EXHIBIT 1033

THE LAW OF NATIONS
OR THE PRINCIPLES OF NATURAL LAW

Applied to the Conduct and to the Affairs of Nations and of Sovereigns

By E. de Vattel

"For there is nothing on earth more acceptable to that Supreme Deity who rules over this whole world than the councils and assemblages of men bound together by law, which are called States."

—Cicero, *Somnium Scipionis.*

VOLUME THREE

TRANSLATION OF THE EDITION OF 1758

By Charles G. Fenwick

WITH AN INTRODUCTION BY ALBERT DE LAPRADELLE

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CLASSICS OF INTERNATIONAL LAW

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JAMES BROWN SCOTT
Member of the Institute of International Law
President of the American Institute of International Law

Le Droit des Gens, ou Principes de la Loi Naturelle, appliqués à la Conduite et aux Affaires des Nations et des Souverains

BY E. DE VATTEL

Volume I.—A Photographic Reproduction of Books I and II of the First Edition (1758), with an Introduction by Albert de Lapradelle.

II.—A Photographic Reproduction of Books III and IV of the First Edition (1758).

III.—Translation of the Edition of 1758 (by Charles G. Fenwick), with an Introduction by Albert de Lapradelle.

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INTRODUCTION

By ALBERT de LAPRADELLE

Translated by George D. Gregory

CHAPTER XIX.

One's Country, and Various Matters Relating to It.

§ 211. What constitutes one's country.

All the lands inhabited by a Nation and subject to its laws form, as we have said, its domain, and are the common country of its citizens. We have been obliged to anticipate the definition of the term *one's country* (§ 122), in treating of the love of country, that noble virtue so necessary in a State. Presuming, therefore, that definition to be known, we shall proceed to explain certain matters connected with the subject and to clear up the difficulties it presents.

§ 212. Citizens and natives.

The members of a civil society are its citizens. Bound to that society by certain duties and subject to its authority, they share equally in the advantages it offers. Its *natives* are those who are born in the country of parents who are citizens. As the society can not maintain and perpetuate itself except by the children of its citizens, these children naturally take on the status of their fathers and enter upon all the latter's rights. The society is presumed to desire this as the necessary means of its self-preservation, and it is justly to be inferred that each citizen, upon entering into the society, reserves to his children the right to be members of it. The country of a father is therefore that of his children, and they become true citizens by their mere tacit consent. We shall see presently whether, when arrived at the age of reason, they may renounce their right and the duty they owe to the society in which they are born. I repeat that in order to belong to a country one must be born there of a father who is a citizen; for if one is born of foreign parents, [illegible]

§ 213. Residents.

Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. *Permanent residents* are those who have been given the right of perpetual residence. They are a sort of citizens of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children.

§ 214. Naturalization.

A Nation, or the sovereign who represents it, may confer citizenship upon an alien and admit him into the body politic. This act is called *naturalization*. There are some States in which the sovereign can not grant to an alien all the rights of citizens; for example, that of holding public office; so that he has only authority to grant an imperfect naturalization, his power being limited by the fundamental law. In other States, as in England and Poland, the sovereign can not naturalize aliens without the concurrence of the representative assembly. Finally, there are others, such as England, in which the mere fact of birth in the country naturalizes the children of an alien.

§ 215. Children of citizens, born abroad.

It is asked whether the children born of citizens who are in a foreign country are citizens. The question has been settled by law in several countries, and such provisions must be followed. Arguing from the natural law, children follow the status of their parents and enter upon all their rights (§ 212); place of birth does not affect the rule and can not of itself afford any reason for depriving a child of a

right given him by nature; I say *of itself*, for the civil law may, with a special object in view, provide otherwise. I am supposing that the father has not entirely given up his country with the intention of taking up his abode elsewhere. If he has his domicile in a foreign country he has become a member of another State, at least in the character of a perpetual resident, and his children will be members of the same State.

§ 216. Children born at sea.

As for children born at sea, if born in those parts which are subject to the jurisdiction of their Nation, they are born in the State; if born on the high seas, there is no reason for making any distinction between them and children born within the State, for it is not place of birth which by the Law of Nature confers rights, but parentage. If children are born on a vessel belonging to the Nation they may be considered as born within its territory; for it is natural to regard the vessels of a Nation as portions of its territory, especially when they are upon the high seas, since the State retains jurisdiction over them; and since by common custom this jurisdiction over the vessel is retained even when the vessel is in waters subject to the jurisdiction of another State, all children born upon the vessels of a Nation are considered as born within its territory. For the same reason children born on a foreign vessel are considered as born in a foreign country, unless they are actually born in a port of the Nation; for a port is in a peculiar way part of the national territory, and the mother, because of her being for the moment on a foreign vessel, is not out of the country. I am supposing that she and her husband have not left the country to live elsewhere.

§ 217. Children born in the armies of the state, or in the house of its minister at a foreign court

For the same reasons, children of citizens, when born outside of the country, in the armies of the State or in the house of its minister at a foreign court, are considered as born in the country; for when a citizen is abroad with his family, in the service of the State, and is subject to its authority and jurisdiction, he can not be considered as having left his country.

