, after many political revolutions and transformations, the highest purpose of nature will be at last



realized in the establishment of a universal cosmopolitical institution, in the bosom of which all the original capacities and endowments of the human species will be unfolded and developed.

#### NINTH PROPOSITION

**A philosophical attempt to work out the universal history of the world according to the plan of nature in its aiming at a perfect civil union must be regarded as possible, and as even capable of helping forward the purpose of nature.**

It seems, at first sight, a strange and even an absurd proposal to suggest the composition of a history according to the idea of how the course of the world must proceed, if it is to be conformable to certain rational laws. It may well appear that only a romance could be produced from such a point of view. However, if it be assumed that nature, even in the play of human freedom, does not proceed without plan and design, the idea may well be regarded as practicable; and, although we are too shortsighted to see through the secret mechanism of her constitution, yet the idea may be serviceable as a clew to enable us to penetrate the otherwise planless aggregate of human actions as a whole, and to represent them as constituting a system. For the idea may so far be easily verified. Thus, suppose we start from the history of Greece, as that by which all the older or contemporaneous history has been preserved, or at least accredited to us.\* Then, if we study its influence upon

\* It is only a learned public which has had an uninterrupted existence from its beginning up to our time that can authenticate ancient history. Beyond it, all is *terra incognita*; and the history of the peoples who lived



the formation and malformation of the political institutions of the Roman people, which swallowed up the Greek states, and if we further follow the influence of the Roman Empire upon the Barbarians who destroyed it in turn, and continue this investigation down to our own day, conjoining with it episodically the political history of other peoples according as the knowledge of them has gradually reached us through these more enlightened nations, we shall discover a regular movement of progress through the political institutions of our continent, which is probably destined to give laws to all other parts of the world. Applying the same method of study everywhere, both to the internal civil constitutions and laws of the States and to their external relations to each other, we see how in both relations the good they contained served for a certain period to elevate and glorify particular nations, and with themselves their arts and sciences, — until the defects attaching to their institutions came in time to cause their overthrow. And yet their very ruin leaves always a germ of growing enlightenment behind, which, being further developed by every revolution, acts as a preparation for a subsequent higher stage of progress and improvement. Thus, as I believe, we can discover a clue which may serve for more than the explanation of the confused play of human things, or for the art of political prophecy in reference to future changes in States, — a

out of its range can only be begun from the date at which they entered within it. In the case of the Jewish people this happened in the time of the Ptolemies through the Greek translation of the Bible, without which little faith would have been given to their isolated accounts of themselves. From that date taken as a beginning, when it has been determined, their records may then be traced upward. And so it is with all other peoples. The first page of Thucydides, says Hume, is the beginning of all true history.

*This passage  
appears in  
certain Plato's  
Republic  
Book VII (the  
Independent  
State).*

use which has been already made of the history of mankind, even although it was regarded as the incoherent effect of an unregulated freedom! Much more than all this is attained by the idea of human history viewed as founded upon the assumption of a universal plan in nature. For this idea gives us a new ground of hope, as it opens up to us a consoling view of the future, in which the human species is represented in the far distance as having at last worked itself up to a condition in which all the germs implanted in it by nature may be fully developed, and its destination here on earth fulfilled. Such a justification of nature—or rather, let us say, of Providence—is no insignificant motive for choosing a particular point of view in contemplating the course of the world. For what avails it to magnify the glory and wisdom of the creation in the irrational domain of nature, and to recommend it to devout contemplation, if that part of the great display of the supreme wisdom which presents the end of it all in the history of the human race is to be viewed as only furnishing perpetual objections ✓ to that glory and wisdom? The spectacle of history if thus viewed would compel us to turn away our eyes from it against our will; and the despair of ever finding a perfect rational purpose in its movement would reduce us to hope for it, if at all, only in another world.

This idea of a universal history is no doubt to a certain extent of an *a priori* character, but it would be a misunderstanding of my object were it imagined that I have any wish to supplant the empirical cultivation of history, or the narration of the actual facts of experience. It is only a thought of what a philosophical mind—which, as such, must be thoroughly versed in history

—might be induced to attempt from another standpoint. Besides, the praiseworthy circumstantiality with which our history is now written may well lead one to raise the question as to how our remote posterity will be able to cope with the burden of history as it will be transmitted to them after a few centuries. They will surely estimate the history of the oldest times, of which the documentary records may have been long lost, only from the point of view of what will interest them; and no doubt this will be what the nations and governments have achieved, or failed to achieve, in the universal world-wide relation. It is well to be giving thought to this relation; and at the same time to draw the attention of ambitious rulers and their servants to the only means by which they can leave an honorable memorial of themselves to latest times. And this may also form a minor motive for attempting to produce such a philosophical history.





II

THE PRINCIPLES OF POLITICAL  
RIGHT

CONSIDERED IN CONNECTION WITH

THE RELATION OF THEORY TO PRACTICE  
IN NATIONAL LAW

1793



## THE PRINCIPLES OF POLITICAL RIGHT

The establishment of a civil constitution in society is one of the most important facts in human history. In the principle on which it is founded this institution differs from all the other forms of social union among mankind. Viewed as a compact,\* and compared with other modes of compact† by which numbers of men are united into one society, the formation of a civil constitution has much in common with all other forms of social union in respect of the mode in which it is carried out in practice. But while all such compacts are established for the purpose of promoting in common some chosen end, the civil union is essentially distinguished from all others by the principle on which it is based. In all social contracts we find a union of a number of persons for the purpose of carrying out some one end which they all have in common. But a union of a multitude of men, viewed as an end in itself that every person ought to carry out, and which consequently is a primary and unconditional duty amid all the external relations of men who cannot help exercising a mutual influence on one another, — is at once peculiar and unique of its kind. Such a union is only to be found in a society which, by being formed into a civil state, constitutes a commonwealth. Now the end which in such external relations is itself a duty and even the highest formal condition — the *conditio sine qua non* —

\* *Pactum unionis civilis.*

† *Pactum sociale.*

of all other external duties, is the realization of the rights of men under public compulsory laws, by which every individual can have what is his own assigned to him and secured against the encroachments or assaults of others.

The idea of an external law generally arises wholly out of the idea of human freedom, or liberty, in the external relations of men to one another. As such, it has nothing specially to do with the realization of happiness as a purpose which all men naturally have, or with prescribing the means of attaining it; so that therefore such a prescription in any statute must not be confounded with the motive behind the law itself. Law in general may be defined as the limitation of the freedom of any individual to the extent of its agreement with the freedom of all other individuals, in so far as this is possible by a universal law. Public law, again, is the sum of the external laws which make such a complete agreement of freedom in society possible. Now as all limitation of freedom by external acts of the will of another is a mode of coercion or compulsion, it follows that the civil constitution is a relation of free men who live under coercive laws, without otherwise prejudicing their liberty in the whole of their connection with others. For reason itself wills this. By 'reason' is here meant the purely innate, law-giving reason which gives no regard to any end that is derived from experience, all of which is comprehended under the general name of happiness. In consideration of such ends and the place each assigns them men think so differently that their wills could not be brought under any common principle, nor, consequently, under any external laws that would be compatible with the liberty of all.



(The civil state, then, regarded merely as a social state that is regulated by righteous laws, is founded upon the following rational principles :

1. The liberty of every member of the society as a man ;
2. The equality of every member of the society with every other, as a subject ;
3. The self-dependency of every member of the commonwealth, as a citizen.

These principles are not so much laws given by the State when it is established as they are fundamental conditions according to which alone the institution of a State is possible, in conformity with the purely rational principles of external human right generally.

1. The liberty of every member of the State as a man is the first principle in the constitution of a rational commonwealth. I would express this principle in the following form: 'No one has a right to compel me to be happy in the peculiar way in which he may think of the well-being of other men ; but every one is entitled to seek his own happiness in the way that seems to him best, if it does not infringe the liberty of others in striving after a similar end for themselves when their liberty is capable of consisting with the right of liberty in all others according to possible universal laws.' A government founded upon the principle of benevolence toward the people — after the analogy of a father to his children, and therefore called a paternal government — would be one in which the subjects would be regarded as children or minors unable to distinguish what is beneficial or injurious to them. These subjects would be thus compelled to act in a merely passive way ; and they would

political  
oppression  
of the state  
for the sake  
of private  
interests.

be trained to expect all that ought to make them happy, solely from the judgment of the sovereign and just as he might will it, merely out of his goodness. Such a government would be the greatest conceivable despotism; for it would present a constitution that would abolish all liberty in the subjects and leave them no rights. It is not a paternal government, but only a patriotic government that is adapted for men who are capable of rights, and at the same time fitted to give scope to the good-will of the ruler. By 'patriotic' is meant that condition of mind in which every one in the State — the head of it not excepted — regards the commonwealth as the maternal bosom, and the country as the paternal soil out of and on which he himself has sprung into being, and which he also must leave to others as a dear inheritance. Thus, and thus only, can he hold himself entitled to protect the rights of his fatherland by laws of the common will, but not to subject it to an unconditional purpose of his own at pleasure.

This right of liberty thus belongs to him as a man, while he is a member of the commonwealth; or, in point of fact, so far as he is a being capable of rights generally.

2. The equality of every member of the State as a subject is the second principle in the constitution of a rational commonwealth. The formula of this principle may be put thus: 'Every member of the commonwealth has rights against every other that may be enforced by compulsory laws, from which only the sovereign or supreme ruler of the State is excepted, because he is regarded not as a mere member of the commonwealth, but as its creator or maintainer; and he alone has the right to compel without being himself subject to compulsory law.' All,

however, who live under laws in a State are its subjects; and, consequently, they are subjected to the compulsory law, like all other members of the commonwealth, one only, whether an individual sovereign or a collective body, constituting the supreme head of the State and as such being accepted as the medium through which alone all rightful coercion or compulsion can be exercised. For, should the head of the State also be subject to compulsion, there would no longer be a supreme head, and the series of members subordinate and superordinate would go on upward *ad infinitum*. Again, were there in the State two such powers as persons exempt from legal compulsion, neither of them would be subject to compulsory laws, and as such the one could do no wrong to the other; which is impossible.

This thoroughgoing equality of the individual men in a State as its subjects is, however, quite compatible with the greatest inequality in the extent and degrees of their possessions, whether consisting in corporeal or spiritual superiority over others, or in the external gifts of fortune, or in rights generally — of which there may be many — in relation to others. Thus the prosperity of the one may greatly depend on the will of another, as in the case of the poor in relation to the rich. One may even have of necessity to obey and another to command, as in the relation of children to parents and of wife to husband. Again, one may have to work and another to pay, as in the case of a day laborer; and so on. But in relation to the involved law of right, which as the expression of the universal will of the State can be only one, and which regards the form of the right, and not the matter or object to which the right refers: in all cases, the persons as subjects are to

So Kant  
did not  
The common  
factor, he  
just did  
not regard  
it as power  
but enough  
to transcend  
into the Kingdom  
of Right.



be regarded as all equal to one another. For no one has a right to compel or coerce any one whomsoever in the State, otherwise than by the public law and through the sovereign or ruler executing it; and any one may resist another thus far, and through the same medium. On the other hand, no one can lose this right, as a title to proceed by legal compulsion against others, except by his own fault or a criminal act. Nor can any one divest himself of it voluntarily, or by a compact, so as to bring it about by a supposed act of right, that he should have no rights but only duties toward others; for in so doing he would be depriving himself of the right of making a compact, and consequently the act would annul itself.

Out of this idea of the equality of men as subjects in the commonwealth, there arises the following formula:  
{ Every member of the State should have it made possible for him to attain to any position or rank that may belong to any subject to which his talent, his industry or his fortune may be capable of raising him; and his fellow subjects are not entitled to stand in the way by any hereditary prerogative, forming the exclusive privilege of a certain class, in order to keep him and his posterity forever below them. }

For all law consists merely in restriction of the liberty of another to the condition that is consistent with my liberty according to a universal law; and national law in a commonwealth is only the product of actual legislation conformable to this principle and conjoined with power, in virtue of which all who belong to a nation as its subjects find themselves in a condition constituted and regulated by law (*status juridicus*). And, as such, this condition is in fact a condition of equality inasmuch



as it is determined by the action and reaction of free wills limiting one another, according to the universal law of freedom; and it thus constitutes the civil state of human society. Hence the inborn right of all individuals in this sphere (that is, considered as being prior to their having actually entered upon juridical action) to bring compulsion to bear upon any others is entirely identical and equal throughout, on the assumption that they are always to remain within the bounds of unanimity and concord in the mutual use of their liberty. (Now birth is not an act on the part of him who is born, and consequently it does not entail upon him any inequality in the state of law, nor any subjection under laws of compulsion other than what is common to him with all others as a subject of the one supreme legislative power; and, therefore, there can be no inborn privilege by way of law in any member of the commonwealth as a subject before another fellow subject.) Nor, consequently, has any one a right to transmit the privilege or prerogative of the rank which he holds in the commonwealth to his posterity so that they should be, as it were, qualified by birth for the rank of nobility; nor should they be prevented from attaining by their own merit to the higher stages in the gradations of social rank. Everything else that partakes of the nature of a thing and does not relate to personality may be bequeathed; and, since such things may be acquired as property, they may also be alienated or conveyed. Hence after a number of generations a considerable inequality in external circumstances may arise among the members of a commonwealth, producing such relations as those of master and servant, landlord and tenant, etc. These circumstances and relations, however,

ought not to hinder any of the subjects of the State from rising to such positions as their talent, their industry and their fortune may make it possible for them to fill. For otherwise such a one would be qualified to coerce without being liable to be coerced by the counter action of others in return; and he would rise above the stage of being a fellow subject. Further, no man who lives under the legalized conditions of a commonwealth can fall out of this equality otherwise than by his own crime, and never either by compact or through any military occupancy.\* For he cannot by any legal act, whether of himself or of another, cease to be the owner of himself, or enter into the class of domestic cattle, which are used for all sorts of services at will and are maintained in this condition without their consent as long as there is a will to do it, although under the limitation — which is sometimes sanctioned even by religion, as among the Hindus — that they are not to be mutilated or slain. Under any conditions, he is to be regarded as happy who is conscious that it depends only on himself — that is, on his faculty or earnest will — or on circumstances which he cannot impute to any other, and not on the irresistible will of others, that he does not rise to a stage of equality with others who as his fellow subjects have no advantage over him as far as law is concerned.

f 3. The self-dependency† of a member of the commonwealth as a citizen, or fellow legislator, is the third

\* *Occupatio bellica.*

† [The term *Selbständigkeit*, here rendered by 'self-dependency,' is represented by Kant in his text by the Latin equivalent *sibi sufficientia*. The word 'self-sufficiency,' however, would be apt to mislead English readers. The term is commonly translated by 'independence,' but 'self-dependency' has been preferred as more closely indicative of the form and connotation of the German word. — *Tr.*]

principle or condition of law in the State. In the matter of the legislation itself, all are to be regarded as free and equal under the already-existing public laws; but they are not to be all regarded as equal in relation to the right to give or enact these laws. Those who are not capable of this right are, notwithstanding, subjected to the observance of the laws as members of the commonwealth, and thereby they participate in the protection which is in accordance therewith; they are, however, not to be regarded as citizens but as protected fellow subjects.

All right, in fact, depends on laws. A public law, however, which determines for all what is to be legally allowed or not allowed in their regard is the act of a public will, from which all law proceeds and which therefore itself can do no wrong to any one. For this, however, there is no other will competent than that of the whole people, as it is only when all determine about all that each one in consequence determines about himself. For it is only to himself that one can do no wrong. But if it be another will that is in question, then the mere will of any one different from it could determine nothing for it which might not be wrong; and consequently the law of such a will would require another law to limit its legislation. And thus no particular will can be legislative for a commonwealth. Properly speaking, in order to make out this, the ideas of the external liberty, equality and unity of the will of all are to be taken into account; and for the last of these self-dependency is the condition, since the exercising of a vote is required when the former two ideas are taken along with it. The fundamental law thus indicated, which can only arise out of the universal united will of the people, is what is called the *original contract*.



Now any one who has the right of voting in this system of legislation is a citizen as distinguished from a burgess; he is a citoyen as distinguished from a bourgeois. The quality requisite for this status, in addition to the natural one of not being a child or a woman, is solely this, that the individual is his own master by right (*sui juris*); and, consequently, that he has some property that supports him, under which may be reckoned any art or handicraft, or any fine art or science. Otherwise put, the condition in those cases in which the citizen must acquire from others in order to live is that he acquires it only by alienation of what is his own, and not by a consent given to others to make use of his powers; and consequently that he serves no one but the commonwealth, in the proper sense of the term. In this relation those skilled in the arts and large or small proprietors are all equal to one another as, in fact, each one is entitled to only one vote. As regards proprietors, the question might be considered as to how it may have happened by right that any one has got as his own more land than he can himself use with his own hands (for acquisition by military occupation is not primary acquisition); and how it has happened that many men, who otherwise might have altogether been able to acquire an independent possession, have been brought to the position of merely serving such a one in order to be able to live. But, without entering here upon the consideration of this question, it is manifest that it would at once be contrary to the previous principle of equality if a law were to invest such persons with the privilege of a class so that their descendants should either always continue to be great proprietors of land — in the manner of fiefs

✓  
Here Plato  
is identical  
with  
Kant.



— without such being able to be sold or divided by inheritance, and thus coming to be applied for the use of more of the people; or if, even in carrying out such divisions, that no one but he who belonged to a certain class, arbitrarily regulated in this connection, could acquire any part of such land. The great possessor of an estate does in fact annihilate as many smaller owners, and their voices, as might occupy the place he takes up; he does not vote in their name, and he has consequently only one vote. It thus must be left to depend merely on the means, the industry and the fortune of each member of the commonwealth that each one may acquire a part of it, and all of its members the whole. But these distinctions cannot be brought into consideration in connection with a universal legislation; and hence the number of those qualified to have a voice in the legislation must be reckoned by the heads of those who are in possession and not according to the extent of their possessions.

Furthermore, all who have this right of voting must agree in order to realize the laws of public justice, for otherwise there would arise a conflict of right between those who were not in agreement with it and the others who were; and this would give rise to the need of a higher principle of right that the conflict might be decided. A universal agreement cannot be expected from a whole people; and consequently it is only a plurality of voices, and not even of those who immediately vote in a large nation, but only of their delegates as representative of the people that can alone be foreseen as practically attainable. And hence even the principle of making the majority of votes suffice as representing the general

consent will have to be taken as by compact; and it must thus be regarded as the ultimate basis of the establishment of any civil constitution.

We have next to consider what follows by way of corollary from the principles thus enunciated. We have before us the idea of an original contract as the only condition upon which a civil, and therefore wholly legal, constitution can be founded among men, and as the only basis upon which a State can be established. But this fundamental condition — whether called an *original contract* or a *social compact* — may be viewed as the coalition of all the private and particular wills of a people into one common and public will, having a purely juridical legislation as its end. But it is not necessary to presuppose this contract or compact to have been actually a fact; nor indeed is it possible as a fact. We have not to deal with it as if it had first to be proved from history that a people into whose rights and obligations we have entered as their descendants did actually on a certain occasion execute such a contract, and that a certain evidence or instrument of an oral or written kind regarding it must have been transmitted so as to constitute an obligation that shall be binding in any existing civil constitution. In short, this idea is merely an idea of reason; but it has undoubtedly a practical reality. For it ought to bind every legislator by the condition that he shall enact such laws as might have arisen from the united will of a whole people; and it will likewise be binding upon every subject, in so far as he will be a citizen, so that he shall regard the law as if he had consented to it of his own will. This is the test

*A law is just - and thereby it must be obeyed - if it is equally applied. - The content of the law is some thing which does not matter.*

## THE PRINCIPLES OF POLITICAL RIGHT 41

of the rightfulness of every public law. If the law be of such a nature that it is impossible that the whole people could give their assent to it, it is not a just law. An instance of this kind would be a law enacting that a certain class of subjects should have all the privileges of hereditary rank by mere birth. But if it be possible that a people consent to a law, it is a duty to regard it as just, even supposing that the people were at the moment in such a position or mood that if it were referred to them their consent to it would probably be refused.\*

This limitation, however, manifestly applies only to the judgment of the legislator and not to that of the subject. If then, under a certain actual state of the law, a people should conclude that the continuance of that law would probably take away their happiness, what would they have to do? Would it not be a duty to resist the law? The answer can only be that the people should do nothing but obey. For the question here does not turn upon the happiness which the subject may expect from some special institution or mode of administering the commonwealth, but the primary concern is purely that of the right which has thus to be secured to every individual. This is the supreme principle from which all the maxims relating to the

\* If, for example, a proportioned war tax were imposed on all the subjects, they are not entitled, because it is burdensome, to say that it is unjust because somehow, according to their opinion, the war was unnecessary. For they are not entitled to judge of this; whereas, because it is at least always possible that the war was inevitable and the tax indispensable, it must be regarded as rightful in the judgment of the subject. If, however, in such a war certain owners of property were to be burdened by imposts from which others of the same class were spared, it is easily seen that a whole people could not concur in such a law, and it is entitled at the least to make protestation against it, because it could not regard this unequal distribution of the public burdens as just.



commonwealth must proceed; and it cannot be limited by anything else. In regard to the interest of happiness, no principle that could be universally applicable can be laid down for the guidance of legislation; for not only the circumstances of the time but the very contradictory and ever-changing opinions which men have of what will constitute happiness make it impossible to lay down fixed principles regarding it; and so the idea of happiness, taken by itself, is not available as a principle of legislation. No one can prescribe for another as to what he shall find happiness in. ✓ The principle, *salus publica suprema civitatis lex est*, remains undiminished in value and authority; and the public weal, which has first of all to be taken into consideration, is just the maintenance of that legal constitution by which the liberty of all is secured through the laws. ✓ Along with this, the individual is left undisturbed in his right to seek his happiness in whatever way may seem to him best, if only he does not infringe the universal liberty secured through the law by violating the rights of other fellow subjects.

✓ When the sovereign power enacts laws which are directed primarily toward the happiness of the citizens, out of regard to their well-being, the state of the population and such like, this is not done from its being the end for which the civil constitution is established, but merely as a means of securing the state of right, especially against the external enemies of the people. The government must be capable of judging, and has alone to judge, whether such legislation belongs to the function of the commonwealth, and whether it is requisite in order to secure its strength and steadfastness both within itself and against foreign enemies; but this is



not to be done as if the aim were to make the people happy even against their will, but only to bring it about that they shall exist as a commonwealth.\* In thus judging whether any such measure can be taken prudently or not, the legislator may indeed err. But he does not err in so far as he considers whether the law does or does not agree with a principle of right. And in doing so he has an infallible criterion in the idea of the *original contract*, viewed as an essential idea of reason; and hence he does not require — as would be the case with the principle of happiness — to wait for experience to instruct him about the utility rather than the rightness of his proposed measure. For if it is only not contradictory in itself that a whole people should agree to such a law, however unpleasant may be its results in fact, it would as such be conformable to right. If a public law be thus conformable to right, it is irreprehensible, and hence it will give the right to coerce; and, on the other hand, it would involve the prohibition of active resistance to the will of the legislator. The power in the State which gives effect to the law is likewise irresistible; and no entirely legal commonwealth exists without such a power to suppress all internal resistance to it. For such resistance would proceed according to a rule which, if made universal, would destroy all civil constitutionalism and would annihilate the only state in which men can live in the actual possession of rights.

