

Excerpt from Emmerich de Vattel

The Law of Nations, or the Principles of the Law of Nature (Originally published 1758)

CHAPTER I

Of Nations or Sovereign States.

§1. Of the state, and of sovereignty. A nation or a state is, as has been said at the beginning of this work, a body politic, or a society of men united together for the purpose of promoting their mutual safety and advantage by their combined strength.

From the very design that induces a number of men to form a society which has its common interests, and which is to act in concert, it is necessary that there should be established a public authority, to order and direct what is to be done by each in relation to the end of the association. This political authority is the sovereignty; and he or they who are invested with it are the sovereign.

§2. The authority of the body politic over the members. It is evident, that, by the very act of the civil or political association, each citizen subjects himself to the authority of the entire body, in every thing that relates to the common welfare. The authority of all over each member, therefore, essentially belongs to the body politic, or state; but the exercise of that authority may be placed in different hands, according as the society may have ordained.

§3. Of the several kinds of government. If the body of the nation keeps in its own hands the empire or the right to command, it is a popular government, a *democracy*; if it entrusts it to a certain number of citizens, to a senate, it establishes an *aristocratic* republic; finally, if it confides the government to a single person, the state becomes a *monarchy*.

These three kinds of government may be variously combined and modified. We shall not here enter into the particulars; this subject belonging to the *public universal law*:¹ for the object of the

¹ Nor shall we examine which of those different kinds of government is the best. It will be sufficient to say in general, that the monarchical form appears preferable to every other, provided the power of the sovereign be limited, and not absolute—qui [*principatus*] tum demum regius est, si intra modestiae et mediocritatis fines se contineat, excessu potestatis, quam imprudentes in dies augere satagunt, minuitur, penitusque corrumpitur. Nos stulti, majoris, potentiae specie decepti, dilabimur in contrarium, non satis considerantes eam demum tutam esse potentiam quae viribus modum imponit. [[“This [sovereignty] is indeed kingly, if it confines itself within the bounds of modesty and moderation, with a withdrawal from power. The imprudent daily concern themselves to extend such power, but it is diminished and inwardly corrupted. We fools, taken in by the appearance of superior power, lurch to the opposite conclusion, not sufficiently considering that in the end that power is secure which imposes due measure on its energies” (trans. Eds.). The source is unidentified, but the last sentence quotes Valerius Maximus, *Factorum et dictorum memorabilium libri novem*, exemplum externum 8, the story of Theopompus. The maxim has both truth and wisdom on its side. The author here quotes the saying of Theopompus, king of Sparta 720–675 bc, who returning to his house amidst the acclamations of the people after the establishment of the Ephori,—“You will leave to your children (said his wife) an authority diminished through your fault.” “True (replied the king): I shall leave them a smaller portion of it; but it will rest upon a firmer basis.” Five Ephors were elected annually to “uphold” the rule of the kings, but instead they became a constraint on the power of the two Spartan kings; hence the comment by Theopompus’ s wife. The Lacedaemonians, during a certain period, had two chiefs to whom they very improperly

present work, it is sufficient to establish the general principles necessary for the decision of those disputes that may arise between nations.

§4. What are sovereign states. Every nation that governs itself, under what form soever, without dependence on any foreign power, is a *sovereign state*. Its rights are naturally the same as those of any other state. Such are the moral persons who live together in a natural society, subject to the law of nations. To give a nation a right to make an immediate figure in this grand society, it is sufficient that it be really sovereign and independent, that is, that it govern itself by its own authority and laws.

§5. Of states bound by unequal alliance. We ought therefore to account as sovereign states those which have united themselves to another more powerful, by an *unequal alliance*, in which, as Aristotle says, to the more powerful is given more honour, and to the weaker, more assistance.²

The conditions of those unequal alliances may be infinitely varied. But whatever they are, provided the inferior ally reserve to itself the sovereignty, or the right of governing its own body, it ought to be considered as an independent state, that keeps up an intercourse with others under the authority of the law of nations.

§6. Or by treaties of protection. Consequently a weak state, which, in order to provide for its safety, places itself under the protection of a more powerful one, and engages, in return, to perform several offices equivalent to that protection, without however divesting itself of the right of government and sovereignty,—that state, I say, does not, on this account, cease to rank among the sovereigns who acknowledge no other law than that of nations.

§7. Of tributary states. There occurs no greater difficulty with respect to *tributary* states; for though the payment of tribute to a foreign power does in some degree diminish the dignity of those states, from its being a confession of their weakness,—yet it suffers their sovereignty to subsist entire. The custom of paying tribute was formerly very common,—the weaker by that means purchasing of their more powerful neighbour an exemption from oppression, or at that price securing his protection, without ceasing to be sovereigns.

§8. Of feudatory states. The Germanic nations introduced another custom,—that of requiring homage from a state either vanquished, or too weak to make resistance. Sometimes even, a prince has given sovereignties in fee, and sovereigns have voluntarily rendered themselves feudatories to others.

When the homage leaves independency and sovereign authority in the administration of the state, and only means certain duties to the lord of the fee, or even a mere honorary acknowledgment, it does not prevent the state or the feudatory prince being strictly sovereign. The king of Naples

gave the title of kings. They were magistrates who possessed a very limited power, and whom it was not unusual to cite before the tribunal of justice,—to arrest,—to condemn to death.—Sweden acts with less impropriety in continuing to bestow on her chief the title of king, although she has circumscribed his power within very narrow bounds. He shares not his authority with a colleague,—he is hereditary,—and the state has, from time immemorial, borne the title of a kingdom. Note added in 1773/1797 editions.

² This is Vattel's sole reference to Aristotle.

pays homage for his kingdom to the pope, and is nevertheless reckoned among the principal sovereigns of Europe.

§9. Of two states subject to the same prince. Two sovereign states may also be subject to the same prince, without any dependence on each other, and each may retain all its rights as a free and sovereign state. The king of Prussia is sovereign prince of Neufchatel in Switzerland, without that principality being in any manner united to his other dominions; so that the people of Neufchatel, in virtue of their franchises, may serve a foreign power at war with the king of Prussia, provided that the war be not on account of that principality.³

§10. Of states forming a federal republic. Finally, several sovereign and independent states may unite themselves together by a perpetual confederacy, without ceasing to be, each individually, a perfect state. They will together constitute a federal republic: their joint deliberations will not impair the sovereignty of each member, though they may, in certain respects, put some restraint on the exercise of it, in virtue of voluntary engagements. A person does not cease to be free and independent, when he is obliged to fulfil engagements which he has voluntarily contracted.

Such were formerly the cities of Greece; such are at present⁴ the Seven United Provinces of the Netherlands, and such the members of the Helvetic body.

§11. Of a state that has passed under the dominion of another. But a people that has passed under the dominion of another is no longer a state, and can no longer avail itself directly of the law of nations. Such were the nations and kingdoms which the Romans rendered subject to their empire; the generality even of those whom they honoured with the name of friends and allies no longer formed real states. Within themselves, they were governed by their own laws and magistrates; but without, they were in every thing obliged to follow the orders of Rome; they dared not of themselves either to make war or contract alliances; and could not treat with nations.

§12. The objects of this treatise. The law of nations is the law of sovereigns: free and independent states are moral persons, whose rights and obligations we are to establish in this treatise.

³ Although there is no known case of mercenaries from Neuchâtel fighting against Prussian forces, Vattel would have had in mind the battle of Novara (1500), when Swiss troops employed by both France and the Italian states clashed. The event acquired iconic status in Swiss historiography, and its ramifications were extensively discussed by historians such as Wattenwyl.

⁴ 1758.