§ 218. Domicile.

Domicile is a fixed residence in a certain place with the intention of permanently remaining there. Hence a man does not establish a domicile in a place unless he has given sufficient signs, whether impliedly or by express declaration, of his intention to remain there. However, this declaration does not prevent him from changing his mind later on and transferring his domicile elsewhere. In this sense a person who, because of his business, remains abroad even for a long time, has only a mere residence there, without *domicile*. In like manner an ambassador of a foreign prince is not domiciled at the court where he resides.

Natural domicile, or domicile *of birth*, is that which birth confers upon us, and is in the place where our father has his; and we are considered as retaining it, so long as we do not give it up in order to adopt another. *Acquired domicile* (*adscititium*) is that which we take up of our own free choice.

§ 219. Vagrants.

Vagrants are persons without a domicile. Consequently children of vagrant parents belong to no country; for a man's country is the place where, at the time of his birth, his parents had their domicile (§ 122), or the State of which his father was then a member, which amounts to the same thing, since by settling permanently in a State one becomes a member of it, if not with all the rights of a citizen, at least as a perpetual resident. Nevertheless, in so far as a vagrant may be considered as not having absolutely renounced his domicile by birth, his child may be held to be of the same country to which he belongs.

§ 220. Whether a man may expatriate himself.

In passing upon the celebrated question whether a man may expatriate himself, we shall have to make several distinctions:

(1) There is a natural bond between children and the society in which they are born; they are bound to recognize the protection their fathers have received

CHAPTER VIII.

Rules with Respect to Foreigners.

§ 99. General idea of the proper conduct of a state towards foreigners.

We have elsewhere spoken (Book I, § 213) of *residents*, or persons who are domiciled in a State of which they are not citizens. We are here speaking only of foreigners who are either passing through or temporarily remaining in a country, whether on business or as mere travelers. The relations which they sustain with the State in which they happen to be, the object of their journey and temporary residence, the duties of humanity, the rights, the welfare and safety of the State which receives them, the rights of the State to which they belong—all these considerations, taken together and applied to the circumstances of each case, serve to determine the proper conduct of a State towards them and its rights and duties with respect to them. But the purpose of this chapter is not so much to show what humanity and justice call for in our treatment of foreigners as to lay down the rules of the Law of Nations on this subject, rules whose object is to secure the rights of both parties and to prevent the peace of Nations from being disturbed by the disputes of individuals.

§ 100. Admittance into the territory.

Since the lord of the territory may forbid entrance into it, whenever he thinks proper (§ 94), he may undoubtedly fix the conditions on which admittance will be allowed. This, as we have already said, is a consequence of the right of ownership. Need we add that the owner of the territory should be mindful in his regulations of the duties of humanity? The same holds good for all rights; the possessor may use them freely if in so doing he does not injure anyone; but if he wishes to be free from blame and to keep an upright conscience he will never use them except in full conformity with his duty. We are here speaking of the general right which belongs to the lord of the country, reserving for the following chapter the consideration of the cases in which he can not refuse admittance into his territory; and we shall see in Chapter X how his duties towards all men oblige him, on other occasions, to grant the right of passage through, and temporary residence in, his States.

If a sovereign attaches some special condition to the permission to enter his territory, he must see that notice of it is given to foreigners when they present themselves at the frontier. There are States, such as China and Japan, which forbid all foreigners to enter without express permission. In Europe free access is granted to all who are not enemies of the State, though certain countries exclude vagabonds.

§ 101. Foreigners are subject to the laws.

But even in States which freely admit foreigners it is presumed that the sovereign only grants them access on the implied condition that they will be subject to the laws—I mean to the general laws established for the maintenance of good order and not operative only in the case of citizens or subjects. The public safety and the rights of the Nation and of the sovereign necessarily impose this condition, and foreigners impliedly submit to it as soon as they enter into the country, and can not presume to obtain admittance on any other footing. Sovereignty is the right to command throughout the whole country; and the laws are not limited to regulating the conduct of the citizens with one another, but they extend to all classes of persons in every part of the land.

§ 102. And to the penalties attached to their violation.

Being thus subject to the laws, foreigners who violate them should be punished accordingly. The purpose of penalties is to enforce respect for the laws and to maintain public order and safety.

§ 103. Who is to judge disputes between them.

For the same reason, any disputes which may arise between foreigners, or between a foreigner and a citizen, should be settled by the local judge and according to the local laws; and, as the dispute normally arises from the refusal of the defendant to acknowledge the justice of the claim made against him, it follows, from the same principle, that every defendant should be prosecuted before his judge, who alone has the right to pass sentence upon him and enforce performance. The Swiss have wisely incorporated this rule into their articles of alliance in order to prevent abuses in this matter, which were formerly quite frequent and a cause of dissension. The judge of the defendant is the judge of the place where the defendant has his domicile or the judge of the place where the defendant happens to be when a sudden difficulty arises, provided the question be not one relating to an estate in land or rights annexed to such an estate. In this last case, as this kind of property should be held according to the laws of the country where it is situated, and as it belongs to the ruler of the country to vest with possession, disputes relating to land can only be passed upon in the State which has control over it.