\* Here belong certain prohibitions of imports in order that the means of acquisition may be promoted in the best interests of the subjects and not for the advantage of strangers and the encouragement of the industry of others, because the State without the prosperity of the people would not possess sufficient power to resist external enemies or to maintain itself as a commonwealth.

Hence it follows that all resistance to the sovereign legislative power, every kind of instigation to bring the discontent of the subjects into active form, and rebellion or insurrection of every degree and kind, constitute the highest and most punishable crimes in the commonwealth; for they would destroy its very foundations. The prohibition of them is therefore absolute; so that, even if the supreme power or the sovereign as its agent were to violate the original contract, and thereby in the judgment of the subject lose the right of making the laws, yet, as the government has been empowered to proceed even thus tyrannically, no right of resistance can be allowed to the subject as a power antagonistic to the State. The reason of this is that in the actually existing civil constitution the people have no longer the right to determine by their judgment how it is to be administered. For, suppose they had such a right and that it was directly opposed to the judgment of the actual head of the State, who would there be to decide with which of them the right lay? Evidently neither of them could do this, as it makes them judges in their own cause. There would therefore have to be another sovereign head above the sovereign head to decide between it and the people: but this is a contradiction. Nor can some supposed law of necessity (*jus in casu necessitatis*) — which is at best a spurious thing, such as is the fancied right to do wrong in an extreme physical necessity — come in here as a lever for the removal of the barrier thus limiting the voluntary power of the people. For the head of the State may just as well think to justify his hard procedure against the subjects by the fact of their obstinacy and intractability, as they to justify their revolt by

complaining against him about their undue suffering. Who shall decide between them? It is only he who is in possession of the supreme public administration of law or who is otherwise the head of the State who can do this; and no one in the commonwealth can have the right to contest his possession of the power to do it.

Nevertheless I find excellent men asserting such a right on the part of the subject to resist the higher authority under certain circumstances. Among these I shall now refer only to Achenwall, a very cautious, positive and careful writer. In his doctrine of Natural Right he says: "If the danger which threatens the commonwealth from longer toleration of the injustice of the sovereign is greater than what may be anticipated from taking up arms, then the people may resist such a sovereign; and in order to maintain their rights they may break their compact of submission and dethrone him as a tyrant." And hence he infers that in this way the people return to the state of nature as opposed to their relation to their previous head.

I am willing to believe that neither Achenwall nor any of the worthy men who agree with him in this sort of reasoning would have ever given their advice or consent in any case to enterprises of so dangerous a nature. Nor can it well be doubted that, if the revolutions by which Switzerland, the United Netherlands and even Great Britain acquired the political constitutions now so celebrated had failed, the readers of history would have seen in the execution of the leaders now so highly lauded only the punishment deserved by great political criminals. The result thus usually becomes intermingled with our judgment of the principles of right in question,



although the former is always uncertain in fact, whereas the latter are always certain in themselves. It is, however, clear that as regards these principles the people by their mode of seeking to assert their rights commit the greatest wrong, even if it be admitted that the rebellion might do no wrong to the ruling sovereign who had violated in a sort of *joyeuse entrée* the actual compact upon which his relation to the people was founded. For, if this mode of conduct were adopted as a maxim, every politico-legal constitution would be made uncertain and a natural state of utter lawlessness would be introduced, in which all law would at least cease to have effect.) With regard to this tendency in so many thoughtful writers to encourage the people to their own detriment, I will only observe that there are two influences commonly at work in determining it.) It is partly caused <sup>A</sup> by the common illusion which substitutes the principle of happiness as the criterion of judgment when the principle of right is really in question; and partly by the fact that, where there is no record of anything like a compact actually proposed to the commonwealth, accepted by the sovereign or sanctioned by both, <sup>B</sup> these thinkers have assumed the idea of an *original contract*, which is always involved in reason, as a thing which must have *actually* happened; and thus they supposed that the right was always reserved to the people — in the case of any gross violation of it in their judgment — to resile from it at pleasure.\*

\* However the actual compact of the people with the ruler may be violated, the people cannot in fact directly offer opposition as a commonwealth, but only by mutiny and rebellion. For the hitherto existing constitution is then broken through by the people; whereas the organization of a new commonwealth has still to find place. In these circumstances the state of anarchy arises with all its abominations, which are thereby at least made possible; and the wrong which thus ensues is what is inflicted by one party



It thus becomes evident that the principle of happiness, which is properly incapable of any definite determination as a principle, may be the occasion of much evil in the sphere of political right, just as it is in the sphere of morals. And this will hold good even with the best intentions on the part of those who teach and inculcate it. The sovereign acting on this principle determines to make the people happy according to his notions, and he becomes a despot. The people will not give up their common human claim to what they consider their own happiness, and they become rebels. Now if at the outset it had been asked what is right and just with regard to the established principles of reason, without regard to the notions of the empiric, the idea underlying the theory of the social compact would always have incontestable authority. But it would not be correct to treat it as an empirical fact, as Danton would have it; for he thought that, apart from this fact, all rights found in any existing civil constitution and all property would have to be declared null and void. The idea in question is only to be taken as a rational principle for the estimation and judgment of all the public rights existing under a political constitution. And, so regarded, it then becomes evident that, prior to the existence of a common will, the people possess no right of coercion in relation to their ruler because they can bring such coercion to bear as a matter of right only through him. And when this will

upon another in the people. Thus, from the example referred to above, it is seen how the rebellious subjects of that State strove at last to force on each other a constitution which would have been far more oppressive than the one they abandoned; as it would have led to their being consumed by clergy and aristocrats instead of their waiting for more equality in the distribution of the burdens of the State under an all-controlling head.

does exist, no coercion can be exercised by the people against him because this would make them to be themselves the supreme ruler. Hence a right of compulsion or coercion in the form of a resistance in word or deed against the sovereign head of the State can never belong of right to the people.

Further, we see this theory sufficiently confirmed in practice. In the constitution of Great Britain the people form such an important element that it is represented as a model for the whole world, and yet we find that it is entirely silent about any right pertaining to the people in case the monarch should transgress the contract of 1688; and, consequently, since there is no law upon the subject, if there is any right of rebellion against him should he violate the constitution, it can only be there by secret reservation. For it would be a manifest contradiction that the constitution should contain a law providing for such a case. That would be to justify the overthrow of the subsisting constitution from which all particular laws arise; which would be absurd, even on the supposition that the contract was violated. Such a constitution would be contradictory for the reason that it would necessarily have to include a publicly constituted counter power which consequently would be a second sovereign in the State, and its function would be to protect the rights of the people against the other sovereign.\* But the existence of this second sovereign

\* No law or right in the State can be, as it were, maliciously concealed by a secret reservation; least of all the rights which the people claim as belonging to the constitution, because all its laws must be conceived as having sprung from a public will. If the constitution allowed insurrection, it would therefore publicly have to define the right to it as well as the way in which it was to be put in practice.

would likewise require a third whose function would be to decide between these two and to determine on which side right and justice lay. Hence such guides, or rather let us say guardians, of the people, perplexed by the possibility of such an accusation should their enterprise fail in any way, have contrived, for the behoof of a monarch who might be scared away by them, a voluntary power of demitting the government rather than claimed a presumptuous right of deposition. But this view manifestly puts the constitution into contradiction with itself.

Now if, in presence of these assertions, the objection is not raised against me, as it certainly should not be, that I flatter the monarch too much by this view of his inviolability, I may hope also to be spared another objection from the opposite side. In a word, I hope to be spared the contrary objection that I assert too much in favor of the people when I say that they have also their own inalienable rights as against the sovereign of the State, although these cannot be justly regarded as rights of coercion or constraint.

Hobbes is of the opposite opinion. In his view the sovereign as head of the State is bound in nothing to the people by compact and can do no wrong to the citizens, however he act toward them. This proposition would be quite correct if by 'wrong' we understand that kind of lesion which allows to the injured party a right of coercion against the one who does the wrong. So it is in the special relation; but, taken generally, the proposition is repulsive and appalling.

Any subject who is not utterly intractable must be able to suppose that his sovereign does not really wish



to do him wrong. Moreover, every man must be held to have his own inalienable rights, which he cannot give up though he wish to do it and about which he is himself entitled to judge. But the wrong which in his opinion is done to him occurs according to that view only from error or ignorance of certain consequences that will ensue from the laws laid down by the sovereign power.

Consequently the right must be conceded to the citizen, and with the direct consent of the sovereign, that he shall be able to make his opinion publicly known regarding what appears to him to be a wrong committed against the commonwealth by the enactments and administration of the sovereign.

For to assume that the sovereign power can never err, or never be ignorant of anything, would amount to regarding that power as favored with heavenly inspiration and as exalted above the reach of mankind, which is absurd. Hence the liberty of the press is the sole palladium of the rights of the people. But it must be exercised within the limits of reverence and love for the constitution as it exists, while it must be sustained by the liberal spirit of the subjects, which the constitution itself tends to inspire; and it must be so limited by the wise precautions of those who exercise it that their freedom be not lost. To refuse this liberty to the people amounts to taking from them all claim to right in relation to the supreme power; and this is the view of Hobbes.

But more than this is involved. As the will of the sovereign commands the subjects as citizens only on the ground that he represents the general will of the people, to deprive the people of this liberty would be to withdraw from the sovereign power all knowledge of what he would himself alter if he only knew it; and it would thus put him into



contradiction with himself. Moreover, to instil an anxiety into the sovereign that independent thinking and public utterance of it would of themselves excite trouble in the State would amount to exciting distrust against his own power or even awakening hatred against the people.

There is, then, a general principle whereby the people may assert their rights negatively, so far as merely to judge that a certain thing is to be regarded as not ordained by the supreme legislation in accordance with their best will. This principle may be expressed in the following proposition: *What a people could not ordain over itself ought not to be ordained by the legislator over the people.*

For example, the question may be raised as to whether a law, enacting that a certain regulated ecclesiastical constitution shall exist permanently and for all time, can be regarded as issuing from the proper will of the lawgiver according to his real intention. In dealing with it, the position which first arises is whether a people may make a law for itself to the effect that certain dogmas and external forms of religion, when once adopted, shall continue to be valid for all time; and, therefore, whether it may prevent itself in its own descendants from advancing further in religious insight or from altering any old errors when they have become recognized as such. It will thus become clear that an *original contract* of the people which made such a position a law would be in itself null and void, because it is inconsistent with the essential destination and purposes of mankind. Consequently, a law enacted to such an effect is not to be regarded as the proper will of the monarch; and counter representations against it may therefore be made to him. In all

cases, however, even when such things have been ordained by the supreme legislation, resistance is not to be offered to them in word or in deed, but they are only to be opposed by the influence of general and public judgments.

In every commonwealth there must be obedience to coercive laws relating to the whole people and regulated by the mechanism of the political constitution. But at the same time there must be a spirit of liberty among the people; for in things relating to universal human duty every one needs to be convinced by reason that such coercion is in accordance with right. Without this he would be in contradiction with his own nature. Obedience without the spirit of liberty is the cause and occasion of all secret societies. For there is a natural tendency implanted in mankind to communicate to one another what is in them, especially in what bears upon man generally. Such societies would therefore fall away if such liberty were more favored. And how can governments obtain the knowledge which is necessary for furthering their own essential object otherwise than by giving scope in its origin and in its effects to this estimable spirit of human liberty?

There is a certain practical spirit that professes to disregard all principles of pure reason; and it expresses itself nowhere with more presumption regarding theoretical truth than in reference to the question as to the requisites of a good political constitution. The cause of this is that, where there has been a legal constitution long in existence, the people have been gradually accustomed to take the condition in which everything has hitherto advanced in a quiet course as the rule by which to judge of their

happiness as well as their rights. On this account they have not been accustomed to judge of their condition in these respects according to the conceptions which are furnished by reason regarding them. And thus they come rather to prefer continuance of their passive state to the dangerous position of seeking for a better; for here too the maxim which Hippocrates lays down for the physician finds application: "Judgment is uncertain, experiment is dangerous."\* Thus it is that all constitutions that have subsisted for some length of time — whatever may be their defects — agree, amid all their differences, in one result; namely, in producing a certain contentment with every one's own. Hence, when regard is given merely to the prosperity of the people, theory has properly no place, but everything rests upon the practice that follows experience.

But the question arises whether there is anything in reason that can find expression in the term 'national law,' and whether this conception is of binding force in the case of men who stand in antagonism to each other by virtue of their individual liberty? This involves the question as to the objective and practical reality of such a principle of law, and whether it can be applied without regard to the mere well-being or ill-being which may arise from it, the knowledge of which can rest only upon experience. (If there be such a basis of national law, as has now been maintained, it must be founded upon the principles of pure reason; for experience cannot teach what is right and just in itself.) And, if it be so, there is a theory of national law, and no practice is valid which is not in conformity with it.

\* *Judicium anceps, experimentum periculosum.*



Against this position objection could be taken only in the following way: It might be alleged that, although men have in their minds the idea of rights as belonging to them, they are still, on account of their obtuseness and refractoriness, incapable and unworthy of being treated in accordance with it. And hence it might be maintained that a supreme power proceeding merely in accordance with rules of expediency should and must keep them in order. This is a leap of despair, a *salto mortale*; and it is of such a kind that, since might only and not right comes into consideration, the people may then also be justified in trying their best by force; and every legal constitution is thus made uncertain. If there be no human law which compels respect directly by its rationality, then all influences put forth to control the arbitrary will and liberty of men will be found unavailing. But if, along with the sentiment of, benevolence, the principle of right speaks aloud, human nature will show itself not to be so degenerate that its voice will not be heard with reverence. We may say of it in the words of Virgil:

Tum pietate gravem meritisque si forte virum quem  
Conspexere, silent arrectisque auribus adstant.



III

THE PRINCIPLE OF PROGRESS

CONSIDERED IN CONNECTION WITH

THE RELATION OF THEORY TO PRACTICE  
IN INTERNATIONAL LAW

1793



## THE PRINCIPLE OF PROGRESS

Does the human race, viewed as a whole, appear worthy of being loved; or is it an object which we must look upon with repugnance, so that, while in order to avoid misanthropy we continue to wish for it all that is good, we yet can never expect good from it, and would rather turn our eyes away from its ongoings? The reply to this question will depend on the answer that may be given to this other question: 'Is human nature endowed with capacities from which we can infer that the species will always advance to a better condition, so that the evil of the present and past times will be lost in the good of the future?' Under such a condition we may indeed love the race, at least when viewed as continually approaching to the good, but otherwise we might well despise or even hate it, let the affectation of a universal philanthropy — which at most would then be only a benevolent wish, and not a satisfied love — express itself as it may. For what is and remains bad, especially in the form of intentional and mutual violation of the holiest rights of man, cannot but be hated, whatever efforts may be made to constrain the feeling of love toward it. Not that this dislike of human evil would prompt us to inflict evil upon men, but it would at least lead us to have as little to do with them as possible.

Moses Mendelssohn was of this latter opinion; and he has opposed it to his friend Lessing's hypothesis of a



divine education of the human race. It is, in his view,\* a mere illusion to hold "that the whole of mankind here below shall always move forward in the course of time, and thus perfect itself." He says, "We see the human race as a whole making oscillations backward and forward; but it has never taken a few steps forward without soon sliding back with double rapidity to its former state." This is then the very movement of the stone of Sisyphus; and we might thus suppose, like the Hindu, that the earth is a place for the expiation of old and forgotten sins. "The individual man," he continues, "advances, but mankind, as a whole, moves up and down between fixed limits, and maintains through all periods of time about the same stage of morality, the same amount of religion and irreligion, of virtue and vice, of happiness (?) and misery." These assertions he introduces by saying: "You would fain find out what are the purposes of Providence with regard to mankind. But form no hypotheses,"—he had formerly said "theory,"—"only look around on what actually happens and, if you can survey the history of all times, upon what has happened from the beginning. This gives facts. Thus much must have belonged to the purpose of Providence and must have been approved in the plan of wisdom, or at least must have been adopted along with it."

I am of a different opinion. If it is a spectacle worthy of a divinity to see a virtuous man struggling with adversities and temptation and yet holding his ground against them, it is a spectacle most unworthy—I will not say of a divinity, but even of the commonest well-disposed man—to see the human race making a few steps upward

\* *Jerusalem*, II, 44-77.

in virtue from one period to another, and soon thereafter falling down again as deep into vice and misery as before. To gaze for a short while upon this tragedy may be moving and instructive ; but the curtain must at last be let fall upon it. For when prolonged in this manner it becomes a farce ; and, although the actors may not become weary, being fools, yet the spectator will become tired of it, having enough in one or two acts to infer that this play that comes never to an end is but an eternal repetition of the same thing. The punishment that follows at the close can, in the case of a mere drama, compensate for the unpleasant feelings aroused during its course. But to see numberless vices, even accompanied with occasional virtues, towered and heaped on each other in the world of reality in order that there may be some grand retribution in the end, is — at least, according to our ideas — altogether opposed to the morality of a wise Creator and Governor of the world.

I will, therefore, venture to assume that as the human race is continually advancing in civilization and culture as its natural purpose, so it is continually making progress for the better in relation to the moral end of its existence, and that this progress, although it may be sometimes interrupted, will never be entirely broken off or stopped. It is not necessary for me to prove this assumption ; the burden of proof lies on its opponents. For I take my stand upon my innate sense of duty in this connection. Every member in the series of generations to which I belong as a man — although mayhap not so well equipped with the requisite moral qualifications as I ought to be, and consequently might be — is,

in fact, prompted by his sense of duty so to act in reference to posterity that they may always become better, and the possibility of this must be assumed. This duty can thus be rightfully transmitted from one member of the generations to another. Now whatever doubts may be drawn from history against my hopes, and were they even of such a kind as, in case of their being demonstrated, might move me to desist from efforts which according to all appearances would be vain, yet so long as this is not made out with complete certainty, I am not entitled to give up the guidance of duty which is clear, and to adopt the prudential rule of not working at the impracticable, since this is not clear but is mere hypothesis. And, however uncertain I may always be as to whether we may rightly hope that the human race will attain to a better condition, yet this individual uncertainty cannot detract from the general rule of conduct or from the necessary assumption in the practical relation that such a condition is practicable.

This hope of better times, without which an earnest desire to do something conducive to the common well-being would never have warmed the human heart, has always exercised an influence upon the practical conduct of the well-disposed of mankind; and the good Mendelssohn must also have recognized its power in his own zealous efforts for the enlightenment and prosperity of the nation to which he belonged. For he could not have reasonably hoped to have accomplished those objects by himself alone, unless others after him were to advance further on the same path. In presence of the saddening spectacle, not merely of the evils which oppress the human race from natural causes, but still more of those



which men inflict on each other, the heart is still gladdened by the prospect that it may become better in the future, and that this will be accomplished in part by our unselfish benevolence, even after we have been long in the grave and have ceased to be able to reap the fruits which we ourselves have sown. Arguments from experience against the success of such endeavors resolved and carried out in hope are of no avail. For the fact that something has not yet succeeded is no proof that it will never succeed ; nor would such an argument even justify the abandonment of any practical or technical efforts, such as, for example, the attempts to make pleasure excursions in aërostatic balloons. And still less would such conditions justify the abandonment of a moral purpose which, as such, becomes a duty if its realization is not demonstrated to be impossible. Besides all this, many proofs can be given that the human race as a whole is actually farther advanced in our age toward what is morally better than it ever was before, and is even considerably so when its present condition is compared with what it has been in all former ages, notwithstanding temporary impediments, which, being transitory, can prove nothing against the general position. And hence the cry about the continually increasing degeneracy of the race merely arises from the fact that as it stands on a higher stage of morality it sees so much the further before it ; and thus its judgment on what men are in comparison with what they ought to be becomes — as in our own self-criticism — the more severe the more numerous are the stages of morality which mankind have already surmounted in the whole course of the world's history as it is now known to us.



The question next arises as to the means by which this continuous progress to the better may be maintained and even hastened. When carefully considered, we soon see that as this process must go on to an incalculable distance of time it cannot depend so much on what we may do of ourselves, for instance, on the education we give to the younger generation or on the method by which we may proceed in order to realize it, as on what human nature as such will do in and with us to compel us to move in a track into which we would not readily have betaken ourselves. For, it is from human nature in general, or rather—since supreme wisdom is requisite for the accomplishment of this end—it is from Providence alone that we can expect a result which proceeds by relation to the whole and reacts through the whole upon the parts. Men with their plans start, on the contrary, only from the parts, and even continue to regard the parts alone, while the whole as such is viewed as too great for them to influence and as attainable by them only in idea. And this holds all the more seeing that, being adverse to each other in their plans, they would hardly be able to work together in order to influence the whole out of any particular free purpose of their own.

Universal violence and the necessity arising therefrom must finally bring a people to the determination to subject themselves to national law and to set up a political constitution, a necessity which is the very method that reason itself prescribes. And, in like manner, the evils arising from constant wars by which the States seek to reduce or subdue each other bring them at last, even against their will, also to enter into a universal, or cosmopolitical, constitution. Or, should such a condition

of universal peace — as has often been the case with overgrown States — be even more dangerous to liberty on another side than war, by introducing the most terrible despotism, then the evils from which deliverance is sought will compel the introduction of a condition among the nations which does not assume the form of a universal commonwealth or empire under one sovereign but of a federation regulated by law, according to the law of nations as concerted in common.

For the advancing civilization of the several States is accompanied with a growing propensity to enlarge themselves at the cost of others, by fraud or force. And thus wars are multiplied; and greater expenditure is always caused by the necessary maintenance of increased standing armies, kept in a state of readiness and discipline and provided ever and again with more numerous instruments of war. At the same time the prices of all the necessaries of life must go on continually increasing, while there can be no hope of a proportionately progressive growth of the metals that represent them. Nor does peace ever last so long that the savings during it would equal the expenditure required for the next war. Against this evil the introduction of national debts is indeed an ingenious resource, but it is one which must annihilate itself in the long run. Under pressure of all these evils, what good-will ought to have done but did not do is at last brought about by sheer weakness, so that every State becomes so organized within that it is no longer the sovereign — to whom war properly costs nothing since he carries it on at the cost of the people — but it is the people, on whom the cost falls, who have the deciding voice as to whether there shall be war or no. This is necessarily implied in

the realization of the idea of the *original contract*. But when the decision of the question of war falls to the people, neither will the desire of aggrandizement nor mere verbal injuries be likely to induce them to put themselves in danger of personal privation and want by inflicting upon themselves the calamities of war, which the sovereign in his own person escapes. And thus posterity, no longer oppressed by undeserved burdens and owing it not to the direct love of others for them but only to the rational self-love of each age for itself, will be able to make progress even in moral relations. For each commonwealth, now become unable to injure any other by violence, must maintain itself by right alone; and it may hope on real grounds that the others being constituted like itself will then come, on occasions of need, to its aid.

