

DEFECTIVE STATE OF INTERNATIONAL LAW.

There have been wars of pillage, conquest, and domination, where the Cæsars, the Alexanders, and the Napoleon Bonapartes claimed an universal empire. There have been religious wars, as where the Greeks fought for their Temple in Delphis, where the Huguenots fought for their existence in France, and where Protestantism asserted its rights, arms in hand, in Germany. And there have been wars for the maintenance of a principle, as those of the French Revolution and the wars of Austria in Italy.

But the most prolific cause of war in modern times have been the balance of power and intervention, both of which infringe a cardinal principle of International Law, the principle of the sovereignty of States. What is the balance of power it is not easy to determine, but its object would seem to be so to distribute the forces of the different States, that none shall have the power to impose its will on, or oppress the independence of, any other State. Let any State extend its forces or multiply its resources beyond a certain limit, and according to that principle a cause is at once given to every other State to unite in checking this unwonted aggrandisement. Nor is this principle a simple theory, since the treaties of Westphalia, Utrecht, and Vienna, have, in effect, reduced it into positive law. But has not every State an absolute right to increase in power, forces, and wealth? Can we prevent the substantial sources of aggrandisement which lie in the superiority of race, in greater capacity for labour, and in the strength of higher morals? The power of a State does not consist merely in the extent of its territory, or in the number of its population, but in the wisdom of its administration, in the activity of its inhabitants, in the full development of its resources. Against this development no balance of power can be of any avail. Most mischievous was, moreover, the principle of combining all the States of Europe on every isolated emergency; thus uselessly extending the ravages of war, and bringing nations into the fray which had no interest to defend or any wrong to avenge.

But we have not done with this principle. The present war between France and Prussia had its origin in the jealousy of France for Prussian aggrandisement in Europe. It is another war caused for or by the balance of power. Can it be considered a just cause of war? The authority of Grotius upon this point is of the greatest value. "We cannot admit," he said, "the validity of what some authors have taught that, according to the law of nations, it is lawful for us to take arms in order to enfeeble a State whose power is increasing, lest, if allowed to increase too much, it should be in a position, when occasion arises, to do us injury. We allow, that when deliberating whether we should make war or not, such considerations may have their weight, not as a justification, but as a motive of interest, so that if there be a just reason to take

arms, the fact of the aggrandisement of such State may render it prudent, as well as just, to declare war. But that we have any right to attack a State for the simple reason that she is in a condition to injure us, is contrary to all rules of equity. War is lawful only when necessary, and it cannot be necessary unless we have a moral certainty that the power we fear has not only the means but the intention of attacking us." Grotius, Book II., ch. i., s. 17, and Book II., ch. xxii., s. 5. It is clear, indeed, on every ground, that the war which now agitates and afflicts Europe is altogether a gratuitous breach of International Law.

But another principle is being evolved at this moment in Germany and Italy. It is the principle of Nationality. It is true that Prussia has stretched the bounds of her territory far and wide in Germany, that she has absorbed Hanover, destroyed the Republics of Frankfort, subjected the Hanse towns, and rendered Saxony and Baden subservient to her will. But she is only placing herself at the head of a German nationality. Equally true it is that Sardinia made war on the King of Naples, absorbed Tuscany, got hold of Lombardy and Venice, and now appropriates even Rome; but she has acted throughout on the principle, and asserted the right, of an Italian nationality. What constitutes true nationality, and whether it results from identity of language and literature, from unity of race and descent, from the possession of a national history, or from geographical position, it matters not. Suffice to say, that where the sentiment of nationality does exist in any force, there is a *prima facie* case for uniting all the members of the nation under the same government.

But admitting that a nation has the right to constitute itself into a people or separate State, has it a right to claim, even by force of arms, any portion of that people which hitherto may have formed part of another nationality, or have been subject to another State? Take the case of Rome at the present moment. Have the Italians any right to that province or State? The only answer is that the right or nationality must be held superior to any right arising from the present organisation of States. The spirit of nationality is strong and enduring, and it is because it is not sufficiently recognised in the constitution of States that we have to lament the frequent occurrence of revolution and war.

Interventions have also been frequent causes of war. On the principle that, whenever a sudden and great change takes place in the internal structure of a State, dangerous in a high degree to all neighbours, they have a right to attempt by hostile interference the restoration of an order of things safe to themselves, or at least to counterbalance, by active aggression, the new force suddenly acquired. Russia, Prussia, and Austria arrogated to themselves the right of interfering with any