

# INTERNATIONAL LAW.

**INTERNATIONAL LAW.** The system of rules which Christian states acknowledge to be obligatory upon them in their relations to each other and to each other's subjects. It is the *jus inter gentes*, as distinguished from the *jus gentium*.

2. The scientific basis of these rules is to be found in natural law, or the doctrine of rights and of the state; for nations, like smaller communities and individuals, have rights and correlative obligations, moral claims and duties. Hence it might seem as if the science consisted simply of deductions from certain fundamental propositions of natural right;

It would be true to say that this science, like every department of moral science, can require nothing unjust;

a great part of the modern improvements in this code are due to the spirit of humanity controlling the spirit of justice, and leading the circle of Christian nations freely to abandon the position of rigorous right for the sake of mutual convenience or good will.

3. So much for the general foundation of international law. The particular sources are the *jural* and the *moral*. The *jural* elements are, *first*, the rights of states as such, deducible from the nature of the state and from its office of a protector to those who live under its law;

Whatever division be made, it is to be observed that nations are voluntary. *first*, in deciding the question what intercourse they will hold with each other; *second*, that they are voluntary in defining their rights and obligations, moral claims and duties.

The literature of the science must be drawn from Von Ompteda and his continuator, Von Kamptz, or from the more recent work of Von Mohl (Erlangen, 1855-58); in which, also, an exposition of the history is included. The excellent works of Ward (Inquiry into the Foundation and History of the Law of Nations, etc.) and of Wheaton (History of the Law of Nations from the Earliest Times to the Treaty of Washington in 1842) are of the highest use to all who would study the science, as it ought to be studied, as the offshoot and index of a progressive Christian civilization.

6. Among the provisions of international law, we naturally start from those which grow out of the essence of the individual state. The rights of the state, as such, may be divided under the term sovereignty, or be divided into sovereignty, independence, and equality; by which latter term is intended equality of rights. Sovereignty and independence are two sides of the same property, and equality of rights necessarily belongs to sovereign states, whatever be their size or constitution; for no reason can be assigned why all states, as they have the same powers and destination in the system of things, should not have identically the same rights.

aside from these extreme cases, intercourse is only a duty, and not definable with precision, as is shown by the endless varieties of commercial treaties. It can only be said that the practice of Christian states is growing more and more liberal, both as regards admitting foreigners into their territories, and to the enjoyment of those rights of person and property which the natives possess, and as regards domiciliating them, or even incorporating them afterwards, if they desire it, into the body politic.

The multiplied and very close relations which have arisen between nations in modern times, through domiciled or temporary residents, have given rise to the question, What law, in particular cases involving personal status, property, contracts, family rights, and succession, shall control the decisions of the courts? Shall it be always the *lex loci*, or sometimes some other? The answers to these questions are given in (*private international law*), or the *conflict of law*, as it is sometimes called,—a very interesting branch of law, as showing how the Christian nations are coming from age to age nearer to one another in their views of the private relations of men. See CONFLICT OF LAWS.

10. Intercourse needs its agents, both those whose office it is to attend to the relations of states and the rights of their countrymen in general, and those who look after the commercial interests of individuals. The former share with public vessels, and with sovereigns travelling abroad, certain exemptions from the law of the land to which they are sent. Their persons are ordinarily inviolate; they are not subject to foreign civil or criminal jurisdiction; they are generally exempt from imposts; they have liberty of worship, and a certain power over their trains, who likewise share their exemptions. Only within five centuries have ambassadors resided permanently abroad,—a change which has had an important effect on the relations of states. Consuls have almost none of the privileges of ambassadors, except in countries beyond the pale of Christianity.

LAW DICTIONARY,  
BY JOHN BOUVIER.

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ADAPTED TO THE

Several States of the American Union:

WITH REFERENCES TO THE CIVIL AND OTHER SYSTEMS OF FOREIGN LAW.