This, however, it may be said, is only opinion and mere hypothesis, and it is uncertain, like all theories which aim at stating the only suitable natural cause for a proposed effect that is not wholly in our own power. Further, even regarded as such, the cause suggested, when it is taken in relation to an already existing State, does not contain a principle that is applicable to the subject so as to compel the production of the effect, but is only available through sovereigns who are free from compulsion. But although it does not lie in the nature of men, according to common experience, to make a voluntary renouncement of their power, yet in pressing circumstances this is not at all impossible. And so the statement, that the circumstances requisite for the end in question are to be expected from Providence, may be regarded as an expression not unsuitable



to the moral wishes and hopes of men conscious of their own incapability. For it is to Providence that we must look for the realization of the end of humanity in the whole of the species, as furnishing the means for the attainment of the final destination of man, through the free exercise of his powers so far as they can go. For to this end the purposes of individual men, regarded separately, are directly opposed. For by this mutual antagonism even the opposition of the inclinations from which evil arises provides reason free play to subject them all; and so, instead of evil which destroys itself, good makes itself predominant, and when once established continues to maintain itself.

Human nature appears nowhere less amiable than in the relation of whole nations to each other. No State is for a moment secure against another in its independence or its possessions. The will to subdue each other or to reduce their power is always rampant; and the equipment for defense, which often makes peace even more oppressive and more destructive of internal prosperity than war, can never be relaxed. Against such evils there is no possible remedy but a system of international right founded upon public laws conjoined with power, to which every State must submit, — according to the analogy of the civil or political right of individuals in any one State. For a lasting universal peace on the basis of the so-called balance of power in Europe is a mere chimera. It is like the house described by Swift, which was built by an architect so perfectly in accordance with all the laws of equilibrium that when a sparrow lighted upon it it immediately fell. "But," it may be said, "the States will never submit

Plato!



to such compulsory laws; and the proposal to institute a universal International State, or Union of Nations — a union under whose power all the separate States shall voluntarily arrange themselves in order to obey its laws — may sound ever so pretty in the theory of an Abbé de St. Pierre or a Rousseau, but it is of no value for practical purposes; and as such it has always been laughed at by great statesmen, and still more by sovereigns and rulers, as a childish and pedantic idea fit only for the schools from which it takes its rise.”

For my part, on the contrary, I trust to a theory which is based upon the principle of right as determining what the relations between men and States ought to be; and which lays down to these earthly gods the maxim that they ought so to proceed in their disputes that such a universal International State may be introduced thereby, and to assume it therefore as not only possible in practice but such as can exist in reality. Nay more, this theory is further to be regarded as founded upon the nature of things, which compels movement in a direction even against the will of man. *Fata volentem ducunt, nolentem trahunt.* Under the nature of things, human nature is also to be taken into account; and as in human nature there is always a living respect for right and duty, I neither can nor will regard it as so sunk in evil that the practical moral reason could ultimately fail to triumph over this evil, even after many of its attempts have failed. And so it is that I would represent human nature as worthy to be loved. In the widest cosmopolitical relation the position therefore holds good that what is valid on rational grounds as a theory is also valid and good for practice.

IV

ETERNAL PEACE

A PHILOSOPHICAL ESSAY

1795

## “ ETERNAL PEACE ”

These words were once put by a Dutch innkeeper on his signboard as a satirical inscription over the representation of a churchyard. We need not inquire whether they hold of men in general or particularly of the rulers of States who seem never to be satiated of war or even only of the philosophers who dream that sweet dream of Peace. The author of the present sketch, however, would make one remark by way of reservation in reference to it. It is well known that the practical politician looks down, with great self-complacency, on the theoretical politician when he comes in the way, as a mere pedant whose empty ideas can bring no danger to the State, proceeding, as it does, upon principles derived from experience ; and the theorizer may, therefore, be allowed to throw down his eleven skittle-pins at once, while the sagacious statesman who knows the world need not, on that account, even give himself a turn ! This being so, should any matter of controversy arise between them, the practical statesman must so far proceed consistently and not scent out a danger for the State behind the opinions of the theoretical thinker, which he has ventured in a good intent publicly to express — by which “ saving clause,” the author will consider himself expressly safeguarded against all malicious interpretation.



## FIRST SECTION

WHICH CONTAINS

### THE PRELIMINARY ARTICLES OF AN ETERNAL PEACE BETWEEN STATES

1. "No conclusion of peace shall be held to be valid as such when it has been made with the secret reservation of the material for a future war."

For, in that case, it would be a mere truce, or a suspension of hostilities, and not a peace. A peace properly signifies the end of all hostilities, and to qualify it by the addition of the epithet 'perpetual' or 'eternal' is pleonastic and suspicious. All existing causes for a future war — although they were perhaps unknown to the contracting parties at the time — are to be regarded as entirely removed or annihilated by the treaty of peace, even if they could be picked out by the dexterity of an acute interpretation from the terms of documents in the public archives. There may be a mental reservation of old pretensions or claims with the view of asserting them at a future time, of which, however, neither party makes any mention for the present because they are too exhausted to continue the war, while there remains the evil will to take advantage of the first favorable opportunity for this purpose; but this is illegitimate and belongs to the Jesuitical casuistry of politics. If we consider the subject of reservation in itself, it is beneath the dignity of the rulers

of States to have to do with it, and, in like manner, the complacent participation in such deductions is beneath the dignity of their ministers. But if the true glory of the State is placed in the continual increase of its power, by any means whatever, — according to certain “enlightened” notions of national policy, — then this judgment will certainly appear, to those who adopt that view, to be impractical and pedantic.

2. “No State having an existence by itself — whether it be small or large — shall be acquirable by another State through inheritance, exchange, purchase or donation.”

A State is not to be regarded as a property or patrimony like the soil on which it may be settled. It is a society of men, over which no one but itself has the right to rule or to dispo<sup>se</sup>. Like the stem of a tree it has its own root, and to incorporate it as a graft in another State is to destroy its existence as a moral person; it is to reduce it to a thing, and thereby to contradict the idea of the original compact without which a right over a people is inconceivable.\* Every one knows what danger the prejudice in favor of thus acquiring States has brought to Europe, — for in the other parts of the world it has never been known, — even down to our own times. It was considered that the States might marry one another; and hence, on the one hand, a new kind of industry in the effort to acquire predominance by family alliances, without any

\* A hereditary kingdom is not a State which can be bequeathed to another State, but one whose right to rule can be transmitted to another physical person. The State thus acquires a ruler, but the ruler does not as such (that is, as already possessing another kingdom) acquire the State.

expenditure of power; and, on the other hand, to increase in this way by new possessions the extent of a country. Further, the lending of the troops of one State to another on pay to fight against an enemy not at war with their own State has arisen from the same erroneous view; for the subjects of the State are thus used and abused as things that may be managed at will.

**3. "Standing armies shall be entirely abolished in the course of time."** ✓

For they threaten other States incessantly with war by their appearing to be always equipped to enter upon it. Standing armies (*miles perpetuus*) excite the States to outrival each other in the number of their armed men, which has no limits. By the expense occasioned thereby, peace becomes in the long run even more oppressive than a short war; and standing armies are thus the cause of aggressive wars undertaken in order to get rid of this burden. Besides, it has to be considered that for men to be hired for pay to kill or to be killed appears to imply the using of them as mere machines and instruments in the hand of another, although it be the State; and that this cannot be well reconciled with the right of humanity in our own person. It is quite otherwise, however, as regards the voluntary exercise of the citizens in arms at certain appointed periods; for the object in view is thereby to protect themselves and their country from external attacks. The accumulation of treasure in a State would have the same sort of influence as regular troops, in so far as, being regarded by other States as a threat of war, it might compel them to anticipate such a war by an attack upon the State. For of the three powers known in the State as the power



of the army, the power of external alliance and the power of money, the money power might well become the most reliable instrument of war, did not the difficulty of determining its real force stand in the way of its employment.

✓ 4. "No national debts shall be contracted in connection with the external affairs of the State."

No objection can be taken to seeking assistance, either without or within the State, in behalf of the economic administration of the country ; such as, for the improvement of highways or in support of new colonies or in the establishment of resources against dearth and famine. A loan, whether raised externally or internally, as a source of aid in such cases is above suspicion. But a credit system, when used by the powers as a hostile, antagonistic instrument against each other and when the debts under it go on increasing to an excessive extent and yet are always secured for the present (because all the creditors are not to put in their claims at once), is a dangerous money power. This arrangement—the ingenious invention of a commercial people in this century—constitutes, in fact, a treasure for the carrying on of war ; it may exceed the treasures of all the other States taken together, and it can only be exhausted by the forthcoming deficit of the taxes,—which, however, may be long delayed even by the animation of the national commerce from the reaction of the system upon industry and trade. The facility given by this system for engaging in war, combined with the inclination of rulers toward it (an inclination which seems to be implanted in human nature), is, therefore, a great obstacle in the way of a perpetual peace. The

prohibition of it must be laid down as a preliminary article in the conditions of such a peace, even more strongly on the further ground that the national bankruptcy, which it inevitably brings at last, would necessarily involve in the loss many other States that are without debt; and this would be a public lesion of these other States. And, consequently, the other States are justified in allying themselves against such a State and its pretensions.

5. "No State shall intermeddle by force with the constitution or government of another State."

For what could justify it in doing so? Mayhap the scandal or offense given by that State to the subjects of another State? Then the offending State should much rather serve as a warning by the example of the great evils which peoples have drawn upon themselves through their lawlessness; and generally a bad example given by one free person to another (as a *scandalum acceptum*) is not a lesion of his right. But it is a different case where a State has become divided into two by internal disunion and when each of the parts represents itself as a separate State laying claim to the whole; for to furnish assistance to one of them under these circumstances might not be reckoned as the intermeddling of an external State with the constitution of another, as that other is then in a condition of anarchy. Yet so long as this internal strife is not decided, such an interference on the part of external powers would be a violation of the rights of an independent people that is only struggling with an external evil. It would, therefore, itself be a cause of offense, and would make the autonomy of all other States insecure.

6. "No State at war with another shall adopt such modes of hostility as would necessarily render mutual confidence impossible in a future peace; such as the employment of assassins (*percussores*) or poisoners (*venefici*), the violation of a capitulation, the instigation of treason and such like."

These are dishonorable stratagems. For there must be some trust in the habit and disposition even of an enemy in war; otherwise no peace could be concluded, and the hostilities would pass into an internecine war of extermination. War, however, is only a melancholy necessity of asserting right by force — where, as in the state of nature, there is no common tribunal with the rightful power to adjudicate on causes of quarrel. In such circumstances neither of the two parties can be declared to be an unjust enemy as this presupposes a judicial sentence; but the issue of the conflict — as in the so-called "judgments of God" — has to decide on which side is the right. As between States, however, a punitive war, according to the principle of punishment, is inconceivable; because there is no relation of subordination between them, as between superior and inferior. Hence it follows that a war of extermination, in which the process of annihilation would strike at both parties, and likewise at all right at the same time, would reach perpetual peace only on the final Golgotha of the human race. Such a war, therefore, as well as the use of such means as might lead to it, must be absolutely unallowable. And that the means referred to inevitably lead to that result is apparent from the fact that when these hellish arts, which are debasing in themselves, are once brought into use they are not kept long within the limits of war.



Such, for instance, is the employment of spies. In this case it is only the dishonesty of others that is employed, and, as such practices and habits cannot be exterminated at once, they would be carried over into the state of peace, and thus its very purpose would be entirely frustrated.

The articles thus indicated, when viewed objectively, or as to the intention of the powers, represent merely prohibitive laws. Some of them, however, are strict laws (*leges strictae*) that are valid without distinction of circumstances, and press immediately for the abolition of certain things. Such are Nos. 1, 5, 6. Others, again, — as Nos. 2, 3, 4, — have a certain subjective breadth (*leges latae*) in respect of their application. Although they present no exceptions to the rule of right, they imply a regard to circumstances in practice. They include permissions to delay their fulfillment without, however, losing sight of their end; for their end allows such delay. Thus, for instance, in regard to the restoration of certain States to the liberty of which they have been deprived, it is allowable, according to the second article, to postpone it—not, indeed, to the Greek kalends, as Augustus was wont to say, so that its time would never come; but only so as not to precipitate its coming, and thus by overhaste to act contrary to the very purpose in view. The prohibition in question bears only upon a mode of acquisition which is to be no longer valid, but not upon the state of possession which, although it may not hold the requisite title of right, was nevertheless regarded as rightful and valid by all the States at the date of the putative acquisition, in accordance with the public opinion of the time.<sup>1</sup>

Notes indicated by Arabic numbers are long and are gathered at the end of the volume, pages 169–179.



## SECOND SECTION

WHICH CONTAINS

### THE DEFINITIVE ARTICLES OF AN ETERNAL PEACE BETWEEN STATES

A state of peace among men who live side by side with each other is not the natural state. The state of nature is rather a state of war; for although it may not always present the outbreak of hostilities, it is nevertheless continually threatened with them. The state of peace must, therefore, be established; for the mere cessation of hostilities furnishes no security against their recurrence, and where there is no guarantee of peace between neighboring States — which can only be furnished under conditions that are regulated by law — the one may treat the other, when proclamation is made to that effect, as an enemy.<sup>2</sup>

#### FIRST DEFINITIVE ARTICLE IN THE CONDITIONS OF ETERNAL PEACE

**“The civil constitution in every State shall be republican.”**

A republican constitution is one that is founded, firstly, according to the principle of the liberty of the members of a society, as men; secondly, according to the principle of the dependence of all its members on a

single common legislation, as subjects; and, thirdly, according to the law of the equality of its members as citizens. The republican constitution<sup>3</sup> is thus the only one which arises out of the idea of the original compact upon which all the rightful legislation of a people is founded. As regards public law, the republican principles, therefore, lie originally and essentially at the basis of the civil constitution in all its forms; and the only question for us now is whether it is also the only constitution that can lead to a perpetual peace.

Now, in point of fact, the republican constitution, in addition to the purity of its origin as arising from the original source of the conception of right, includes also the prospect of realizing the desired object, — perpetual peace among the nations. And the reason of this may be stated as follows: According to the republican constitution, the consent of the citizens as members of the State is required to determine at any time the question whether there shall be war or not. Hence, nothing is more natural than that they should be very loath to enter upon so undesirable an undertaking; for in decreeing it they would necessarily be resolving to bring upon themselves all the horrors of war. And, in their case, this implies such consequences as these: to have to fight in their own persons; to supply the costs of the war out of their own property; to have sorrowfully to repair the devastation which it leaves behind; and, as a crowning evil, to have to take upon themselves at the end a burden of debt which will go on embittering peace itself and which it will be impossible ever to pay off on account of the constant threatening of further impending wars. On the other hand, in a constitution where the subject is not

Can it  
lead to  
perpetual  
peace?  
Yes  
Why?

a voting member of the State and which is, therefore, not republican, the resolution to go to war is a matter of the smallest concern in the world. For, in this case, the ruler, who, as such, is not a mere citizen but the owner of the State, need not in the least suffer personally by war, nor has he to sacrifice his pleasures of the table or of the chase or his pleasant palaces, court festivals and such like. He can, therefore, resolve for war from insignificant reasons, as if it were but a hunting expedition; and, as regards its propriety, he may leave the justification of it without concern to the diplomatic body, who are always too ready to give their services for that purpose.

(The republican constitution is not to be confounded with the democratic constitution.) But as this is commonly done, the following remarks must be made in order to guard against this confusion. The various forms of the State (*civitas*) may be divided either according to the difference of the persons who hold the highest authority in the State, or according to the mode of the governing of the people through its supreme head. The first is properly called the form of rule in the State (*forma imperii*). There are only three forms of this kind possible, according as one only, or as some in connection with each other, or as all those constituting the civil society combined together may happen to possess the governing power; and thus we have either an autocracy constituted by the power of a monarch, or an aristocracy constituted by the power of the nobles, or a democracy constituted by the power of the people. The second principle of division is taken from the form of the government (*forma regiminis*); and, viewing the constitution as the act of



the common or universal will by which a number of men become a people, it regards the mode in which the State, founded on the constitution, makes use of its supreme power. In this connection the form of government is either republican or despotic. Republicanism regarded as the constitutive principle of a State is the political severance of the executive power of the government from the legislative power. Despotism is in principle the irresponsible executive administration of the State by laws laid down and enacted by the same power that administers them; and consequently the ruler so far exercises his own private will as if it were the public will. Of the three forms of the State, a democracy, in the proper sense of the word, is necessarily a despotism; because it establishes an executive power in which all resolve about and, it may be, also against any one who is not in accord with it; and consequently the all who thus resolve are really not all; which is a contradiction of the universal will with itself and with liberty.

Every form of government, in fact, which is not representative is properly a spurious form of government, or not a form of government at all; because the lawgiver in one and the same person may, at the same time, be the executive administrator of his own will. And, although the other two political constitutions — autocracy and aristocracy — are always so far defective in that they afford opportunity for such a mode of government, it is at least possible in their cases that a mode of government may be adopted in conformity with the spirit of a representative system. Thus Frederick the Great was wont to say of himself that he was 'merely the highest servant of the State.'<sup>4</sup> But the democratic

constitution, on the contrary, makes such a spirit impossible; because under it every one wishes to be master.

✓ (It may, therefore, be said that the fewer the number of the rulers or personal administrators of the power of the State, and the greater the representation embodied in them, so much the more does the political constitution harmonize with the possibility of republicanism; and such a constitution may hope to raise itself, by gradual reforms, to the republican ideal. On this account, it is more difficult to attain to this one perfect constitution according to the principles of right in an aristocracy than in a monarchy, and in a democracy it is impossible otherwise than by violent revolution. As regards the people, however, the mode of government<sup>5</sup> is incomparably more important than the form of the constitution, although the degree of conformity in the constitution to the end of government is also of much importance. But if the mode of government is to conform to the idea of right, it must embody the representative system. For in this system alone is a really republican mode of government possible; and without it, let the constitution be what it may, it will be despotic and violent. In none of the ancient so-called republics was this known; and they necessarily became resolved, in consequence, into an absolute form of despotism, which is always most bearable when the supreme power is concentrated in a single individual.

SECOND DEFINITIVE ARTICLE IN THE CONDITIONS OF  
ETERNAL PEACE

**“The law of nations shall be founded on a federation of free States.”**

Peoples or nations regarded as States may be judged like individual men. Now men living in a state of nature independent of external laws, by their very contiguity to each other, give occasion to mutual injury or lesion. Every people, for the sake of its own security, thus may and ought to demand from any other that it shall enter along with it into a constitution, similar to the civil constitution, in which the right of each shall be secured. This would give rise to an international federation of the peoples. This, however, would not have to take the form of a State made up of these nations. For that would involve a contradiction, since every State, properly so called, contains the relation of a superior as the lawgiver to an inferior as the people subject to the laws. Moreover, many nations in one State would constitute only one nation, which is contradictory to the principle assumed, as we are here considering the right of nations in relation to each other, in so far as they constitute different States and are not to be fused into one.

The attachment of savages to the lawless liberty of rather being engaged in incessant conflict with each other than submitting to a legal constraint constituted by themselves is well known. Hence their preference of wild freedom to rational liberty is looked upon by us with profound contempt and characterized as barbarism, coarseness and a brutal degradation of humanity. Thus



it might be thought that civilized nations, being each united into a State, would of necessity make all haste to advance as soon as possible out of any semblance to a condition that is so much condemned. Instead of this, however, we rather find that every State founds its majesty\* on not being subject to any external legal coercion; and the glory of its ruler or head is made to consist in the fact that, without his requiring to encounter any danger himself, many thousands stand ready to be sacrificed at his command for a cause which may be no concern of theirs.† Thus the difference between the white savages of Europe and the red savages of America, consists mainly in this: that, while some tribes of the latter have been entirely eaten up by their enemies, the former know how to make a better use of the vanquished than to eat them, by rather adding them to the number of their subjects and thereby increasing the multitude of their instruments and means for still more extensive wars.

The depravity of human nature is exhibited without disguise in the unrestrained relations of the nations to each other, whereas in the legalized state of civil society it is greatly veiled under the constraint of government. In view of it, we may well wonder that the word 'law' has not yet been entirely banished from the policy of war as pedantic, and that no State has as yet ventured to declare itself publicly in favor of that doctrine. For Grotius, Puffendorf, Vattel and the others — miserable comforters all of them — are still always quoted cordially

\* The majesty of a people or nation is an erroneous and absurd expression.

† Thus a Bulgarian prince, when the Greek Emperor was desirous to bring his quarrel with him to an end by a duel, gave his answer by saying: "A smith who has tongs will not pluck the glowing iron out of the coals with his hands."

for the justification of an outbreak of war, although their philosophically or diplomatically composed codes have not, nor could have, the slightest legal force, since the States as such stand under no common legal constraint; and there is not an example of a State ever having been moved to desist from its purpose by arguments, although armed with testimonies of such important men. Yet the homage which every State thus renders—at least in words—to the conception of law still proves that there is to be found in man a higher and greater moral capacity, though it may slumber for a time; and it is evidently felt that this capacity will yet attain the mastery over the evil principle in him, the existence of which cannot be denied; and this gives a ground of hope to others. For the word ‘law’ would otherwise never enter into the vocabulary of States desirous to go to war with each other, unless it were merely to make a jest of it, in the manner of the Gallic prince who declared that “it is the prerogative of the strong to make the weak obey them.”

The means by which States pursue their rights at present can never be by a form of process, — as if there were an external tribunal, — but can only be by war; but even the favorable issue of war in victory will not decide a matter of right. A treaty of peace may, indeed, put an end to a particular war, yet not to the general condition of war, in which a pretext can always be found for new hostilities. Nor can such a pretext under these circumstances be regarded as unjust; for in this state of society every nation is the judge of its own cause. At the same time, the position which, according to the law of nature, holds of men in a lawless condition, that “they ought to advance out of that condition,” cannot according

to the law of nations be directly applied to States; because as States they have already within themselves a legal constitution and have thus outgrown the coercive right of others to bring them under a wider legal constitution according to conceptions of law. And yet reason on the throne of the highest moral law-giving power absolutely condemns war as a mode of right, and, on the contrary, makes the state of peace an immediate duty. But the state of peace cannot be founded or secured without a compact of the nations with each other. Hence, there must be a compact of a special kind, which may be called a pacific federation (*foedus pacificum*), and which would be distinguished from a mere treaty or compact of peace (*pactum pacis*) in that the latter merely puts an end to one war whereas the former would seek to put an end to all wars forever. This federation will not aim at the acquisition of any of the political powers of a State, but merely at the preservation and guarantee for itself, and likewise for the other confederated States, of the liberty that is proper to a State; and this would not require these States to subject themselves for this purpose — as is the case with men in the state of nature — to public laws and to coercion under them. The practicability and objective realization of this idea of federalism, inasmuch as it has to spread itself over all States and thereby lead to perpetual peace, may be easily shown. For if happy circumstances bring it about that a powerful and enlightened people form themselves into a republic — which by its very nature must be disposed in favor of perpetual peace — this will furnish a center of federative union for other States to attach themselves to, and thus to secure



the conditions of liberty among all States, according to the idea of the law of nations. And such a union would extend wider and wider, in the course of time, by the addition of further connections of this kind.

