

ceding the gratuitous, or free, cession, or surrender, of an essential natural right,—that is to say, without that which a nation cannot be considered as existing still as a nation, such for example with even partial independence, [these Treaties] are not binding, (ne sont pas obligatoires). They exist as long as the two nations persist in desiring their existence. But each of the two nations had always the right to discontinue, (le droit de les rompre), that which affects the cession of an important natural right by anticipating the other party in denouncing the Treaty. The reason of the invalidity of transactions of this nature is that these natural rights of this quality are inalienable; and to make use of an expression of the civil law, they are "out of commerce," ("hors le commerce"). It is so of Conventions alike equal in which essential natural rights are affected, which operate only on the private, and secondary, interests of the people. But even if they have been declared perpetual, they have no existence but by the continuation of the two wills which have created them. The stipulation of perpetuity has no other effect than to avoid the necessity of renewing the Convention." "

Other authorities express similar views. Heffter says that a State may repudiate a Treaty when it conflicts with "the rights and welfare of its people." Bluntschli says that while a State may be required to perform the onerous engagements it has contracted, it may not be asked to sacrifice, in the execution of Treaties, that which is incompatible with its potentiality, or the development of its resources; or to perform acts which have become greatly modified by time, and their execution has become incompatible with present affairs; and it may consider such Treaties null." Fiore says that "Treaties are to be looked upon as null which are in any way opposed to the development of the free activity of a nation, or which hinder the exercise of its natural rights." Vattel concurs that "A Treaty pernicious to the State is null, and not at all obligatory. The nation itself being necessarily obliged to perform everything required for its

"Hautefeuille's *Des Droits et Des Devoirs des Nations Neutres* (3me ed.), vol. 1, p. xiii. "Hautefeuille is the author of the ablest Treatises on the science of International Law that have appeared in France." Wheaton on International Law, by Lawrence, p. 21n.

* Bluntschli's *Droit International Codifié* (5me ed.), pp. 224 and 263.