It is intelligible that a people should say: 'There shall be no war among us: for we will form ourselves into a State and constitute of ourselves a supreme legislative, governing and judicial power which will peacefully settle our differences.' But if this State says: 'There shall be no war between me and other States, although I recognize no supreme legislative power which will secure me my right and whose right I will also secure,' — then there is no intelligible basis upon which any security for such rights could be founded unless it were a surrogate of the union embodied in civil society. And this can be nothing but a free federation of the states, which reason must necessarily connect with the idea of the law of nations if there is anything further to be thought in connection with it.

The notion of a right to go to war cannot be properly conceived as an element in the law of nations. For it would be equivalent to a right to determine what is just, not by universal external laws limiting the freedom of every individual alike but through one-sided maxims that operate by means of force. If such a right be conceivable at all it would amount, in fact, to this: that in the case of men who are so disposed it is quite right for them to destroy and devour each other, and thus to find perpetual peace only in the wide grave which is to cover all the abomination of the deeds of violence and their authors! For States viewed in relation to each other, there can be only one way, according to reason, of

emerging from that lawless condition which contains nothing but occasions of war. Just as in the case of individual men, reason would drive them to give up their savage, lawless freedom to accommodate themselves to public coercive laws, and thus to form an ever-growing state of nations, such as would at last embrace all the nations of the earth. But as the nations, according to their ideas of international law, will not have such a positive rational system, and consequently reject in fact (*in thesi*) what is right in theory (*in hypothesi*), it cannot be realized in this pure form. Hence, instead of the positive idea of a universal republic — if all is not to be lost — we shall have as result only the negative surrogate of a federation of the states averting war, subsisting in an external union and always extending itself over the world. And thus the current of those inclinations and passions of men which are antagonistic to right and productive of war may be checked, although there will still be a danger of their breaking out betimes.<sup>6</sup> For as Virgil puts it, —

Furor impius intus  
 . . . fremet horridus ore cruento.

### THIRD DEFINITIVE ARTICLE IN THE CONDITIONS OF ETERNAL PEACE

“The rights of men as citizens of the world in a cosmopolitical system shall be restricted to conditions of universal hospitality.”

In this as in the previous articles, the question is not about a relation of philanthropy, but one of right. Hospitality here indicates the right of a stranger, in

consequence of his arrival on the soil of another country, not to be treated by its citizens as an enemy. As a stranger he may be turned away, if this can be done without involving his death; but so long as he conducts himself peacefully in the place where he may happen to be, he is not to be dealt with in a hostile way. The stranger may not lay claim to be entertained by right as a guest, — for this would require a special friendly compact to make him for a certain time the member of a household; he may only claim a right of resort, or of visitation. All men are entitled to present themselves thus to society in virtue of their right to the common possession of the surface of the earth, to no part of which any one had originally more right than another; and upon which, from its being a globe, they cannot scatter themselves to infinite distances, but must at last bear to live side by side with each other. Uninhabitable portions of this surface are formed by seas and deserts; these present barriers to the fellowship of men in society; but they are of such a nature that the ship or the camel, “the ship of the desert,” makes it possible for men to approach each other over these unappropriated regions, and thus to turn the right which the human species have in common to the surface of the earth into a means for social intercourse. The inhospitality, practiced for instance on the Barbary coasts, of plundering ships in the neighboring seas and making slaves of stranded mariners, or that of the sandy deserts, as practiced by Arab Beduins who regard their access to nomadic tribes as constituting a right to plunder them, is thus contrary to the law of nature. But this right of hospitality as vested in strangers arriving in another State does not



extend further than the conditions of the possibility of entering into social intercourse with the inhabitants of the country. In this way distant continents may enter into peaceful relations with each other. These may at last become publicly regulated by law, and thus the human race may be always brought nearer to a cosmopolitical constitution.

*Car. Turner  
A. V. 100  
1840  
Vol. 1*

If we compare the barbarian instances of inhospitality referred to with the inhuman behavior of the civilized, and especially the commercial, States of our continent, the injustice practiced by them even in their first contact with foreign lands and peoples fills us with horror, the mere visiting of such peoples being regarded by them as equivalent to a conquest. America, the Negro lands, the Spice Islands, the Cape of Good Hope, etc., on being discovered, were treated as countries that belonged to nobody; for the aboriginal inhabitants were reckoned as nothing. In the East Indies, under the pretext of intending merely to plant commercial settlements, the Europeans introduced foreign troops, and with them oppression of the natives, instigation of the different States to widespread wars, famine, sedition, perfidy and all the litany of evils that can oppress the human race.

China<sup>7</sup> and Japan, having had experience of such guests, therefore, did wisely in limiting their intercourse. China permitted only access to her coasts but not entrance into the country. Japan restricted access to one European people, the Dutch, and even they were treated like prisoners by being excluded from social intercourse with the natives. The worst (or, regarded from the standpoint of a moral judge, the best) of all this is that no satisfaction is derived from this violence, as

all these commercial societies are at present on the verge of ruin. The Sugar Islands — that seat of the cruelest and completest slavery — have yielded up no real profit, but have been only indirectly of account, and that in no praiseworthy relation. They have furnished only sailors for ships of war, and have thereby contributed to the carrying on of wars in Europe. And all this has been done by nations who make a great ado about their piety, and who, while drinking up iniquity like water, would have themselves regarded as the very elect of the orthodox faith.

But the social relations between the various peoples of the world, in narrower or wider circles, have now advanced everywhere so far that a violation of right in one place of the earth is felt all over it. Hence the idea of a cosmopolitical right of the whole human race is no fantastic or overstrained mode of representing right, but is a necessary completion of the unwritten code which carries national and international law to a consummation in the public law of mankind. Thus the whole system leads to the conclusion of a perpetual peace among the nations. And it is only under the conditions now laid down that men may flatter themselves with the belief that they are making a continual approach to its realization.

## FIRST SUPPLEMENT

### THE GUARANTY OF ETERNAL PEACE

The guaranty of eternal peace is furnished by no less a power than the great artist Nature herself, *Natura daedala rerum*. The mechanical course of nature visibly exhibits a design to bring forth concord out of the discord of men, even against their will. This power as a cause working by laws which are unknown to us is commonly called fate; but, in view of the design manifested in the course of the world, it is to be regarded as the deep wisdom of a higher cause directed toward the realization of the final purpose of the human race and predetermining the course of the world by relation to it, and as such we call it providence.<sup>8</sup> This power we do not indeed perceive externally in the artistic formations of nature, nor can we even infer from them to it; but, as in all referring of the form of things to final causes generally, we not only can, but must, conjoin this thought with them in order to make their possibility conceivable after the analogy of the operations of human art. The relation and accord of these things to the moral purpose which reason immediately prescribes to us can only be represented by an idea which indeed theoretically transcends our experience, but which is practically determinable and is well founded in reality. Such, for example, is the idea of perpetual peace being a duty when the mechanism of nature is regarded as conducing to its



realization. The employment of the term 'nature' rather than 'providence' for the designation of this power is more proper and more modest in view of the limits of human reason, when we are dealing with it merely from the theoretical and not from the religious point of view. For human reason, when dealing with the relation of effects to their causes, must keep within the limits of possible experience; and to speak of Providence as knowable by us in this relation would be putting on Icarian wings with presumptuous rashness in order to approach the mystery of His unfathomable purposes.

Before determining this guaranty more exactly, it will be necessary to look first at that state of things arranged by nature for those who live and act upon the stage of her great theater, which ultimately gives the guaranty of peace. Thereafter we shall consider the manner in which this guaranty is furnished.

The provisory arrangements of nature in this relation consist mainly in these three things: 1st, she has provided so that men shall be able to live in all parts of the earth; 2nd, she has scattered them everywhere by means of war so that they might populate even the most inhospitable regions; and, 3rd, by this same means she has compelled them to enter into relations more or less legal with one another. The facts that come here into view are truly wonderful. Thus in the cold, icy wastes around the Arctic Ocean there grows the moss which the reindeer scrapes forth from beneath the snow in order that it may itself become food, or that it may be yoked to the sledge of the Ostiak or the Samoyed. And, in like manner, the wildernesses of sand, barren though they be, do yet contain the camel which appears to have

been created for traveling through them, in order that they might not be left unutilized. Still more distinctly does design appear when we come to know how, along with the fur-clad animals on the shores of the Arctic Ocean, there are seals, walruses and whales that furnish food by their flesh, and warmth and light by their fat, to the inhabitants around. But most of all does the provident care of nature excite our admiration by the driftwood which it brings to the treeless shores, even when it is not well known whence it comes; without this material the dwellers in the region could neither construct their canoes nor their arms nor huts for their abode; under these conditions they are compelled to carry on war against the wild beasts, so that they have to live at peace with each other. Moreover, it is remarkable that it was probably nothing but war that drove men into different regions. And the first instrument of war which man appropriated to himself from among all the animals was the horse, which he had learned to tame and to domesticate in the early period of the populating of the earth; for the elephant belongs to the later period of the luxury which arose with established States. In like manner, the art of cultivating certain grasses called cereals, which are now no longer recognizable by us in their original condition, as well as the multiplication and improvement of species of fruits by transplanting and grafting them, could only arise under the conditions of regulated States when property in the soil had been rendered secure. These arts could only arise after men who had been previously existing in lawless freedom had advanced from the mode of life of the hunter,<sup>9</sup> the fisher and the shepherd to that of the

cultivator of the land. Then, in connection with the life of the agriculturist, salt and iron were discovered, which were perhaps the first articles that were sought far and near and which entered into the commercial intercourse of different peoples. Thereby they would be first brought into a peaceful relation to one another; and thus the most distant of them would come to mutual understanding, sociability and pacific intercourse.

Now as nature has provided so that men could thus be able to live everywhere on the earth, she has likewise at the same time despotically willed that they shall live everywhere upon it, although against their own inclination and even without any idea of duty being connected with this determination through a moral law. On the contrary, she has chosen war as the means of attaining to this end. In point of fact, we see certain peoples whose unity of descent is made known by the unity of their language far divided from each other. Thus the Samoyeds on the Arctic Ocean are of the same race as other tribes speaking a similar language a thousand miles away from them in the Altaian Mountains, another race of Mongolian origin equipped with horses and of a warlike character having pressed in between them and having thus driven the former apart<sup>10</sup> from the latter into the most inhospitable regions, whither their own inclination would certainly never have carried them. In like manner, the Finns in the northernmost tract of Europe, where they are called Lapps, have been separated by as great a distance from the Hungarians, who are affiliated to them in language, by the intrusion of Gothic and Sarmatian races. Nor can anything else but war well account for the presence in the far north of



America of the Eskimo, a race entirely distinct from all the other American tribes and perhaps descended from early European adventurers; and the same may be said of the Pesherais who have been driven into Tierra del Fuego, in the far south of America. Nature has thus used war as the means of getting the earth everywhere populated. War, however, requires no special motive for its explanation; it appears to be ingrafted on human nature and is even regarded as noble in itself, man being stimulated to it by the love of glory without regard to selfish interests. Thus martial courage, not only among the American savages but even among Europeans in the age of chivalry, was considered to be of great value in itself, not merely in time of war — as was right enough — but just because it was war; and thus war was often entered upon merely to show off this quality. An inherent dignity was thus attached to war itself, so that even philosophers have glorified it as giving a certain nobleness to humanity, unmindful of the Greek saying that ‘War is bad in that it makes more bad people than it takes away.’ So much, then, in reference to what nature does in carrying out her own design in regard to the human race as a class of her creatures.

The question then arises as to what is the essential meaning and aim of this design of a perpetual peace. It may be put thus: “What does nature do in this respect with reference to the end which man’s own reason presents to him as a duty; and, consequently, what does she do for the furtherance of his moral purpose in life? And, further, how does she guarantee that what man ought to do according to the laws of his freedom and yet does not do shall be done by him without

prejudice to his freedom even by a certain constraint of nature ; and how does she secure this in all the three relationships of public right as constitutional law, international law and cosmopolitan law ? ” When I say of nature that she wills a certain thing to be done I do not mean that she imposes upon us a duty to do it, for only the practical reason as essentially free from constraint can do this ; but I mean that she does it herself whether we be willing or not. *Fata volentem ducunt, nolentem trahunt.*

1. Even if a people were not compelled by internal discord to submit to the coercion of public laws, war as an external influence would effect this. For, according to the arrangement of nature already indicated, every people finds another pressing upon it in its neighborhood and it must form itself internally into a State in order to be equipped as a power so as to defend itself. Now the republican constitution is the only one which perfectly corresponds to the rights of man ; but it is at the same time the most difficult to found, and still more so to maintain. So much is this the case that many have asserted that the realization of a true republic would be like a State formed by angels, because men with their selfish inclinations are incapable of carrying out a constitution of so sublime a form. In these circumstances, then, nature comes to the aid of the rational and universal will of man, which, however honored in itself, is impotent in practice ; and it does this just by means of these selfish inclinations. Thus it comes that the chief interest turns only upon a good organization of the State, which is certainly within the power of man, whereby the powers of the human will shall be so

directed in relation to each other that the one will check the destructive effects of the other or nullify them ; and hence the result will be as regards reason the same as if these forces did not exist when their evil effects are thus neutralized ; and man, although not possessed of real moral goodness, yet becomes constrained to be a good citizen.

The problem of the institution of a State, however hard it may appear, would not be insoluble even for a race of devils, assuming only that they have intelligence, and it may be put as follows : “ A multitude of rational beings all requiring laws in common for their own preservation, and yet of such a nature that each of them is inclined secretly to except himself from their sway, have to be put under order, and a constitution has to be established among them so that, although they may be antagonistic to one another in their private sentiments, they have yet to be so organized that, in their public relations, their conduct will have the same result as if they had no such bad sentiments.”

Such a problem must be capable of solution. For it does not turn directly upon the moral improvement of men, but only upon the mechanism of nature ; and the problem is to know how men can use the conditions of nature in order so to regulate the antagonism of the hostile sentiments at work among the people that the individuals composing it shall have to compel each other to submit to common compulsory laws, and that there shall thus be brought about a state of peace in which the laws will have full power. This process may be seen going on in the actually existing, although still very imperfectly organized, States. For in their external



relations to one another they already approach what the idea of right prescribes, although the essential principle of morality is certainly not the cause of it; and indeed a good political constitution is not so much to be expected from that principle, but rather, conversely, the good moral culture of a people from such a constitution. Hence the mechanism of nature, as it works through selfish inclinations which are externally and naturally antagonistic in their operation to each other, may be used by reason as a means of making way for the realization of her own end by the application of a precept of right, and thereby of furthering and securing peace both internal and external, so far as it may lie within the power of the State to do so. It may then be said that nature irresistibly wills that right shall at last obtain the supremacy. What men may here neglect to do will at length be done of itself, although through much inconvenience, and as Bouterwek says:

Bend but the reed too strong, it breaks;  
Who wills too much, but nothing makes.

2. The idea of international law presupposes the separation of several neighboring States that are independent of each other; and such a condition of things is of itself already one of war, unless by their federated union they can prevent the outbreak of hostilities. Such a condition of things is, however, according to the idea of reason, better than the fusion of all the States into a universal monarchy by one power that has overgrown the rest and subjected them to its sway. This is so because the laws always lose something of their definiteness as the range of a government becomes enlarged; and soulless

despotism, when it has choked the seeds of good, at length lapses into anarchy. Nevertheless there is a desire on the part of every State, or of its sovereign, to attain to a lasting condition of peace by subjecting the whole world, were it possible, to its sway. But nature wills it otherwise. She employs two means to prevent the peoples from intermingling, and to keep them apart. These are the differences of their languages and of their religions,<sup>11</sup> which bring with them a certain tendency to mutual hatred and furnish pretexts for war. However, as civilization increases, there is a gradual approach of men to greater unanimity in principles and to a mutual understanding of the conditions of peace even in view of these differences. This pacific spirit, unlike that despotism which revels upon the grave of liberty, is developed and secured, not by the weakening of all the separate powers of the States, but by an equilibrium which is brought forth and guaranteed through their rivalry with each other.

3. Nature wisely separates the nations, which the will of each State, even according to the principles of international law, would fain combine into one by fraud or force. But, on the other hand, she again unites the nations whom the idea of a universal cosmopolitan law would not have secured from violence and war by regard to their mutual interests. This is effected by the commercial spirit, which cannot exist along with war and which sooner or later controls every people. Among all the means of power subordinate to the regulation of the State, the power of money is the most reliable ; and thus the States find themselves driven to further the noble interest of peace, although not directly from motives of

morality. Hence, wherever war threatens to break out in the world, the States have an interest to avert it by mediations, just as if they stood in a constant league with each other for this purpose. Thus, great combinations with a view to war can but very rarely occur from the very nature of things, and still more rarely can they succeed.

In this way nature guarantees the conditions of perpetual peace by the mechanism involved in our human inclinations themselves; and although this is not realized with a guarantee that is sufficient to enable us to prophesy the future theoretically, yet the security involved is sufficient for all practical relations. And thus it becomes a duty to labor for the realization of this purpose as not at all chimerical in itself.



## SECOND SUPPLEMENT

### SECRET ARTICLE RELATING TO ETERNAL PEACE

A secret article in transactions relating to public right, when viewed objectively or as to its matter, is a contradiction. Viewed subjectively, however, and considered in reference to the quality of the person who dictates it, it is possible that there may be a secret contained in it which it may not be compatible with his dignity to have publicly announced as originating with him.

The only article of this kind is contained in the following proposition: “*The maxims of the philosophers regarding the conditions of the possibility of a public peace shall be taken into consideration by the States that are armed for war.*”

It appears, however, to detract from the dignity of the legislative authority of a State — to which we must naturally attribute the highest wisdom — to have to seek for instruction regarding the principles of their practical relations to other States from subjects, even though they be philosophers. Hence the State will rather encourage them silently, making a secret of the matter, than deal with them directly. This amounts to saying that it will allow them to speak forth freely and publicly their universal maxims regarding the carrying on of war and the establishment of peace; for this they will do of themselves if they are not prohibited from

doing it. Nor is there any particular agreement of the States with one another required in this connection for their harmony on this point; for it lies already in the obligations imposed by the common human reason as a moral lawgiver. It is not, however, meant that the State must give a preference to the principles of the philosopher over the dictates of the jurist, who is a representative of the political authority; it is only meant that the philosopher ought to be heard. The jurist, who has taken for his symbol the scales of right and the sword of justice, commonly uses the latter not merely to keep away all foreign influences from the former, but, should the one scale not sink, to throw his sword into it; and then, *Vae victis!* The jurist, who is not at the same time a moral philosopher, is under the greatest temptation to do this, because the function of his office is only to apply existing laws and not to inquire whether they may be in need of improvement. And, further, he reckons this really lower order of his faculty as belonging by its functions to a higher rank, because it is accompanied with power; as holds also of the other two faculties of medicine and divinity. Philosophy thus stands on a very humble stage below these allied authorities. Hence it is said of philosophy that she is the handmaid of theology; and the same has been said of her relation to medicine and law. But it is not easy to see, as has been remarked, "whether she bears the torch before these gracious ladies, or carries their train."

[That "kings will philosophize or philosophers become kings" is not to be expected. Nor, indeed, is it to be desired, because the possession of power inevitably corrupts the free judgment of reason. But kings or kinglike

Is not  
Kant  
might  
State

nations who govern themselves according to laws of equality should not allow the philosophers as a class to disappear or to be silenced ; rather, should they be allowed to speak forth their maxims publicly. Nay, this is even indispensable to both for the mutual enlightenment of their functions. Nor should this process of communicating enlightenment be jealously regarded as a kind of propagandism, because as a class the philosophers are by their nature incapable of combining into political clubs and factions.

How different would  
Plato's views.



## APPENDIX

### I

#### ON THE DISCORDANCE BETWEEN MORALS AND POLITICS IN REFERENCE TO ETERNAL PEACE

The science of morals relates directly to practice in the objective sense, inasmuch as it is a system of unconditionally authoritative laws in accordance with which we ought to act. It is therefore a manifest absurdity, after admitting the authority of this conception of duty, to assert, notwithstanding, that we cannot so act; for, were it so, this conception would have no value. *Ultra posse nemo obligatur*. Hence there can be no conflict between political philosophy as the practical science of right, and moral philosophy as the theoretical science of right; and, consequently, there can be no opposition in this relation between practice and theory. An opposition can only arise between them when the science of morals is regarded as a general doctrine of prudence, or expediency, or a theory of the maxims by which we are to choose the means most conducive for the attainment of useful and advantageous objects; and this amounts to denying generally that there is a science of morals. Politics may be regarded as saying, "be wise (that is, prudent) as serpents"; morals adds as a limiting condition, "and harmless (that is, guileless) as doves." If the two maxims cannot coexist in one commandment, there is really an incongruity between

politics and morals; but, if the two can be combined throughout, any idea of antagonism between them is absurd and any question about harmonizing them, as if they were in conflict, need not be even raised. It is true that the saying, "Honesty is the best policy," contains a theory which unhappily is very often contradicted by practice; and yet the equally theoretical proposition, "Honesty is better than policy," is infinitely removed above all objection, and it is even to be held that honesty or honor is the indispensable condition of all true policy. The tutelary divinity who is the guardian of the boundaries of morals does not yield to the Jupiter who is the limiting divinity of force, for he still stands under the sway of fate. In other words, reason is not sufficiently enlightened to foresee the series of the predetermining causes, which, with certainty, would enable it to predict the happy or unhappy consequences that would follow from the conduct of men according to the mechanism of nature, however much our wishes and hopes may be directed to it. But what we have to do, in order to continue on the path of duty according to rules of wisdom, reason shows us everywhere clearly enough in the light of the final end which we have to pursue.

The practical man, however, who regards morals as a mere theory, rejects our generous hopes of attaining to that end, even while admitting the distinction between what ought to be and what can be. He founds his unbelief specially upon the fact that he pretends to be able to foresee from the nature of man that men will never resolve to do what is required to bring about the result that leads to perpetual peace. Now it is admitted that the voluntary determination of all individual men to live

under a legal constitution according to principles of liberty, when viewed as a distributive unity made up of the wills of all, is not sufficient to attain to this end, but all must will the realization of this condition through the collective unity of their united wills, in order that the solution of so difficult a problem may be attained; for such a collective unity is required in order that civil society may take form as a whole. Further, a uniting cause must supervene upon this diversity in the particular wills of all, in order to educe from them such a common will as they could not individually attain. Hence, in the realization of that idea in practice no other beginning of a social state of law can be reckoned upon than one that is brought about by force; and upon such compulsion, national law is afterward founded. This condition certainly leads us from the outset to expect great divergences in actual experience from the idea of right as apprehended in theory. For the moral sentiment of the lawgiver cannot be relied upon in this connection to the extent of assuming that, after the chaotic mass has been united into a people, he will then leave it to themselves to bring about a legal constitution by their common will.

This amounts to saying that, when any one has once got the power in his hands, he will not allow the people to prescribe laws for him. Similarly, a State which has once entered into power so as to be subject to no external laws will not bring itself to submit to the judgment of other States as to how it shall seek to maintain its rights in relations to them; and even a continent, when it realizes its superiority to another which may not be at all in its way, will not neglect to use the means of



strengthening its own power, even by spoliation or conquest. Thus it appears that all the theoretical plans relating to national law or international law or cosmopolitical law dissolve into empty unpractical ideas. On the other hand, a mode of practice, founded upon the empirical principles of human nature and considering nothing in the world too low for furnishing guidance for its maxims, seems as if it alone could hope to find a sure foundation for its system of political expediency.

Now, certainly, if there is no freedom nor any moral law founded upon it, so that all that happens or can happen is mere mechanism of nature, this would hold true, under that supposition; and politics, viewed as the art of applying the mechanical arrangements of nature to the government of men, would constitute the whole of practical wisdom, and the conception of law would be an empty and unreal one. But, on the other hand, it may be the case that it is indispensably necessary to combine the arrangements of nature with the method of politics and even to raise them to the position of conditions limiting its practice, and on this ground the possibility of uniting them must be admitted. I can thus easily enough think of a moral politician as one who holds the principles of political expediency in such a way that they can coexist with morals; but I cannot conceive of a political moralist who fashions a system of morality for himself so as to make it subordinate and subservient to the interest of the statesman.

The moral politician will adopt the following as his principle: "If certain defects which could not be prevented are found in the political constitution or in the

relations of the State, it becomes a duty especially for the heads of the State to apply themselves to correct them as soon as possible, and to improve the constitution so that it may be brought into conformity with natural right, which is presented to them as a model in the idea of reason." Now it would manifestly be contrary to that political expediency which is in agreement with morals to destroy the existing bonds of national and cosmopolitical union before there was a better constitution ready to take their place; and hence it would be absurd to demand that every imperfection in the constitution should be at once violently removed. It may, however, be reasonably required that the maxim of the necessity of such an alteration should be consciously recognized by the supreme power in order that it may continue to make constant approximation toward realizing the constitution that best accords with righteous laws. A State may thus govern itself even in a republican manner although it may still possess a constitution grounded upon despotic power. And this may go on until the people gradually become capable of being influenced by the mere idea of the authority of the law, as if it possessed the physical power of the State, and in consequence come to be capable of legislating for themselves, which is the mode of government originally founded upon right. But if, through the violence of a revolution caused by the evils in the constitution, a more lawful constitution were attained even in a wrong way, it would no longer be proper to hold it permissible to bring back the people again to the old constitution, although every one who took part in the revolution by violence or intrigue may have been subjected by law to the penalties

attached to rebels. As regards the external relations of the States, however, one State cannot be called upon by another to give up its constitution, although it may be a despotic one and is likely therefore to be the stronger in relation to external enemies, so long at least as that State runs a danger of being suddenly swallowed up by other States. Hence, when any such proposal is made, it must at least be allowed to defer the execution of it till a more opportune time.<sup>12</sup>

It may well be that those moralists who are inclined to despotism and who are deficient in practice may often come into opposition with political prudence by measures which have been precipitately adopted and overestimated; but experience will gradually bring them from this position of antagonism to nature into a better groove. On the other hand, politicians guided by morality may make improvement impossible by extenuating principles of government that are contrary to law, on the pretext that human nature is not capable of realizing good according to the idea prescribed by reason; and thus they may do their best to perpetuate violations of law.

Instead of dealing with practice in this prudential way, they take up certain practical measures and consider only how these are to be impressed upon the ruling power in order that their private interest may not be balked, and how the people and, if possible, the whole world may be delivered up to this interest. This is the manner of the mere professional jurists (acting after the fashion of a tradesman rather than of a legislator) when they aspire to politics. For, as it is not their business to refine upon legislation itself but only to carry out the existing laws



of the country, every legal constitution as it exists and any subsequent one taking its place, when it is altered by the higher power, will always appear to them to be the best; and everything will be regarded as in proper mechanical order. This dexterity of being able to sit upright on any saddle may fill them with the conceit that they are likewise able to judge about the principles of a political constitution which will be in accordance with the ideas of right and which, therefore, will be rational and not merely empirical in itself. And, in addition to this, they may put much importance upon their knowledge of men, which may indeed be expected, because they have to do with many of them, without their yet truly knowing the nature of man and what can be made of it, for which a higher standpoint of human observation is required. Now, if, provided with such ideas, they address themselves to the subject of national and international law as prescribed by reason, they cannot do otherwise than carry the spirit of chicane with them in thus stepping beyond their sphere. For they will naturally continue to follow their usual method of mechanically applying compulsory laws that have been despotically laid down, whereas the conceptions of reason will only recognize a lawful compulsion which is in accordance with principles of freedom and by which a legally existing political constitution only becomes possible. Which problem the ostensibly practical politician, disregarding the fundamental idea of right, thinks he can solve empirically, by reference to experience only, since the constitutions which have been most permanent in the past have been established in this way, even though they have been in contradiction with right.

The maxims which he adopts for his guidance, although he may not give them open expression or avowal, run out into something like the following sophistical propositions :

1. *Fac et excusa*. Seize the favorable opportunity for taking into your own possession what is either a right of the State over the people or over a neighboring State ; and the justification of the act will be much more easily and gracefully presented after the fact and will palliate its violence. This holds especially in the first case, where the supreme power in the State is also the legislative authority which must be obeyed without reasoning about it. It is not held that it is desirable to think out convincing reasons first and then to await the counter arguments afterward. This very boldness gives a certain appearance of internal conviction of the rightfulness of the act, and the god of success (*bonus eventus*) becomes then the best advocate of the cause.

2. *Si fecisti, nega*. What you may have wrongly done yourself, such as may even bring the people to despair and to rebellion, should be denied as being any fault of yours ; and, on the other hand, assert that it was owing to the refractoriness of the subjects ; or, in the case of an aggression upon a neighboring State, say that it was the fault of human nature ; for, if others are not anticipated by violence, we may safely calculate that they will anticipate us and appropriate what is ours.

3. *Divide et impera*. That is to say, there are certain privileged heads among the people who have chosen you merely for their sovereign as *primus inter pares*. See, then, that you embroil them with each other and put them at variance with the people ; next, work upon the

latter by holding out the prospect of greater liberty; and everything will then depend upon your absolute will. Or, again, if it be a question about other States, then exciting suspicion and disagreement among them is a pretty safe means of subjecting them to yourself, one after the other, under the pretense of assisting the weaker.

It is true that nobody is now taken in by these political maxims, for they are universally understood. This is not so because men have become ashamed of them, as if their injustice were much too evident. The great powers are never put to shame before the judgment of the common people, as they are concerned only about one another. And, as regards these principles, it is not the fact of their becoming known but only their failing of success that causes shame; for, as regards the morality of their maxims, they are all at one. Hence there is nothing left but the standpoint of political honor upon which they can safely count; and this merely amounts to a question of the increase of their power in whatever way they may be able to obtain it.<sup>13</sup>

With all these serpentine windings of this immoral doctrine of expediency to educe a state of peace among men from the warlike elements of the state of nature, so much at least becomes clear: That men can as little escape from the conception of right in their private as in their public relations; and that they do not venture to found politics openly on the mere manipulations of expediency, nor to renounce all obedience to the conception of public right, as is most strikingly seen in the sphere of international law. On the contrary, they allow



all proper honor to this conception in itself, although they may have to devise a hundred evasions and palliations in order to escape from it in practice and to attribute to a subtle statecraft the authority of the origin and the bond of all right. It will be well to put an end to this sophistry, if not to the injustice it veneers, and to bring the false advocates of the mighty ones of the world to confess that it is not in the interest of right but of might that they speak, and in a tone, too, as if they had themselves acquired the right to command. In order to do so, it is necessary to point out the deception by which they mislead themselves and others. In their attempt to discover and exhibit the supreme principle from which the tendency toward a perpetual peace takes its rise, they try to show that all the evil which comes in the way of it springs from the fact that the political moralist begins just where the moral politician properly ends; and thus by subordinating their principles to their end — or, as the common saying goes, by putting the cart before the horse — the politician frustrates his own intention of bringing politics into accordance with morals.

But, in order to bring practical philosophy into harmony with itself, it is necessary first of all to decide a preliminary question. That question is, whether, in dealing with problems of the practical reason, we ought to begin from its material principle, as the end which is the object of the activity of the will, or from its formal principle, as that which is founded merely upon freedom in its external relation. This formal principle is expressed as follows: "Act so that you can will that your maxim shall become a universal law, whatever may be its end."

It cannot be doubted that the latter principle must take the precedence; for, as a principle of law, it is an unconditional necessity, whereas the former is obligatory only under the presupposition of the empirical conditions of the proposed end so existing that it can be realized; and if the end, as in the case of perpetual peace, should also be a duty, the duty would itself have to be deduced from the formal principle which regulates external action. Now the material principle is the principle of the political moralist, and it reduces the questions of national, international and universal law to the level of a mere technical problem. On the other hand, the formal principle is the principle of the moral politician, and the question of right becomes with him a moral problem. Their different methods of procedure are thus wide as the poles asunder in regard to the problem of bringing about perpetual peace which, in the view of the moralist, is not merely to be desired as a physical good but also as a state of things arising out of the recognition of duty.

The solution of the problem in question by the method of political expediency requires much knowledge of nature in order to be able to employ her mechanical arrangements for bringing about the end in view, and yet the result of them is wholly uncertain so far as regards the realization of perpetual peace. This holds true whichever of the three departments of public law we consider. It is uncertain whether under any circumstances the people would be better kept in obedience, and at the same time in prosperity, by severe treatment or by alluring baits of vanity; whether they would be better kept in order by the sovereignty of a single individual or by a combination of several heads; whether this would be

best secured merely by an official nobility or by the exercise of popular power within the constitution ; and also whether any such result, if attained, could be upheld for long. There are examples of the opposite result presented in history by all the different forms of government, with the exception of genuine republicanism only, which system, however, can alone be accepted by a moral politician. A form of international law professedly established upon statutes devised by foreign ministers is still more uncertain ; for it is in fact but a thing of words without substantial reality and it rests upon compacts which, in the very act of their ratification, admit the secret reservation of the right to transgress them. On the other hand, the solution of the problem by the method of true political wisdom presses forward, so to speak, of itself ; it becomes apparent to every one ; it brings all artifice to nought ; and it leads straight to the proper end. However, it must be accompanied with a prudent warning that it is not to be brought about in a precipitate manner nor with violence, but it must be unceasingly approached as the favor of circumstances will allow.

All this may be summed up in the exhortation : “ Seek ye first the kingdom of pure practical reason and its righteousness, and then will your object, the benefit of perpetual peace, be added unto you.” For morality — and the same is also true with regard to the moral principles of public law and consequently in relation to politics knowable *a priori* — has this innate peculiarity : the less it makes conduct depend on the proposed physical or moral advantage the individual sets as his end, the more does it, in general, conform to this end. The reason for this is that it is just the general *a priori* will



either in one people or in the relations of different peoples to each other which alone determines what is just and right among men. This union of the will of all, however, when it proceeds in practice consistently and according to the mechanism of nature, may at the same time be the cause of bringing about the effect intended, and of thus realizing the ideas of law. Thus, it is a principle of moral politics that a people ought to unite into a State solely according to the only valid conceptions of liberty and equality; and this principle is founded not upon expediency but upon duty. Political moralists, on the other hand, deserve no hearing, however much they may reason about the natural mechanism of a multitude of men joined in society, which, if a fact, would weaken those principles and frustrate their purpose; or however much they may seek to prove their assertion by adducing examples of badly organized constitutions in ancient and modern times, such as democracies without a system of representation. And this has to be particularly noted, since such a pernicious theory tends of itself to bring about the evil which it foretells; for, according to it, man is thrown into one class with the other living machines, which only need the consciousness of their not being free creatures to become, in their own judgment, the most miserable of all beings.

*Fiat justitia, pereat mundus.* This proverbial saying may sound somewhat pompous, but yet it is true. It may be popularly rendered thus: Let righteousness prevail though all the knaves in the world should perish for it. It is thus a bold principle of right cutting through all the crooked ways that are shaped by intrigue or force. It must not, however, be misunderstood as allowing any

one to exercise his own right with the utmost severity, which would be contrary to ethical duty. It is to be understood as signifying the obligation incumbent upon those in power, not to refuse any one his right, or to take from it out of favor or sympathy toward others. This requires, above all, an internal political constitution, arranged according to pure principles of right, and further, the union of it with other neighboring or distant States so as to attain a legal settlement of their disputes by a constitution that would be analogous to a universal State. This proposition means nothing more than that political maxims must not start from the prosperity and happiness that are to be expected in each State from following them, nor from the end which each of them makes the object of its will as the highest empirical principle of politics; but they must proceed from the pure conception of the duty of right or justice as an obligatory principle given *a priori* by pure reason. And this is to be held, whatever may be the physical consequences which follow from adopting these political principles. The world will certainly not perish from the fact that the number of the wicked thus becomes less. Moral evil has inherent in its nature this quality that, in carrying out its purposes, it is antagonistic and destructive to itself, especially in relation to such others as are also under its sway; and hence it must give place to the moral principle of goodness, although the progress to this may be slow.

✓ There is, therefore, objectively in theory no antagonism at all between morals and politics. But subjectively, in consequence of the selfish propensity of men (which,

however, as not founded upon rational maxims cannot properly be called practice), such an antagonism is found and it will perhaps always continue to exist, because it serves as a whet to virtue. According to the principle *tu ne cede malis sed contra audentior ito*, the true courage of virtue in this case does not consist so much in setting itself with fixed purpose to meet the evils and sacrifices which must thus be encountered, but rather in facing and overcoming the wiles of the far more dangerous, lying, treacherous, yet sophistical, principle of evil in ourselves which holds up the weakness of human nature as a justification of every transgression of right.

In fact, the political moralist may say that the ruler and people, or nations and nations, do no wrong to each other if they enter on a mutual war by violence or cunning, although they do wrong generally in refusing to respect the conception of right and justice which alone could establish peace for all time. For since the one transgresses his duty toward the other, who cherishes as equally wrong a sentiment toward him, it may be said that nothing but what is just happens to both of them when they exhaust each other, yet so that there still remains some of their race to carry on this play of force to the most distant times that the latest posterity may take a warning example from them. In all this, indeed, there is a justification of the Providence that rules the course of the world; for the moral principle in man is never extinguished, and his reason, pragmatically trained to realize the ideas of right according to this principle, grows without ceasing through its constantly advancing culture, while the guilt of such transgressions also comes more clearly into light. Yet the process of creation, by



which such a brood of corrupt beings has been put upon the earth, can apparently be justified by no theodicy or theory of Providence, if we assume that it never will be better, nor can be better, with the human race. But such a standpoint of judgment is really much too high for us to assume, and is as if we could be entitled theoretically to apply our notions of wisdom to the supreme and unfathomable Power. We shall thus be inevitably driven to a position of despair in consequence of such reasonings if we do not admit that the pure principles of right and justice have objective reality and that they can be realized in fact. Accordingly, we must hold that these principles are to be treated from the standpoint of the people in the State and likewise from the relations of the States to one another, let the advocates of empirical politics object to this view as they may. A true political philosophy, therefore, cannot advance a step without first paying homage to the principles of morals; and, although politics taken by itself is a difficult art, yet its union with morals removes it from the difficulties of art. For this combination of them cuts in two the knots which politics alone cannot untie, whenever they come into conflict with each other. The rights of men must, therefore, be regarded as holy, however great may be the sacrifice which the maintenance of them lays upon the ruling power. We cannot divide right into halves or devise a modified condition of right intermediate between justice and utility. Rather, must all politics bow the knee before the principle of right; but in doing so it may well cherish the hope that it will yet attain, however slowly, to that stage of progress at which it will shine forth with lasting splendor.

## II

OF THE AGREEMENT OF POLITICS WITH MORALS  
ACCORDING TO THE TRANSCENDENTAL CONCEPTION  
OF PUBLIC LAW

We may think of public law in a formal way after abstracting from it all the matters to which it is applied in detail, such as the different relations of men in the State or of the States to each other, as presented in experience ; and this is the way in which jurists usually think of it. But apart from the matter of public law, there remains only the form of publicity, the possibility of which is implied in every legal claim ; for without such publicity there would be no justice, this being thinkable only as what is publicly declarable, and hence without this publicity there would be no right, as law is administered or distributed only by it.

This character of publicity must belong to every legal title ; and, as it can easily be judged whether it accompanies any particular case and whether it can therefore be combined with the principles of an agent, it furnishes a criterion which is at once presented *a priori* in reason and which it is easy to use in experience. Where it cannot be combined with the principles of an agent, the falsity (illegality) of a legal claim (*praetensio juris*) can thus be immediately recognized, as if by an experiment of the pure reason.

Abstraction being thus made from everything empirical that is contained in the conceptions of national and international law (such as the evil disposition of human nature which makes coercion necessary), the following

proposition arises, and it may be called the transcendental formula of public law :

“ All actions relating to the rights of other men are unjust if the maxims on which they are based are not compatible with publicity.”

This principle is not merely to be regarded as ethical and as belonging only to the doctrine of virtue, but it is also to be regarded as juridical and as pertaining to the rights of men. For a maxim cannot be correct if it is such that I cannot allow it to be published without thereby at the same time frustrating my own intention, which would necessarily have to be kept entirely secret in order that it might succeed, and which I could not publicly confess to be mine without thereby inevitably arousing the resistance of all men against my purpose. It is clear that this necessary and universal opposition of all against me on self-evident grounds can arise from nothing else than the injustice which such a maxim threatens to every one. Further, it is a merely negative maxim in so far as it serves only as a means of making known what is not right and just toward others. It is like an axiom which is certain without demonstration. And, besides all this, it is easily applicable ; as may be seen from the following examples and illustrations of public law.

1. *Public law of the State.* As regards the law of the State, and in particular its internal law, we may look at the application of this formulated principle to a question which many hold it difficult to answer, but which the transcendental principle of publicity quite easily resolves. The question we refer to is whether insurrection is a right means for a people to adopt in order to throw off



the oppressive power of a so-called tyrant. *Non titulo sed exercitio talis.* (The rights of the people are violated in the case supposed, and no wrong would be done to the tyrant by his dethronement. Of this latter position there may be no doubt, and yet it is wrong in the highest degree, on the part of the subjects, to pursue their rights in this way ; and if they did so, they would have as little right on their side to complain of injustice should they fail in this conflict and were afterward subjected to the severest punishment in consequence. ✓

In this case much may indeed be advanced for and against either position if the attempt is made to establish it by a dogmatic deduction of the principles of right. The transcendental principle of the publicity of public right can alone spare us all this prolixity of discussion. For according to that principle the people would have to ask themselves before the institution of the civil contract whether they would dare to make the maxim of the proposal of an occasional insurrection publicly known. We easily see that were it made a condition at the founding of a political constitution that force was in certain circumstances to be exercised against the supreme authority, the people would have to arrogate to themselves the right of power over that authority. But, were it so, that would no longer be the supreme authority ; or, if both powers were made a condition in the constitution of the State, the establishment of such an authority would really not be possible, although this was the intention of the people. (The wrongness of rebellion therefore appears plain from the fact that the maxim upon which it would proceed, were it to be publicly professed as such, would make its own purpose impossible. ✓ It would

therefore necessarily have to be kept secret. This latter condition, however, would not be at all necessary on the part of the head of the State. The sovereign power may freely announce that every form of insurrection or revolt will be punished with the death of the ringleaders, however the latter may believe that it was the sovereign who first violated the fundamental law. For if the sovereign is conscious of possessing irresistible supreme power (and this must be assumed in every civil constitution, because he who has not power enough to protect any member of the people against every other has no right to command him), he need have no anxiety about frustrating his own purpose by the publication of his maxim. And it is quite consistent with this position to hold that, if the people succeed in a rebellion, the sovereign must then return to the position of a subject. But he will not then be entitled to begin a new rebellion with a view to his own restoration; and neither should he have to fear that he will be called to account for his former administration.

2. *International law.* There can only be a system of international law on the assumption that there is really a legal condition as the external condition under which right can become real among men. And this is so because, as public law, it already implies the publication of a common will assigning to every one what is his own. This *status juridicus* must arise out of some sort of compact which, unlike that from which a State springs, cannot be founded upon compulsory laws; but it may in all cases assume the form of a permanent free association; and this we have already indicated as assuming the form of a federation of the different States. Without some legal organization to connect the different persons, moral

or physical, in an active form, and therefore in the state of nature, there can be no other law than private law. Here again comes a conflict of politics with morals when the latter is regarded as a doctrine of right; and the criterion of the publicity of maxims again finds an easy application to it, but only on the condition that the States are bound by a compact with the object only of maintaining themselves in peace with each other, and not at all in the intention of acquiring new possessions. The following instances of antinomies arising between politics and morals may be here given, along with their solution.

*a.* "If one State has promised something to another, assistance or a cession of territory or subsidies or such like, the question may arise as to whether, in a case on which the well-being of the State is dependent, it may withdraw from keeping its promise on the ground that it would have itself to be regarded as a double person: first, as a sovereign, from being responsible to no one in the State, and, secondly, merely as the highest political official, from having to give account to the State; and then the conclusion is drawn that what it had become responsible for in the first quality, it may be discharged from in the second." But, if the sovereign of a State should proclaim openly such a maxim, it is evident that every other State would naturally avoid it, or would unite with others to resist such pretensions; and this proves that politics, with all its craftiness, would frustrate its own purpose by such an application of the principle of publicity; and consequently any such maxim must be wrong.

*b.* "If a neighboring power that has grown in strength to a formidable extent excites anxiety, it may be asked



whether, because it is able, it will also resolve to oppress others and whether this gives to the less powerful States a right to make a united attack upon it, although it may as yet have committed no injury." A State which would affirmatively proclaim such a maxim would only more certainly and rapidly bring about the evil that is dreaded. For the greater power would anticipate the lesser ones; and their union would be but a weak bundle of reeds against it, if it knew how to practice the rule of *divide et impera*. Such a maxim of political prudence, if publicly declared, would therefore necessarily frustrate its own purpose; and it is consequently wrong.

c. "If a small State by its geographical position breaks the continuity of a greater State which requires this connection for its own preservation, is such a State not entitled to subject the smaller State to itself and unite it to its own territory?" Here again it is easily seen that the greater State cannot possibly let the maxim of such a procedure be previously known; for either the lesser States would combine early against it or other powerful States would contend with it for this prize, and so the maxim would make itself impracticable by its very publicity. This would be a sign of the wrongness of the maxim and it would be so in a very high degree; for the smallness of the object of an injustice does not prevent the injustice manifested by it from being very great.

3. *Cosmopolitical law*. As regards cosmopolitical law, I may pass it over in silence here, because on account of its analogy with international law its maxims may, in a similar manner, be easily indicated and estimated.

The principle of the incompatibility of certain maxims of international law with their publicity thus furnishes us with a good criterion relative to the nonagreement of politics with morals viewed as a science of right. But it is necessary to know the condition under which its maxims agree with the right of nations. For it cannot be inferred conversely that those maxims which are compatible with publicity are also right on that account, because he who has a decided supremacy does not need to conceal his maxims. The condition of the possibility of a law of nations generally is that there does exist a prior juridic state of society. For without this there is no public law, but every kind of law which could be thought as existing without it (as in the state of nature) is merely private law. Now we have seen above that a federative union of States, having for its sole object the removal of war, is the only condition compatible with their freedom and the only one in which their rights can have existence in common. Hence the agreement of politics with morals is possible only in this connection by means of a federative union, a union which is necessarily and really involved *a priori* in the principles of right; and all public policy can have a juridic basis only by the establishment of such a union in its greatest possible extent; and, apart from this end, all their sophistry is but unwisdom and disguised injustice. Yet there is such a sophistry, and its bastard policy has a casuistry of its own that might defy the best Jesuit school to outrival. It has its mental reservation (*reservatio mentalis*) as in the negotiation of public treaties by using such expressions as may at will be interpreted to suit the occasion, such as the distinction between the *status quo de facto* and the *status quo*

*de jure*. Again it has its probabilism, when it construes evil intentions in others or even the probabilities of their possible superiority into a justifiable reason for undermining other peaceful States. And, finally, it has its philosophical sin (*peccadillo* or *bagatelle*) when it maintains that the absorption of a small State is an easily pardonable triviality, if a much larger State thereby gains to the supposed greater advantage of the whole.<sup>14</sup>

A pretext for all this is furnished by the double-dealing of politics in relation to morals, employing one or the other for its own purposes. Now, in fact, both philanthropy and respect for the rights of men are obligatory as duties. But the former is only a conditional duty; while the latter is unconditioned and absolutely imperative; and he who would give himself up to the sweet feeling of well-doing must first be fully assured that he has not transgressed it. Now politics easily accords with morals in the former sense (as ethics) by making it incumbent on men to give up their right to their superiors; but it is otherwise when morals is taken in the second sense (as jurisprudence or the science of right) before which politics must bow the knee. Here politics finds it advisable not to trust at all to any compact, but rather to take away from right all reality and to reduce all duties to mere benevolence. This artifice of a mode of policy that shuns the light would be easily frustrated by publicity being given to such maxims, if it only dared allow the philosophers to give publicity to their maxims.

From this point of view, I shall now propose another principle of public right, which is at once transcendental and affirmative, and whose formula would be as follows:



“All maxims which require publicity in order that they may not fail of their end are in accordance with both right and politics.”

For, if these maxims can only attain their end by publicity, they must be conformable to the common end of the public, which is happiness; and it is the true problem of politics to put itself into agreement with the public and to make the people contented with their condition. But if this end is to be attained only by publicity, as the means of removing all distrust of political maxims, these maxims must also be in harmony with the right of the public; for the union of the ends of all is possible only in the harmony established by right. I must, however, defer the further development and explanation of this principle to another occasion. But it may be already seen that it is a transcendental formula from the fact that all the empirical conditions of happiness, such as the subject matter of the law, are removed from it; and it merely has regard to the form of a universal legislation.

If it is a duty to realize a state of public law, and if at the same time there is a well-grounded hope of its being realized — although it may only be by approximation to it that advances *ad infinitum* — then perpetual peace is a fact that is destined historically to follow the falsely so-called treaties of peace which have been but cessations of hostilities. Perpetual peace is, therefore, no empty idea, but a practical thing which, through its gradual solution, is coming always nearer its final realization; and it may well be hoped that progress toward it will be made at more rapid rates of advance in the times to come.



PUBLIC LAW  
PASSAGES FROM THE SECOND PART OF  
THE PHILOSOPHY OF LAW .  
AS CONTAINED IN  
THE METAPHYSICS OF MORALS  
1796-1797





## PUBLIC LAW

### THE PRINCIPLES OF RIGHT IN CIVIL SOCIETY

#### RELATION OF PUBLIC TO PRIVATE LAW

From the conditions of private law in the natural state there arises the postulate of public law. It may be thus expressed: "In the relation of unavoidable coexistence with others, thou shalt pass from the state of nature into a juridical union constituted under the condition of a distributive justice." The principle of this postulate may be unfolded analytically from the conception of right in the external relation, contradistinguished from mere might as violence.

No one is under obligation to abstain from interfering with the possession of others unless they give him a reciprocal guaranty for the observance of a similar abstention from interference with his possessions. Nor does he require to wait for proof by experience of the need of this guaranty, in view of the antagonistic disposition of others. He is therefore under no obligation to wait till he acquires practical prudence at his own cost; for he can perceive in himself evidence of the natural inclination of men to play the master over others, and to disregard the claims of the right of others, when they feel themselves their superiors by might or fraud. And thus it is not necessary to wait for the melancholy experience of actual hostility; the individual is from the first entitled to exercise a

rightful compulsion toward those who already threaten him by their very nature. *Quilibet praesumitur malus, donec securitatem dederit oppositio.*

So long as the intention to live and continue in this state of externally lawless freedom prevails, men may be said to do no wrong or injustice at all to one another, even when they wage war against each other. For what seems good for the one is equally valid for the other, as if it were so by mutual agreement. *Uti partes de jure suo disponunt, ita jus est.* But generally they must be considered as being in the highest state of wrong, as being and willing to be in a condition which is not juridical; and in which, therefore, no one can be secured against violence in the possession of his own.

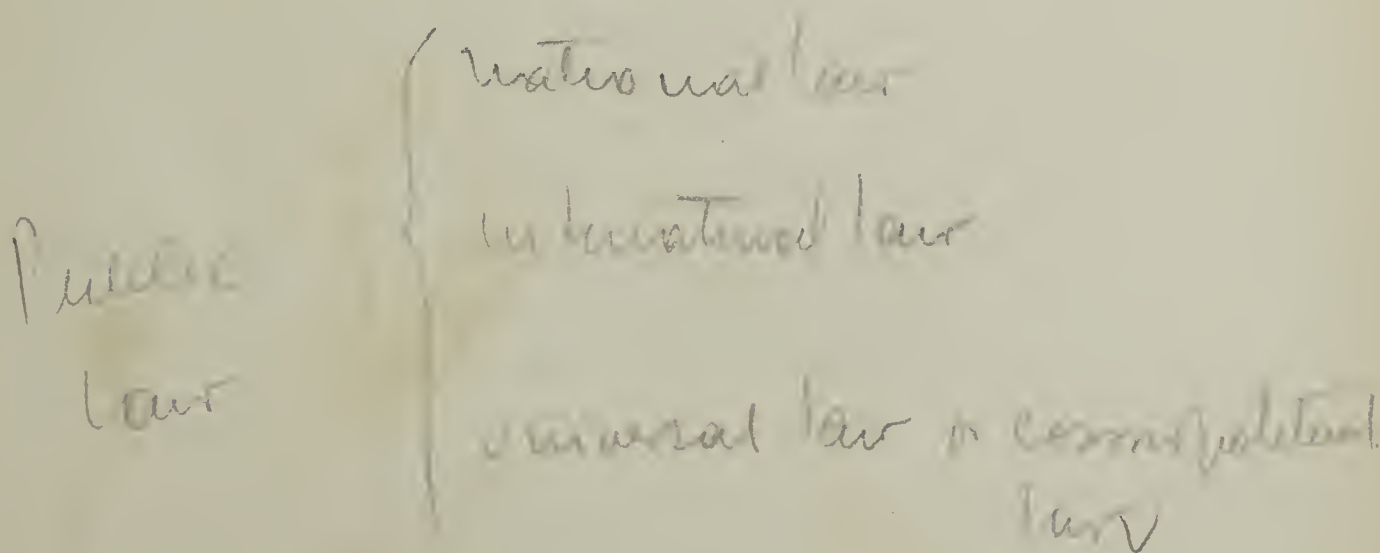
#### DEFINITION AND DIVISION OF PUBLIC LAW

Public law embraces the whole of the laws that require to be universally promulgated in order to produce a juridical state of society. It is therefore a system of those laws that is requisite for a people as a multitude of men forming a nation, or for a number of nations in their relations to each other. Men and nations, on account of their mutual influence on one another, require a juridical constitution uniting them under one will, in order that they may participate in what is right. This relation of the individuals of a nation to each other constitutes the civil union in the social state; and, viewed as a whole in relation to its constituent members, it forms the political State (*civitas*).

(1) The State, as constituted by the common interest of all to live in a juridical union, is called, in view of its



form, the commonwealth or the republic in the wider sense of the term (*res publica latius sic dicta*). The principles of right in this sphere thus constitute the first department of public law as the right of the State (*jus civitatis*), or national law. (2) The State, again, viewed in relation to other peoples, is called a power (*potentia*), whence arises the idea of potentates. Viewed in relation to the supposed hereditary unity of the people composing it, the State constitutes a nation (*gens*). Under the general conception of public law, in addition to the right of the individual State, there thus arises another department of law, constituting the law of nations (*jus gentium*), or international law. (3) Further, as the surface of the earth is not unlimited in extent but is circumscribed in its extent, national law and international law necessarily culminate in the idea of a universal law of mankind, which may be called cosmopolitical law (*jus cosmopoliticum*). And national, international and cosmopolitical law are so interconnected that, if any one of these three possible forms of the juridical relation fails to embody the essential principles that ought to regulate external freedom by law, the structure of legislation reared by the others will also be undermined, and the whole system would at last fall to pieces.



# PUBLIC LAW

## I. CONSTITUTIONAL LAW

### ORIGIN OF THE CIVIL UNION

It is not from any experience prior to the appearance of an external authoritative legislation that we learn of the maxim of natural violence among men, and their evil tendency to engage in war with each other. Nor is it assumed here that it is merely some particular historical condition or fact that makes public legislative constraint necessary ; for, however well disposed or fair-minded men may be considered to be of themselves, the rational idea of a state of society not yet regulated by law must be taken as our starting point. This idea implies that, before a legal state of society can be publicly established, individual men, nations and States can never be safe against violence from each other ; and this is evident from the consideration that every one of his own will naturally does what seems good and right in his own eyes, entirely independent of the opinion of others. Hence, unless the institution of law is to be renounced, the first thing incumbent on men is to accept the principle that it is necessary to leave the state of nature, in which every one follows his own inclinations, and to form a union of all those who cannot avoid coming into reciprocal communication, and thus subject themselves in common to the external restraint of public compulsory

laws. Men thus enter into a civil union in which every one has it determined by law what shall be recognized as his; and this is secured to him by a competent external power distinct from his own individuality. Such is the primary obligation, on the part of all men, to enter into the relations of a civil state of society.

The natural condition of mankind need not, on this ground, be represented as a state of absolute injustice, as if there could have been no other relation originally among men but what was merely determined by force. But this natural condition must be regarded, if it ever existed, as a state of society that was void of regulation by law (*status justitiae vacuus*), so that if a matter of law came to be in dispute (*jus controversum*), no competent judge was found to give an authorized legal decision upon it. It is therefore reasonable that any one should constrain another by force to pass from such a non-juridical state of life and enter within the jurisdiction of a civil state of society. For, although some external power may be acquired through usurpation or compact, according to the conceptions of right of the individual, yet such acquisition is only provisory so long as it has not yet obtained the sanction of a public law. Till this sanction is explicit, the condition of possession is not determined by any public distributive justice, nor is it secured by any power exercising public right.

### THE THREE POWERS IN THE STATE

(A State (*civitas*) is the union of a number of men under juridical laws.) These laws as such are to be regarded as necessary *a priori*, that is, as following of



themselves from the conceptions of external law generally, and not as merely established by statute. The form of the State is thus involved in the idea of the State, viewed as it ought to be according to pure principles of law; and this ideal form furnishes the normal criterion of every real union that constitutes a commonwealth.

Every State contains in itself three powers, the universal united will of the people being thus personified in a political triad. These are the legislative power, the executive power and the judicial power: (1) the legislative power of the sovereignty in the State is embodied in the person of the lawgiver; (2) the executive power is embodied in the person of the ruler who administers the law; and (3) the judicial power, embodied in the person of the judge, is the function of assigning every one what is his own, according to the law (*potestas legislativa, rectoria et judiciaria*). These three powers may be compared to the three propositions in a practical syllogism — the major as the sumption laying down the universal law of a will, the minor presenting the command applicable to an action according to the law as the principle of the subsumption, and the conclusion containing the sentence or legal judgment in the particular case under consideration.

#### THE LEGISLATIVE POWER AND THE PEOPLE

The legislative power, viewed in its rational principle, can belong only to the united will of the people. For, as all right ought to proceed from this power, it is necessary that its laws should be unable to do wrong to any one whatever. Now, if any one individual determines

anything in the State in contradistinction to another, it is always possible that he may perpetrate a wrong on that other; but this is never possible when all determine and decree what is to be law to themselves. *Volenti non fit injuria*. Hence, it is only the united and consenting will of all the people — in so far as each of them determines the same thing about all, and all determine the same thing about each — that ought to have the power of enacting law in the State.

The members of a civil society thus united for the purpose of legislation, and thereby constituting a State, are called its citizens; and there are three juridical attributes that inseparably belong to them by right. These are: (1) constitutional freedom, as the right of every citizen to have to obey no other law than that to which he has given his consent or approval; (2) civil equality, as the right of the citizen to recognize no one as a superior among the people in relation to himself, except in so far as such a one is as subject to his moral power to impose obligations as that other has power to impose obligations upon him; and (3) political independence, as the right to owe his existence and continuance in society not to the arbitrary will of another, but to his own rights and powers as a member of the commonwealth; and, consequently, the possession of a civil personality, which cannot be represented by any other than himself.

(Only the capability of casting the ballot decides the qualification of a citizen of the State. This presupposes the independence of the citizen among the people, not as an incidental part of the commonwealth but as a member thereof, so that he is a part of it, acting of his own free will in common with others. The last quality necessarily

constitutes the distinction between active and passive citizenship, notwithstanding that this conception seems generally to stand in contradiction with the definition of the conception of a citizen. . . .)

### THE STATE AND THE ORIGINAL CONTRACT

✓ All these three powers in the State are dignities ; and, as necessarily arising out of the idea of the State and essential generally to the foundation of its constitution, they are to be regarded as political dignities. They imply the relation between a universal sovereign as head of the State — which, according to the laws of freedom, can be none other than the people itself united into a nation — and the mass of the individuals of the nation as subjects. The former member of the relation is the ruling power, whose function is to govern (*imperans*) ; the latter is the ruled constituents of the State, whose function is to obey (*subditi*).

✓ The act by which a people is represented as constituting itself into a State is termed the original contract. This is properly only an outward mode of representing the idea by which the legality of the process of organizing the constitution may be made conceivable. According to this representation, all and each of the people give up their external freedom in order to receive it immediately again as members of a commonwealth. The commonwealth is the people viewed as united all together into a State. And thus it is not to be said that the individual in the State has sacrificed a part of his inborn external freedom for a particular purpose ; but he has wholly abandoned his wild, lawless freedom in order to find all



his proper freedom again entire and undiminished, but in the form of a regulated order of dependence, that is, in a civil state regulated by laws. This relation of dependence thus arises out of his own regulative law-giving will.

### THE THREE POWERS COÖRDINATE

The three powers in the State, as regards their relations to each other, are therefore (1) coördinate with one another as so many moral persons, and the one is thus the complement of the other in the way of completing the constitution of the State; (2) they are likewise subordinate to one another, so that the one cannot at the same time usurp the function of the other by whose side it moves, each having its own principle and maintaining its authority in a particular person, but under the restriction of the will of a superior; and, further, (3) by the union of both these relations, they assign distributively to every subject in the State his own rights.

Considered as to their respective dignity, the three powers may be thus described. The will of the sovereign legislator, in respect of what constitutes the external mine and thine, is to be regarded as irreprehensible; the executive function of the supreme ruler is to be regarded as irresistible; and the judicial sentence of the supreme judge is to be regarded as irreversible, being beyond appeal.

### DISTINCT FUNCTIONS OF THE THREE POWERS

The executive power belongs to the governor or regent of the State, a moral or individual person, as the king or prince (*rex, princeps*). This executive authority, as the supreme agent of the State, appoints the

magistrates and prescribes the rules to the people, in accordance with which individuals may acquire anything or maintain what is their own conformably to the law, each case being brought under its application. Regarded as a moral person, this executive authority constitutes the government. The orders issued by the government to the people and the magistrates as well as to the higher ministerial administrators of the State (*gubernatio*) are rescripts or decrees, and not laws; for they terminate in the decision of particular cases and are given forth as unchangeable. A government acting as an executive and at the same time laying down the law as the legislative power would be a despotic government and would have to be contradistinguished from a patriotic government. A patriotic government again is to be distinguished from a paternal government (*regimen paternale*) which is the most despotic government of all; the citizens being dealt with by it as mere children. A patriotic government, however, is one in which the State, while dealing with the subjects as if they were members of a family, still treats them likewise as citizens and according to laws that recognize their independence, each individual possessing himself and not being dependent on the absolute will of another beside him or above him.

✓ The legislative authority ought not at the same time to be the executive or governor; for the governor, as administrator, should stand under the authority of the law, and is bound by it under the supreme control of the legislator. The legislative authority may therefore deprive the governor of his power, depose him or reform his administration, but not punish him. This is the proper and only meaning of the common saying in

England, "The king — as the supreme executive power — can do no wrong." For any such application of punishment would necessarily be an act of that very executive power to which the supreme right to compel according to law pertains and which would itself be thus subjected to coercion ; which is self-contradictory.

Further, neither the legislative power nor the executive power ought to exercise the judicial function, but only appoint judges as magistrates. It is the people who ought to judge themselves through those of the citizens who are elected by free choice as their representatives for this purpose, and even specially for every process or cause. For the judicial sentence is a special act of public distributive justice, performed by a judge or court as a constitutional administrator of the law, to a subject as one of the people. Such an act is not invested inherently with the power to determine and assign to any one what is his. Every individual among the people being merely passive in this relation to the supreme power, either the executive or the legislative authority might do him wrong in their determinations in cases of dispute regarding the property of individuals. It would not be the people themselves who thus determined or who pronounced the judgments of "guilty" or "not guilty" regarding their fellow citizens. For, it is to the determination of this issue in a cause that the court has to apply the law ; and it is by means of the executive authority that the judge holds power to assign to every one his own. Hence it is only the people that properly can judge in a cause — although indirectly — by representatives elected and deputed by themselves, as in a jury. It would even be beneath the dignity of the sovereign head of the State to



play the judge; for this would be to put himself into a position in which it would be possible to do wrong, and thus to subject himself to the demand for an appeal to a still higher power (*a rege male informato ad regem melius informandum*).

It is by the coöperation of these three powers — the legislative, the executive and the judicial — that the State realizes its autonomy. This autonomy consists in its organizing, forming and maintaining itself in accordance with the laws of freedom. In their union the welfare of the State is realized. *Salus reipublicae suprema lex est.* By this is not to be understood merely the individual well-being and happiness of the citizens of the State; for — as Rousseau asserts — this end may perhaps be more agreeably and more desirably attained in the state of nature or even under a despotic government. But the welfare of the State as its own highest good signifies that condition in which the greatest harmony is attained between its constitution and the principles of right, — a condition of the State which reason by a categorical imperative makes it obligatory upon us to strive after.

\* \* \* \* \*

### JURIDICAL RELATIONS OF THE CITIZEN TO HIS COUNTRY AND TO OTHER COUNTRIES

The land or territory whose inhabitants — in virtue of its political constitution and without the necessary intervention of a special juridical act — are, by birth, fellow citizens of one and the same commonwealth is called their country or fatherland. A foreign country

is one in which they would not possess this condition, but would be living abroad. If a country abroad forms part of the territory under the same government as at home, it constitutes a province, according to the Roman usage of the term. It does not constitute an incorporated portion of the empire (*imperii*) so as to be the abode of equal fellow citizens, but is only a possession of the government, like a lower house; and it must therefore honor the domain of the ruling State as the "mother country" (*regio domina*).

1. A subject, even regarded as a citizen, has the right of emigration; for the State cannot retain him as if he were its property. But he may only carry away with him his movables as distinguished from his fixed possessions. However, he is entitled to sell his immovable property and take the value of it in money with him.

2. The supreme power as master of the country has the right to favor immigration and the settlement of strangers and colonists. This will hold even although the natives of the country may be unfavorably disposed to it, if their private property in the soil is not diminished or interfered with.

3. In the case of a subject who has committed a crime that renders all intercourse by his fellow citizens with him prejudicial to the State, the supreme power has also the right of inflicting banishment to a country abroad. By such deportation he does not acquire any share in the rights of the citizens of the territory to which he is banished.

4. The supreme power has also the right of imposing exile (*jus exilii*), by which a citizen is sent abroad

generally, into the wide world, the "out-land."\* And because the supreme authority thus withdraws all legal protection from the citizen, this amounts to making him an "outlaw" within the territory of his own country.

### THE THREE FORMS OF THE STATE

✓ (The three powers in the State involved in the conception of a commonwealth generally (*res publica latius dicta*) are only so many relations of the united will of the people which emanates from the *a priori* reason; and, viewed as such, it is the objective practical realization of the pure idea of a supreme head of the State. This supreme head is the sovereign; but, conceived only as a representation of the whole people, the idea still requires physical embodiment in a person who may exhibit the supreme power of the State and bring the idea actively to bear upon the popular will. The relation of the supreme power to the people is conceivable in three different forms: either one in the State rules over all; or some, united in a relation of equality with each other, rule over all the others; or all together rule over each and all individually, including themselves. ✓ The form of the State is therefore either autocratic or aristocratic or democratic.) (The expression "monarchic" is not so suitable as "autocratic" for the conception here intended; for a monarch is one who has the highest power, an autocrat is one who has all power, so that this latter is the sovereign, whereas the former merely represents the sovereignty.)

It is evident that an autocracy is the simplest form of government in the State, being constituted by the

\* In the old German language *Elend*, which in its modern use means "misery."



relation of one, as king, to the people, so that there is one only who is the lawgiver. An aristocracy, as a form of government, is, however, compounded of the union of two relations: that of the nobles in relation to one another as the lawgivers, thereby constituting the sovereignty, and that of this sovereign power to the people. A democracy, again, is the most complex of all the forms of the State, for it has to begin by uniting the will of all so as to form a people; and then it has to appoint a sovereign over this common union, which sovereign is no other than the united will itself.\*

As regards the administration of law in the State, it may be said that the simplest mode is also the best; but, as regards its bearing on law itself, it is also the most dangerous for the people, in view of the despotism to which simplicity of administration so naturally gives rise. Undoubtedly the rational maxim is to aim at simplification in the machinery uniting the people under compulsory laws, and this would be secured were all the people to be passive and to obey only one person over them; but that method does not give us subjects who are also citizens of the State. It is sometimes said that the people should be satisfied with the reflection that monarchy, regarded as an autocracy, is the best political constitution, if the monarch is good, that is, if he has the judgment as well as the will to do right; but this is a mere evasion and belongs to the common class of wise tautological phrases. It only amounts to

\* The consideration of the ways in which these forms are adulterated by the intrusion of violent and illegitimate usurpers of power, as in oligarchy and ochlocracy, as well as the discussion of the so-called mixed constitutions may be passed over here as not essential and as leading into too much detail.

saying that "the best constitution is that by which the supreme administrator of the State is made the best ruler"; that is, that the best constitution is the best!

### HISTORICAL ORIGIN AND CHANGES

It is vain to inquire into the historical origin of the political mechanism; for it is no longer possible to discover historically the point of time at which civil society took its beginning. Savages do not draw up a documentary record of their having submitted themselves to law; and it may be inferred from the nature of uncivilized men that they must have set out from a state of violence. To prosecute such an inquiry with the intention of finding a pretext for altering the existing constitution by violence is no less than penal. For such a mode of alteration would amount to a revolution that could only be carried out by an insurrection of the people and not by constitutional modes of legislation. But insurrection against an already existing constitution is an overthrow of all civil and juridical relations and of law generally; and hence it is not a mere alteration of the civil constitution but a dissolution of it. It would thus form a mode of transition to a better constitution by palingenesis and not by mere metamorphosis; and it would require a new social contract, upon which the former original contract, as then annulled, would have no influence.

It must, however, be possible for the sovereign to change the existing constitution if it is not actually consistent with the idea of the original contract. In doing so it is essential to give existence to that form of

government which will properly constitute the people into a State. Such a change cannot be made by the State's deliberately altering its constitution from one of the three forms to one of the other two. For example, political changes should not be carried out by the aristocrats combining to subject themselves to an autocracy, or resolving to fuse all into a democracy, or conversely; as if it depended on the arbitrary choice and liking of the sovereign what constitution he may impose on the people. For, even if as sovereign he resolved to alter the constitution into a democracy, he might be doing wrong to the people, because they might hold such a constitution in abhorrence and regard either of the other two as more suitable to them in the circumstances.

The forms of the State are only the letter (*littera*) of the original constitution in the civil union; and they may therefore remain so long as they are considered, from ancient and long habit (and therefore only subjectively), to be necessary to the machinery of the political constitution. But the spirit of that original contract (*anima pacti originarii*) contains and imposes the obligation on the constituting power to make the mode of the government conformable to its idea; and, if this cannot be effected at once, to change it gradually and continuously till it harmonize in its working with the only rightful constitution, which is that of a pure republic. Thus the old empirical and statutory forms which serve only to effect the political subjection of the people will be resolved into the original and rational forms, which alone take freedom as their principle and even as the condition of all compulsion and constraint. Compulsion is in fact requisite for the realization of a juridical constitution,



according to the proper idea of the State; and it will lead at last to the realization of that idea, even according to the letter. This is the only enduring political constitution, as in it the law is itself sovereign and is no longer attached to a particular person. This is the ultimate end of all public law, the state in which every citizen can have what is his own peremptorily assigned to him. But so long as the form of the State has to be represented, according to the letter, by many different moral persons invested with the supreme power, there can only be a provisory internal law, and not an absolutely juridical state of civil society.

Every true republic is and can only be constituted by a representative system of the people. Such a representative system is instituted in name of the people and is constituted by all the citizens being united together, in order, by means of their deputies, to protect and secure their rights. But as soon as a supreme head of the State in person — be it as king or nobility or the whole body of the people in a democratic union — becomes also representative, then the united people do not merely represent the sovereignty but are themselves sovereign. It is in the people that the supreme power originally resides and it is accordingly from this power that all the rights of individual citizens as mere subjects, and especially as officials of the State, must be derived. When the sovereignty of the people themselves is thus realized, the republic is established; and it is no longer necessary to give up the reins of government into the hands of those by whom they have been hitherto held, especially as they might again destroy all the new institutions by their arbitrary and absolute will.

(It was therefore a great error in judgment on the part of a powerful ruler in our time when he tried to extricate himself from the embarrassment arising from great public debts by transferring this burden to the people, and leaving them to undertake and distribute them among themselves as they might think fit. It thus became natural that the legislative power, not only in respect to the taxation of the subjects but in respect to the government, should come into the hands of the people. It was requisite that they should be able to prevent the incurring of new debts by extravagance or war; and in consequence the supreme power of the monarch entirely disappeared, not by being merely suspended, but by passing over in fact to the people, to whose legislative will the property of every subject thus became subjected. . . .)

# PUBLIC LAW

## II. INTERNATIONAL LAW

### NATURE AND DIVISION OF THE LAW OF NATIONS

The individuals who make up a people may be regarded as natives of the country sprung by natural descent from a common ancestry (*congeniti*), although this may not hold entirely true in detail. Again, they may be viewed according to the intellectual and juridical relation, as born of a common political mother, the republic, so that they constitute, as it were, a public family or nation (*gens, natio*) whose members are all related to each other as citizens of the State. As members of a State, they do not mix with those who live beside them in the state of nature, considering such to be ignoble. Yet these savages, on account of the lawless freedom they have chosen, regard themselves as superior to civilized peoples; and they constitute tribes and even races, but not States. The rights of nations in their relations with one another are what we have to consider under the term "law of nations," which is not quite happily called international law in Germany, where it should rather be public state law (*ius publicum civitatum*). Wherever a State, viewed as a moral person, acts in relation to another existing in the condition of natural freedom and consequently in a state of continual war,



such law takes its rise. The law of nations in this relation may be divided into: (1) the law of going to war; (2) the law during war; and (3) the law after war, the object of which is to constrain the nations mutually to pass from this state of war and to found a common constitution establishing perpetual peace. The difference between the law of individual men or families as related to each other in the state of nature and the law of the nations among themselves consists in this, that in the law of nations we have to consider not merely a relation of one State to another as a whole, but also the relation of the individual persons in one State to the individuals of another State, as well as to that State as a whole. This difference, however, between the law of nations and the law of individuals in the mere state of nature requires to be determined by elements which can easily be deduced from the conception of the latter.

### ELEMENTS OF THE LAW OF NATIONS

The elements of the law of nations are as follows:

1. States, viewed as nations, in their external relations to one another — like lawless savages — are naturally in a nonjuridical condition.

2. This natural condition is a state of war in which the law of the stronger prevails; and, although it may not in fact be always found as a state of actual war and incessant hostility and although no real wrong is done to any one therein, yet the condition is wrong in itself in the highest degree, and the nations which form States contiguous to each other are bound mutually to pass out of it.

3. An alliance of nations, in accordance with the idea of an original social contract, is necessary to protect each other against external aggression and attack, without involving interference with their several internal difficulties and disputes.

4. This mutual connection by alliance must dispense with a distinct sovereign power such as is set up in the civil constitution ; it can only take the form of a federation, which as such may be revoked on any occasion and must consequently be renewed from time to time. This is therefore a right accessory (*in subsidium*) of another original right, to prevent the nations from falling away and lapsing into the state of actual war with each other. It thus issues in the idea of a *foedus amphictionum*.

#### WAR AS RELATED TO SUBJECTS OF THE STATE

We have then first to consider the original right of free States in a state of nature to go to war with each other, exercising this right in order to establish some condition of society approaching the juridical state. And, first of all, the question arises as to what right the State has in relation to its own subjects ; whether it may use them to make war against other States, employ their property and even their lives for this purpose or at least expose them to hazard and danger. And all this in such a way that it does not depend upon their own judgment whether they will march into the field of war, but upon the supreme command of the sovereign who claims to settle and dispose of them thus.

This right appears capable of being easily established. It may be grounded upon the right, which every one has,

to do as he will with what is his own. Whatever one has made substantially for himself he holds as his incontestable property. The following, then, is such a deduction as a mere jurist would put forward.

There are various natural products in a country which, as regards the number and quantity in which they exist, must be considered as specially produced (*artefacta*) by the work of the State; for the country would not yield them to such an extent were it not under the constitution of the State and its regular administrative government or if the inhabitants were still living in the state of nature. Sheep, cattle, domestic fowl, — the most useful of their kind, — swine and such like would either be used up as necessary food or destroyed by beasts of prey in the district in which I live, so that they would entirely disappear or be found in very scant supplies, were it not for the government's securing to the inhabitants their acquisitions and property. This holds likewise of the population itself, as we see in the case of the American deserts; and even were the greatest industry applied in those regions — which is not yet done — there might be but a scanty population. The inhabitants of any country would be but sparsely sown here and there were it not for the protection of government, because without it they could not spread themselves with their households upon a territory which was always in danger of being devastated by enemies or by wild beasts of prey; and, further, so great a multitude of men as now live in any one country could not otherwise obtain sufficient means of support. Hence, as it can be said of vegetable growths, such as potatoes, as well as of domesticated animals, that because the abundance in which they are found is



a product of human labor, they may be used, destroyed and consumed by man ; so, it seems, it may be said of the sovereign as the supreme power in the State that he has the right to lead his subjects, as being for the most part productions of his own, to war, as if it were to the chase, and even to march them to the field of battle, as if it were on a pleasure excursion.

This legal title may be supposed to float dimly before the mind of the monarch, and it certainly holds true at least of the lower animals which may become the property of man. But such a principle will not at all apply to men, especially when viewed as citizens regarded as members of the State with a share in the legislation and not merely as means for others but as ends in themselves. As such they must give their free consent, through their representatives, not only to the carrying on of war generally, but to every separate declaration of war ; and it is only under this limiting condition that the State has a right to demand their services in undertakings so full of danger.

We would therefore deduce this right rather from the duty of the sovereign to the people than conversely. Under this relation the people must be regarded as having given their consent ; and, having the right of voting, they may be considered, although thus passive in reference to themselves individually, to be active in so far as they represent the sovereignty itself.

#### RIGHT OF WAR IN RELATION TO HOSTILE STATES

Viewed as in the state of nature, the right of nations to go to war and to carry on hostilities is the legitimate way by which they prosecute their rights by their own

power when they regard themselves as injured ; and this is done because in that state the method of a juridical process, although the only one proper to settle such disputes, cannot be adopted.

The threatening of war is to be distinguished from the active injury of a first aggression, which again is distinguished from the general outbreak of hostilities. A threat or menace may be given by the active preparation of armaments whereby a right of prevention (*jus praeventionis*) is founded on the other side, or merely by the formidable increase of the power of another State (*potestas tremenda*) by acquisition of territory. This is an injury of a less powerful country merely from the condition of a more powerful neighbor prior to any action at all, and in the state of nature an attack under such circumstances would be warrantable. This international relation is the foundation of the law of the balance of power among all the States that are in active contiguity to each other.

The right to go to war is constituted by any overt act of injury. This includes any arbitrary retaliation or act of reprisal (*retorsio*) as a satisfaction taken by one people for an offense committed by another, without any attempt being made to obtain reparation in a peaceful way. Such an act of retaliation is similar in kind to an outbreak of hostilities without a previous declaration of war. For if there is to be any right at all during the state of war, something analogous to a contract must be assumed, involving acceptance on the one side of the declaration of the other, and amounting to the fact that they both will to seek their right in this way.

## RIGHT DURING WAR

The determination of what constitutes right in war is the most difficult problem of international law. It is very difficult even to form a conception of such a right or to think of any law in this lawless state without falling into a contradiction. *Inter arma silent leges*. It must, then, be only the right to carry on war according to such principles as render it still possible always to pass out of that natural condition of the states in their external relations to each other and to enter into a condition of law.

No war of independent States against each other can rightly be a war of punishment (*bellum punitivum*). For punishment is only in place under the relation of a superior (*imperantis*) to a subject (*subditum*), and this is not the relation of the States to one another. Neither can an international war be a war of extermination (*bellum internicinum*) nor even a war of subjugation (*bellum subjugatorium*); for this would result in the moral extinction of a State through its people either being fused into one mass with the conquering State or being reduced to slavery. Not that this necessary means of attaining to a condition of peace is itself contradictory to the right of a State; but because the idea of international law includes merely the conception of an antagonism in accordance with principles of external freedom, in order that the State may maintain what is properly its own but not that it may attain a condition which, from the aggrandizement of its power, might become threatening to other States.

Defensive measures of all kinds are allowable to a State that is forced to war, except such as by their use



would make the subjects using them unfit to be citizens ; for the State would thus make itself unfit to be regarded as a person capable of participating in equal rights in the international relations according to the law of nations. Among these forbidden means are to be reckoned the appointment of subjects to act as spies, or engaging subjects or even strangers to act as assassins or poisoners (in which class might well be included the so-called sharpshooters who lurk in ambush for individuals), or even employing agents to spread false news. In a word, it is forbidden to use any such malignant and perfidious means as would destroy the confidence which would be requisite to establish a lasting peace thereafter.

It is permissible in war to impose exactions and contributions upon a conquered enemy ; but it is not legitimate to plunder the people in the way of forcibly depriving individuals of their property. For this would be robbery, seeing it was not the conquered people but the State under whose government they were placed that carried on the war by means of them. All exactions should be raised by regular requisition, and receipts ought to be given for them, in order that when peace is restored the burden imposed on the country or the province may be proportionately borne.

### RIGHT AFTER WAR

The right that follows after war begins at the moment of the treaty of peace and refers to the consequences of the war. The conqueror lays down the conditions under which he will agree with the conquered power to the

conclusion of peace. Treaties are drawn up, not indeed according to any law that it pertains to him to protect on account of an alleged injury by his opponent, but, while taking this question upon himself, he bases the right to decide it upon his own power. Hence the conqueror may not demand restitution of the cost of the war, because he would then have to declare the war of his opponent to be unjust. And, even though he should adopt such an argument, he is not entitled to apply it because he would have to declare the war to be punitive, and he would thus in turn inflict an injury. In the same category belongs also the exchange of prisoners, which is to be carried out without ransom and without regard to equality of numbers.

Neither the conquered State nor its subjects lose their political liberty by conquest of the country to the extent that the former should be degraded to a colony or the latter to slaves; for otherwise it would have been a penal war, which is contradictory in itself. A colony or a province is constituted by a people which has its own constitution, legislation and territory, where persons belonging to another State are merely strangers but which is nevertheless subject to the supreme executive power of another State. This other State is called the mother country. The colony is ruled as a daughter, but has at the same time its own form of government, as in a separate parliament under the presidency of a viceroy (*civitas hybrida*). Such was Athens in relation to different islands; and such is at present [1796] the relation of Great Britain to Ireland.

Still less can slavery and its legality be deduced from the conquest of a people in war; for this would assume

that the war was of a punitive nature. And least of all can a basis be found in war for a hereditary slavery, which is absurd in itself since guilt cannot be inherited from the criminality of another.

Further, that an amnesty is involved in the conclusion of a treaty of peace is already implied in the very idea of a peace.

### THE RIGHTS OF PEACE

The rights of peace are :

1. The right to be in peace when war is in the neighborhood, or the right of neutrality.

2. The right to have peace secured so that it may continue when it has been concluded, that is, the right of guaranty.

3. The right of the several States to enter into a mutual alliance so as to defend themselves in common against all external or even internal attacks. This right of federation, however, does not extend to the formation of any league for external aggression or internal aggrandizement.

### RIGHT AS AGAINST AN UNJUST ENEMY

The right of a State against an unjust enemy has no limits, at least in respect of quality as distinguished from quantity or degree. In other words, the injured State may use not, indeed, any means, but yet all those means that are permissible and in reasonable measure in so far as they are in its power, in order to assert its right to what is its own. But what then is an unjust enemy according to the conceptions of the law of nations, when, as holds generally of the state of nature, every State is



judge in its own cause? It is one whose publicly expressed will, whether in word or deed, betrays a maxim which, if it were taken as a universal rule, would make a state of peace among the nations impossible and would necessarily perpetuate the state of nature. Such is the violation of public treaties, with regard to which it may be assumed that any such violation concerns all nations by threatening their freedom and that they are thus summoned to unite against such a wrong and to take away the power of committing it. But this does not include the right to partition and appropriate the country so as to make a State, as it were, disappear from the earth; for this would be an injustice to the people of that State, who cannot lose their original right to unite into a commonwealth and to adopt such a new constitution as by its nature would be unfavorable to the inclination for war.

Further, it may be said that the expression "an unjust enemy in the state of nature" is pleonastic; for the state of nature is itself a state of injustice. A just enemy would be one to whom I would do wrong in offering resistance; but such a one would really not be my enemy.

#### PEACE AND A PERMANENT CONGRESS OF NATIONS

The natural state of nations as well as of individual men is a state out of which it is a duty to pass in order to enter into a legal state. Hence, before this transition occurs, all the law of nations and all the external *meum* and *tuum* of States acquirable or maintainable by war are merely provisional; and they can only become peremptory in a universal union of States analogous to that by which a nation becomes a State. It is thus only that

a real state of peace could be established. But with the too great extension of such a union of States over vast regions the management of it, and consequently the protection of its individual members, must at last become impossible; and thus a multitude of such corporations would again bring round a state of war. Hence the perpetual peace, which is the ultimate end of all the law of nations, becomes in fact an impracticable idea. The political principles, however, which aim at such an end and which enjoin the formation of such unions among the States as may promote a continuous approximation to a perpetual peace, are not impracticable; they are as practicable as this approximation itself, which is a practical problem involving a duty and founded upon the rights of individual men and States.

Such a union of States in order to maintain peace may be called a permanent congress of nations; and it is free to every neighboring State to join in it. A union of this kind, so far at least as regards the formalities of the law of nations in respect of the preservation of peace, was presented in the first half of this century in the assembly of the States-General at The Hague. In this assembly most of the European courts and even the smallest republics brought forward their complaints about the hostilities which were carried on by the one against the other. Thus the whole of Europe appeared like a single federated State, accepted as umpire by the several nations in their public differences; but in place of this agreement, the law of nations afterward survived only in books. It disappeared from the cabinets or, after force had been already used, it was relegated in the form of theoretical deductions to the obscurity of archives.

By such a congress is here meant only a voluntary combination of different States dissoluble at any time, and not such a union as is embodied in the United States of America, which is founded upon a political constitution and therefore is indissoluble. It is only by a congress of this kind that the idea of a public law of nations can be established and that the settlement of their differences by the mode of a civil process, rather than by the barbarous means of war, can be realized.



## PUBLIC LAW

### III. THE UNIVERSAL LAW OF MANKIND

#### NATURE AND CONDITIONS OF COSMOPOLITICAL RIGHT

The rational idea of a universal, peaceful, if not yet friendly, union of all the nations upon the earth that may come into active relations with each other is a juridical principle, as distinguished from philanthropic or ethical principles. Nature has inclosed them altogether within definite boundaries in virtue of the spherical form of their abode as a *globus terraqueus*; and the possession of the soil upon which an inhabitant of the earth may live can only be regarded as possession of a part of a limited whole, and consequently as a part to which every one has originally a right. Hence all nations originally hold a community of the soil, but not a juridical community of possession (*communio*); consequently they do not hold a community of the use or proprietorship of the soil, but only of a possible physical intercourse (*commercium*) by means of it. In other words, each is placed in such thoroughgoing relations to all the rest that they may claim to enter into intercourse with one another, and they have a right to make an attempt in this direction, while a foreign nation would not be entitled to treat them on this account as enemies. This law, in so far as it relates to a possible union of all nations in respect of certain universal laws regulating their possible

intercourse with each other, may be called cosmopolitical law, or *jus cosmopoliticum* in the Roman jurisprudence.

It may appear that seas put nations out of all communion with each other. But this is not so; for by means of commerce seas form the happiest natural provision for their intercourse. And the more there are of neighboring coast lands, as in the case of the Mediterranean Sea, the more animated this intercourse becomes. And hence communications with such lands, especially where there are settlements upon them connected with the mother countries giving occasion for such communications, bring it about that evil and violence committed in one place of our globe are felt in all. Such possible abuse cannot, however, annul the right of man as a citizen of the world to attempt to enter into communion with all others, and for this purpose to visit all the regions of the earth, although this does not constitute a right of settlement upon the territory of another people (*jus incolatus*), for which a special contract is required.

But the question is raised as to whether, in the case of newly discovered countries, a people may claim the right to settle (*accolatus*) and to occupy possessions in the neighborhood of another people already settled in that region, and to do this without their consent.

Such a right is indubitable if the new settlement takes place at such a distance from the seat of the former that neither would restrict or injure the other in the use of their territory. But in the case of nomadic peoples or tribes of shepherds and hunters (such as the Hottentots, the Tungusi and most of the American Indians), whose support is derived from wide desert tracts, such occupation should never take place by force,

but only by contract ; and any such contract ought never to take advantage of the ignorance of the original dwellers in regard to the cession of their lands. Yet it is commonly alleged that such acts of violent appropriation may be justified as subserving the general good of the world. It appears as if sufficient grounds of justification were furnished for them, partly by reference to the civilization of barbarous peoples (as by a pretext of this kind even Büsching tries to excuse the bloody introduction of the Christian religion into Germany), and partly by the necessity of purging one's own country from depraved criminals and the hope of their improvement or that of their posterity in another continent like New Holland. But all these alleged good purposes cannot wash out the stain of injustice in the means employed to attain them.

It may be objected that, had such scrupulousness about making a beginning in founding a legal State with force been always maintained, the whole earth would still have been in a state of lawlessness. But such an objection would as little annul the legal conditions in question as does the pretext of the political revolutionaries, that when a constitution has become degenerate it belongs to the people to transform it by force. This would amount generally to being unjust once and for all, in order thereafter to found justice the more surely and to make it flourish.



## CONCLUSION

If one cannot prove that a thing is, he may try to prove that it is not. And if he succeeds in doing neither (as often occurs), he may still ask whether it is in his interest to accept either of the alternatives hypothetically, from the theoretical or the practical point of view. In other words, a hypothesis may be accepted either to explain a certain phenomenon (as in astronomy to account for the retrogression and stationariness of the planets), or to attain a certain end, which again may be either pragmatic as belonging merely to the sphere of art, or moral as involving a purpose which it is a duty to adopt as a maxim of action. Now it is evident that the assumption (*suppositio*) of the practicability of such an end, though presented merely as a theoretical and problematical judgment, may be regarded as constituting a duty; and hence it is so regarded in this case. For, although there may be no positive obligation to believe in such an end, yet even if there were not the least theoretical probability of action being carried out in accordance with it, so long as its impossibility cannot be demonstrated, there still remains a duty incumbent upon us with regard to it.

Now, as a matter of fact, the moral-practical reason utters within us its irrevocable veto: "There shall be no war." So there ought to be no war, neither between you and me in the condition of nature, nor between us

as members of States which, although internally in a condition of law, are still externally in their relation to each other in a condition of lawlessness: for this is not the way by which any one should prosecute his right. Hence the question no longer is as to whether perpetual peace is a real thing or not a real thing, or as to whether we may not be deceiving ourselves when we adopt the former alternative; but we must act on the supposition of its being real. We must work for what may perhaps not be realized and establish that constitution which yet seems best adapted to bring it about (mayhap republicanism in all States, together and separately). And thus we may put an end to the evil of wars, which have been the chief interest of the internal arrangements of all the States without exception. And, although the realization of this purpose may always remain but a pious wish, yet we do certainly not deceive ourselves in adopting the maxim of action that will guide us in working incessantly for it; for it is a duty to do this. To suppose that the moral law within us is itself deceptive would be sufficient to excite the horrible wish rather to be deprived of all reason than to live under such deception, and even to see one's self, according to such principles, degraded like the lower animals to the level of the mechanical play of nature.

It may be said that the universal and lasting establishment of peace constitutes not merely a part but the whole final purpose and end of the science of law as viewed within the limits of reason. The condition of peace is alone the certain condition of assuring the legally secure recognition of *meum* and *tuum* in the relations of men living in numbers contiguous to each other

and who are bound together in a constitution, whose rule is derived not from the mere experience of those who have found it the best as a normal guide for others, but which must be taken by the reason *a priori* from the ideal of a juridical union of men under public laws generally. For all particular examples or instances, being able only to furnish illustration but not proof, are deceptive and at all events require a metaphysics to establish them by its necessary principles. And this is conceded indirectly even by those who turn metaphysics into ridicule when they say, as they often do, "The best constitution is that in which laws, not men, exercise the power." For what can be more metaphysically sublime in its own way than this very idea of theirs, which according to their own assertion has, notwithstanding, the most objective reality? This may be easily shown by reference to actual instances. And it is this very idea which alone can be carried out practically, if it is not forced on in a revolutionary and sudden way by violent overthrow of the existing defective constitution, which would produce for the time the momentary annihilation of the whole juridical state of society. But if the idea is carried forward by gradual reform and in accordance with fixed principles, it may lead by a continuous approximation to the highest political good, and to perpetual peace.



## NOTES

The following are the lengthy footnotes appended by Kant to the essay on Eternal Peace. They are indicated in the text by figures : 1, page 75 ; 2, page 76 ; 3, page 77 ; 4, page 79 ; 5, page 80 ; 6, page 86 ; 7, page 88 ; 8, page 90 ; 9, page 92 ; 10, page 93 ; 11, page 98 ; 12, page 108 ; 13, page 111 ; 14, page 126.

1. It has been hitherto doubted, not without reason, whether there can be laws of permission (*leges permissivae*) of pure reason as well as commands (*leges praeceptivae*) and prohibitions (*leges prohibitivae*). For law in general has a basis of objective practical necessity ; permission, on the other hand, is based upon the contingency of certain actions in practice. It follows that a law of permission would enforce what cannot be enforced ; and this would involve a contradiction, if the object of the law should be the same in both cases. Here, however, in the present case of a law of permission, the presupposed prohibition is aimed merely at the future manner of acquisition of a right — for example, acquisition through inheritance ; the exemption from this prohibition (i.e. the permission) refers to the present state of possession. In the transition from a state of nature to the civil state, this holding of property can continue as a bona fide, if usurpatory, ownership under the new social conditions, in accordance with a permission of the law of nature. Ownership of this kind, as soon as its true nature becomes known, is seen to be mere nominal possession (*possessio putativa*) sanctioned by opinion and customs in a natural state of society. After the transition stage is passed, such modes of acquisition are likewise forbidden in the subsequently evolved civil state ; and this power to remain in possession would not be admitted if the supposed acquisition had taken place in the civilized community. It would be bound to come to an end as an injury to the right of others the moment its legality became patent.

I have wished here only incidentally to draw the attention of teachers of the law of nature to the idea of a *lex permissiva* which presents itself spontaneously in any system of rational classification. I do so chiefly because use is often made of this concept in civil law

with reference to statutes ; with this difference, that the law of prohibition stands alone by itself, while permission is not, as it ought to be, introduced into that law as a limiting clause, but is thrown among the exceptions. Thus "this or that is forbidden,"—say, Nos. 1, 2, 3, and so on in an infinite progression,—while permissions are only added to the law incidentally ; they are not reached by the application of some principle, but only by groping about among cases which have actually occurred. Were this not so, qualifications would have had to be brought into the formula of laws of prohibition which would have immediately transformed them into laws of permission. Count von Windischgrätz, a man whose wisdom was equal to his discrimination, urged this very point in the form of a question propounded by him for a prize essay. One must therefore regret that this ingenious problem has been so soon neglected and left unsolved. For the possibility of a formula similar to those of mathematics is the sole real test of a legislation that would be consistent. Without this, the so-called *jus certum* will remain forever a mere pious wish : we can have only general laws valid on the whole ; no general laws possessing the universal validity which the concept of a law seems to demand.

2. It is usually accepted that a man may not take hostile steps against any one unless the latter has already injured him by act. This is quite accurate if both are citizens of a law-governed state. For, in becoming a member of this community, each gives the other the security he demands against injury, by means of the supreme authority exercising control over them both. However, the individual (or nation) who remains in a mere state of nature deprives me of this security and does me injury by mere proximity. There is perhaps no active (*facto*) molestation, but there is a state of lawlessness (*status injustus*) which, by its very existence, offers a continual menace to me. I can therefore compel him, either to enter with me into relations under which we are both subject to law, or to withdraw from my neighborhood. So that the postulate upon which the following articles are based is : "All men who have the power to exert a mutual influence upon one another must be under a civil government of some kind."

A legal constitution is, according to the nature of the individuals who compose the state :

(1) A constitution formed in accordance with the right of citizenship of the individuals who constitute a nation (*jus civitatis*).

(2) A constitution whose principle is international law, which determines the relations of states (*jus gentium*).

(3) A constitution formed in accordance with cosmopolitan law, in so far as individuals and states, standing in an external relation of mutual reaction, may be regarded as citizens of one world-state (*jus cosmopoliticum*).

This classification is not an arbitrary one, but is necessary with reference to the idea of perpetual peace. For, if even one of these units of society were in a position physically to influence another while yet remaining a member of a primitive order of society, then a state of war would be joined with these primitive conditions; and from this it is our present purpose to free ourselves.

3. Legal, that is to say external, freedom cannot properly be defined, as it so often is, as the power "to do whatever one likes, so long as this does not wrong any one else." For what is this right (*Befugniss*)? It is the possibility of actions which do not lead to the injury of others. So the explanation of a "right" would be something like this: "Freedom is the possibility of actions which do not injure any one. A man does not wrong another — whatever his action — if he does not wrong another"; which is empty tautology. My external (legal) freedom is rather to be explained in this way: it is the right through which I require not to obey any external laws except those to which I could have given my consent. In exactly the same way, external (legal) equality in a state is that relation of the subjects in consequence of which no individual can legally bind or oblige another to anything, without at the same time submitting himself to the law which insures that he can, in his turn, be bound and obliged in like manner by this other.

The principle of lawful independence requires no explanation, as it is involved in the general concept of a constitution. The validity of this hereditary and inalienable right, which belongs of necessity to mankind, is affirmed and ennobled by the principle of a lawful relation between man himself and higher beings, if indeed he believes in such beings. This is so, because he thinks of himself, in accordance with these very principles, as a citizen of a transcendental world as well as of the world of sense. For, as far as my freedom goes, I am bound by no obligation even with regard to divine laws — which are apprehended by me only through my reason — except in so far as I could have given my assent to them; for it is through the law of freedom of my own reason that I first form for myself a concept of a



divine will. As for the principle of equality, in so far as it applies to the most sublime being in the universe next to God—a being I might perhaps figure to myself as a mighty emanation of the divine spirit,—there is no reason why, if I perform my duty in the sphere in which I am placed, as that Æon does in his, the duty of obedience alone should fall to my share, the right to command to him. That this principle of equality (unlike the principle of freedom) does not apply to our relation to God is due to the fact that, to this Being alone, the idea of duty does not belong.

As for the right to equality which belongs to all citizens as subjects, the solution of the problem of the admissibility of an hereditary nobility hinges on the following question: “Does social rank—acknowledged by the state to be higher in the case of one subject than another—stand above desert, or does merit take precedence of social standing?” Now it is obvious that, if high position is combined with good family, it is quite uncertain whether merit, that is to say, skill and fidelity in office, will follow as well. This amounts to granting the favored individual a commanding position without any question of desert; and to that, the universal will of the people—expressed in an original contract which is the fundamental principle of all right—would never consent. For it does not follow that a nobleman is a man of noble character. In the case of the official nobility, as one might term the rank of higher magistracy—which one must acquire by merit—the social position is not attached like property to the person but to his office, and equality is not thereby disturbed; for, if a man gives up office, he lays down with it his official rank and falls back into the rank of his fellows.

4. The lofty appellations which are often given to a ruler—such as the Lord’s anointed, the administrator of the divine will upon earth and vicar of God—have been many times censured as flattery gross enough to make one giddy. But it seems to me without cause. Far from making a prince arrogant, names like these must rather make him humble at heart, if he has any intelligence,—which we take for granted he has,—and reflects that he has undertaken an office which is too great for any human being. For, indeed, it is the holiest which God has on earth—namely, the right of ruling mankind; and he must ever live in fear of injuring this treasure of God in some respect or other.

5. Mallet du Pan boasts in his seemingly brilliant but shallow and superficial language that, after many years’ experience, he has come

at last to be convinced of the truth of the well-known saying of Pope ("Essays on Man," III, 303):

For Forms of Government let fools contest;  
Whate'er is best administered is best.

If this means that the best-administered government is best administered, then, in Swift's phrase, he has cracked a nut to find a worm in it. If it means, however, that the best-conducted government is also the best kind of government, — that is, the best form of political constitution, — then it is utterly false; for examples of wise administration are no proof of the kind of government. Who ever ruled better than Titus and Marcus Aurelius? and yet the one left Domitian, the other Commodus, as his successor. This could not have happened where the constitution was a good one, for their absolute unfitness for the position was early enough known, and the power of the emperor was sufficiently great to exclude them.

6. On the conclusion of peace at the end of a war, it might not be unseemly for a nation to appoint a day of humiliation, after the festival of thanksgiving, on which to invoke the mercy of Heaven for the terrible sin of which the human race is guilty in its continued unwillingness to submit (in its relations with other states) to a law-governed constitution, preferring rather in the pride of its independence to use the barbarous method of war, which after all does not really settle what is wanted, namely, the right of each state in a quarrel. The feasts of thanksgiving during a war for a victorious battle, the hymns which are sung — to use the Jewish expression — "to the Lord of Hosts," are not in less strong contrast to the ethical idea of a father of mankind; for, apart from the indifference these customs show to the way in which nations seek to establish their rights, — sad enough as it is, — these rejoicings bring in an element of exultation that a great number of lives, or at least the happiness of many, has been destroyed.

7. In order to call this great empire by the name which it gives itself — namely, "China," not "Sina" or a word of similar sound — we have only to look at Giorgi's "Alphab. Tibet.,"\* pp. 651-654, particularly note *b*, below. According to the observation of Professor

\* Giorgi, Antonio Agostino, "Alphabetum Tibetanicum Missionum Apostolicarum commode editum," Rome, 4to, Part I, 1759; Part II, 1762. Part II treats "de vario litterarum ac regionis nomine, gentis origine, moribus, superstitione ac Manichaeismo fuse."

Fischer of St. Petersburg, there is really no particular name which it always goes by: the most usual is the word *Kin*, that is, gold, which the inhabitants of Tibet call *Ser*. Hence the emperor is called the king of gold, that is, the king of the most splendid country in the world. This word *Kin* may probably be *Chin* in the empire itself, but be pronounced *Kin* by the Italian missionaries on account of the gutturals. Thus we see that the country of the Seres, so often mentioned by the Romans, was China: the silk, however, was dispatched to Europe across Greater Tibet, probably through Smaller Tibet and Bokhara, through Persia and then on. This leads to many reflections as to the antiquity of this wonderful state, as compared with Hindustan, at the time of its union with Tibet and thence with Japan. On the other hand, the name "Sina" or "Tschina," which is said to be given to this land by neighboring peoples, leads to nothing.

Perhaps we can explain the ancient intercourse of Europe with Tibet—a fact at no time widely known—by looking at what Hesychius† has preserved on the matter. I refer to the shout, *Konx Ompax* (Κογξ ὀμπαξ), the cry of the hierophants in the Eleusinian mysteries (cf. "Travels of Anacharsis the Younger," ‡ Chap. LXVIII, note 3, end). For, according to Giorgi's "Alphab. Tibet.," the word *Concioa*, which bears a striking resemblance to *Konx*, means "God." *Pah-cio* (*ibid.*, p. 520), which might easily be pronounced by the Greeks like *pax*, means *promulgator legis*, the divine principle permeating nature (called also, on p. 177, *Cencresi*). *Om*, however, which La Croze translates by *benedictus*, that is, "blessed," can, when applied to the deity, mean nothing but "beatified" (p. 507). Now P. Franz. Horatius, when he asked the Lamas of Tibet, as he often did, what they understood by God (*Concioa*) always got the answer: "It is the assembly of all the saints," that is, the assembly of those blessed ones who have been born again according to the faith of the Lama and, after many wanderings in changing forms, have at last returned to

† Hesychius of Alexandria, Ἡσυχίου Λέξικον; numerous editions from 1514 on.

‡ Barthélemy, Abbé Jean Jacques, "Travels of Anacharsis the Younger in Greece during the Middle of the Fourth Century before the Christian Era," Paris, ca. 1789. A work written from 1757 to 1788 and presenting a consecutive account of Greek life and customs during the classical period, drawn from Greek writers. Numerous editions in the original French, in German, and in English, as follows: Dublin, 1795; Philadelphia, 1804; London, 1817; in abridged form, London, 1798, 1800, 1806 and 1810.



God, to Burchane ; that is to say, they are beings to be worshiped, souls which have undergone transmigration (p. 223). So the mysterious expression *Konx Ompax* ought probably to mean "the holy (*Konx*), blessed (*Om*), and wise (*Pax*)" supreme being pervading the universe, the personification of nature. Its use in the Greek mysteries probably signified monotheism for the *epoptes*, in distinction from the polytheism of the people, although elsewhere P. Horatius scented atheism here. How that mysterious word came by way of Tibet to the Greeks may be explained as above ; and, on the other hand, in this way is made probable an early intercourse of Europe with China across Tibet, earlier perhaps than the communication with Hindustan.

8. In the mechanical system of nature to which man belongs as a sentient being there appears, as the underlying ground of its existence, a certain *form* which we cannot make intelligible to ourselves except by thinking into the physical world the idea of an end preconceived by the author of the universe ; this predetermination of nature on the part of God we generally call divine providence. In so far as this providence appears in the origin of the universe, we speak of providence as founder of the world (*providentia conditrix* ; *semel jussit, semper parent.* — Augustine). As it maintains the course of nature, however, according to universal laws of adaptation to preconceived ends (that is, teleological laws), we call it a ruling providence (*providentia gubernatrix*). Further, we name it the guiding providence (*providentia directrix*), as it appears in the world for special ends, which we could not foresee, but suspect only from the result. Finally, regarding particular events as divine purposes, we speak no longer of providence, but of dispensation (*directio extraordinaria*). As this term, however, really suggests the idea of miracles, although the events are not spoken of by this name, the desire to fathom dispensation, as such, is a foolish presumption in men. For, from one single occurrence, to jump at the conclusion that there is a particular principle of efficient causes and that this event is an end and not merely the natural (*naturmechanische*) sequence of a design quite unknown to us is absurd and presumptuous, in however pious and humble a spirit we may speak of it. In the same way, to distinguish between a universal and a particular providence when regarding it *materialiter*, in its relation to actual objects in the world (to say, for instance, that there may be, indeed, a providence for the preservation of the different species of creation, but that individuals are left to chance), is false and

contradictory. For providence is called universal for the very reason that no single thing may be thought of as shut out from its care. Probably the distinction of two kinds of providence, *formaliter* or subjectively considered, had reference to the manner in which its purposes are fulfilled. So that we have ordinary providence (for example, the yearly decay and awakening to new life in nature with change of season) and what we may call unusual or special providence (for example, the bringing of timber by ocean currents to arctic shores where it does not grow, and where without this aid the inhabitants could not live). Here, although we can quite well explain the physico-mechanical cause of these phenomena, — in this case, for example, the banks of the rivers in temperate countries are overgrown with trees, some of which fall into the water and are carried along, probably by the Gulf Stream, — we must not overlook the teleological cause which points to the providential care of a ruling wisdom above nature. But the concept, commonly used in the schools of philosophy, of a coöperation on the part of the deity or a concurrence (*concursus*) in the operations going on in the world of sense, must be dropped. For it is, firstly, self-contradictory to couple the like and the unlike together (*gryphes jungere equis*) and to let Him who is Himself the entire cause of the changes in the universe make good any shortcomings in His own predetermining providence (which to require this must be defective) during the course of the world ; for example, to say that the physician has restored the sick with the help of God — that is to say, that He has been present as a support. For *causa solitaria non jurat*. God created the physician as well as his means of healing ; and we must ascribe the result wholly to Him, if we will go back to the supreme first cause which, theoretically, is beyond our comprehension. Or we can ascribe the result entirely to the physician, in so far as we follow up this event, as explicable in the chain of physical causes, according to the order of nature. Secondly, moreover, such a way of looking at this question destroys all the fixed principles by which we judge an effect. But, from the ethico-practical point of view which looks entirely to the transcendental side of things, the idea of a divine concurrence is quite proper and even necessary ; for example, in the faith that God will make good the imperfection of our human justice, if only our feelings and intentions are sincere ; and that He will do this by means beyond our comprehension, and therefore we should not slacken our efforts after what is good. Whence it follows, as a matter of course, that no one must attempt

to explain a good action as a mere event in time by this *concursum*; for that would be to pretend a theoretical knowledge of the super-sensible, and hence be absurd.

**9.** Of all modes of livelihood the life of the hunter is undoubtedly most incompatible with a civilized condition of society. Because, to live by hunting, families must isolate themselves from their neighbors, soon becoming estranged and spread over widely scattered forests, to be before long on terms of hostility, since each requires a great deal of space to obtain food and raiment.

God's command to Noah not to shed blood (Genesis ix, 4-6),

But flesh with the life thereof, which is the blood thereof, shall ye not eat.

And surely your blood, the blood of your lives, will I require; at the hand of every beast will I require it; and at the hand of man, even at the hand of every man's brother, will I require the life of man.

Whoso sheddeth man's blood, by man shall his blood be shed; for in the image of God made he man,

is frequently quoted, and was afterward — in another connection it is true — made by the baptized Jews a condition to which Christians, newly converted from heathendom, had to conform. (Cf. Acts xv, 20; xxi, 25.) This command seems originally to have been nothing else than a prohibition of the life of the hunter; for here the possibility of eating raw flesh must often occur, and, in forbidding the one custom, we condemn the other.

**10.** The question might be put: "If it is nature's will that these arctic shores should not remain unpopulated, what will become of their inhabitants, if, as is to be expected, at some time or other no more driftwood should be brought to them? For we may believe that, with the advance of civilization, the inhabitants of temperate zones will utilize better the wood which grows on the banks of their rivers, and not let it fall into the stream and so be swept away." I answer: the inhabitants of the shores of the River Obi, the Yenisei, the Lena will supply them with it through trade, and take in exchange the animal produce in which the seas of arctic shores are so rich — that is, if nature has first of all brought about peace among them.

**11.** Difference of religion! A strange expression, as if one were to speak of different kinds of morality. There may indeed be different historical forms of belief, — that is to say, the various means which have been used in the course of time to promote religion, — but they



are mere subjects of learned investigation, and do not really lie within the sphere of religion. In the same way there are many religious works, — the Zendavesta, Veda, Koran, etc., — but there is only one religion, binding for all men and for all times. These books are each no more than the accidental mouthpiece of religion, and may be different according to differences in time and place.

**12.** These are *permissive* laws of reason which allow us to leave a system of public law, when it is tainted by injustice, to remain just as it is, until everything is entirely revolutionized through an internal development, either spontaneous or fostered and matured by peaceful influences. For any legal constitution whatsoever, even although it conforms only slightly with the spirit of law, is better than none at all — that is to say, anarchy, which is the fate of a precipitate reform. Hence, as things now are, the wise politician will look upon it as his duty to make reforms on the lines marked out by the ideal of public law. He will not use revolutions, when these have been brought about by natural causes, to extenuate still greater oppression than caused them, but will regard them as the voice of nature, calling upon him to make such thorough reforms as will bring about the only lasting constitution, a lawful constitution based on the principles of freedom.

**13.** It is still sometimes denied that we find, in members of a civilized community, a certain depravity rooted in the nature of man; and it might, indeed, be alleged with some show of truth that not an innate corruptness in human nature, but the barbarism of men, the defect of a not yet sufficiently developed culture, is the cause of the evident antipathy to law which their attitude indicates. In the external relations of states, however, human wickedness shows itself incontestably, without any attempt at concealment. Within the state, it is covered over by the compelling authority of civil laws. For, working against the tendency every citizen has to commit acts of violence against his neighbor, there is the much stronger force of the government which not only gives an appearance of morality to the whole state (*causae non causae*), but, by checking the outbreak of lawless propensities, actually aids the moral qualities of men considerably, in their development of a direct respect for the law. For every individual thinks that he himself would hold the idea of right sacred and follow faithfully what it prescribes, if only he could expect that every one else would do the same. This guarantee is in part given to him by the government; and a great advance is made by this step, which is not deliberately moral, toward the ideal of fidelity to the

concept of duty for its own sake without thought of return. As, however, every man's good opinion of himself presupposes an evil disposition in every one else, we have an expression of their mutual judgment of one another, namely, that when it comes to hard facts, none of them are worth much; but whence this judgment comes remains unexplained, as we cannot lay the blame on the nature of man, since he is a being in the possession of freedom. The respect for the idea of right, of which it is absolutely impossible for man to divest himself, sanctions in the most solemn manner the theory of our power to conform to its dictates. And hence every man sees himself obliged to act in accordance with what the idea of right prescribes, whether his neighbors fulfill their obligation or not.

**14.** We can find the voucher for maxims such as these in Herr Hofrichter Garve's essay, "On the Connection of Morals with Politics," 1788. This worthy scholar confesses at the very beginning that he is unable to give a satisfactory answer to this question. But his sanction of such maxims, even when coupled with the admission that he cannot altogether clear away the arguments raised against them, seems to be a greater concession in favor of those who show considerable inclination to abuse them than it might perhaps be wise to admit.

*Acknowledgment.* The notes to "Eternal Peace" printed herewith have been taken from the translation by Miss Mary Campbell Smith, M. A., published originally by Swan Sonnenschein & Co., and now by George Allen & Co., London.













Date Due

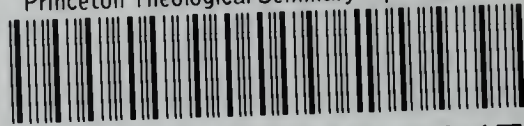
5 12 '40			
APR 6 '43			
FACULTY			
MAY 6 1949			
MY 27 '54			
FACULTY			
<del>FACULTY</del>			
<del>NOV 1951</del>			
<del>JUN 15 1952</del>			
<del>JUN 15 1959</del>			
<del>JUN 15 1961</del>			
®			



JX1946 .K162

Eternal peace, and other international

Princeton Theological Seminary-Speer Library



1 1012 00140 9947