We have already shown (§ 84) how the jurisdiction of a Nation should be respected by other sovereigns and in what cases only they may intervene in the suits of their subjects in foreign countries.

§ 104. Protection due to foreigners.

A sovereign may not allow the right of entrance into his territory granted to foreigners to prove detrimental to them; in receiving them he agrees to protect them as his own subjects and to see that they enjoy, as far as depends on him, perfect security. Thus we see that every sovereign who has granted asylum to a foreigner considers himself no less offended by injuries which may be done to the foreigner than if they were done to his own subjects. Hospitality was held in great honor by the ancients, and even by barbarian Nations such as the Germans. Those savage peoples who maltreated foreigners, such as the Scythians, who sacrificed them to Diana,(*a*) were regarded with horror by all Nations, and Grotius(*a*) says with reason, that by their extreme cruelty they cut themselves off from human society. All other Nations were justified in uniting together to chastise them.

§ 105. Their duties.

In recognition of the protection granted him and of the other advantages he enjoys, a foreigner should not content himself with obeying the laws of the country, but should give it his assistance when the occasion arises and contribute to its defense where the act does not conflict with the allegiance he owes to his own State. We shall see elsewhere what are his rights and obligations when the country in which he resides is engaged in war. But there is nothing to prevent him from defending it against pirates or brigands or against the ravages of flood or fire. Can he expect to live under the protection of the State and share in its many advantages and yet do nothing for its defense, and look on without concern at the dangers to which the citizens are exposed?

§ 106. To what public burdens they are subject.

A foreigner can not, indeed, be subjected to the public burdens which are directly connected with citizenship, but he must bear his share in all the others. Though exempt from military service and from the payment of such taxes as are destined for the maintenance of national rights, he must pay the duties imposed upon provisions, merchandise, etc.; in a word, all taxes which merely affect his residence in the State or the business on which he has come.

(*a*) The Taurians; see Grotius, *De Jure Belli et Pacis*, Lib. II, ch. XX, § 40, note 7.

§ 107. Foreigners remain citizens of their own state.

A citizen or subject of a State who absents himself for a time, without having the intention of abandoning the society of which he is a member, does not lose his citizenship by his absence, but keeps his rights and remains bound by the same obligations. Since he is received in a foreign country by reason of his being a member of the general society of mankind, and because of the intercourse which Nations are obliged to maintain with one another (Introd., §§ 11, 12; Book II, § 21), he must be regarded as a citizen of his own State and treated as such.

§ 108. A state has no rights over the person of a foreigner.

Hence a State, being obliged to respect the rights of other Nations and of men in general, irrespective of their nationality, can not claim any rights over the person of a foreigner who by his mere entrance into its territory does not become its subject. The foreigner can not claim the privilege of living in the country without obeying its laws; if he violates them he is punishable as a disturber of the public peace and an offender against the State; but he is not subject, as the citizens are, to all the commands of the sovereign, and if certain things are demanded of him which he does not wish to do, he may leave the country. Since he is free at all times to leave, the State has no right to detain him, unless it be temporarily or for very special reasons, as, for example, in time of war the fear lest he might carry to the enemy information as to the condition of the State and of its fortified places. From the voyages of the Dutch to the East Indies we learn that the Kings of Corea detain by force foreigners who are shipwrecked on their coasts; and Bodin(*a*) tells us that this custom, in violation, as it is, of the Law of Nations, existed in his time in Ethiopia and even in Russia. It is an attack alike upon the rights of the individual and upon those of the State to which he belongs. Things have greatly changed in Russia; one single reign, that of Peter the Great, has brought that vast Empire into the rank of civilized States.

§ 109. Nor over his property.

The property of an individual does not cease to belong to him because he happens to be in a foreign country, and it still forms part of the aggregate wealth of his Nation (§ 81). The claims which the head of the State might assert over the property of a foreigner would be equally contrary to the rights of the owner and to those of the Nation of which he is a member.

§ 110. Who are the heirs of a foreigner.

Since a foreigner remains a citizen of his own country and a member of his own Nation (§ 107), the property which he leaves on his decease in a foreign country should naturally pass to those who are his heirs according to the laws of the State of which he is a member. But this general rule does not affect his real property, which should be regulated by the laws of the country where it is situated (see § 103).

§ 111. Wills of foreigners.

As the right of making a will or of disposing of one's property in the event of death is a right resulting from ownership, it can not justly be taken from a foreigner. A foreigner has therefore a natural right to make a will. But, it is asked, what laws must he comply with, whether as to the form of the will, or as to its provisions? (1) As to its solemn form, the purpose of which is to attest the genuineness of the will, it seems that the testator must observe the forms which are prescribed in the State where the will is drawn up, unless the law of his own State has provided otherwise, in which case he is obliged to comply with the formalities prescribed by the latter if he wishes to make a valid disposal of the property which he possesses in his own country. I am speaking of a will which is to be opened in the place where the testator dies; for if a traveler makes his will and sends it sealed to his home country, it is the same as if the will had been written there, and the laws of his home country must be followed. (2) As for the actual provisions of the will,

(*a*) *De la République*, Liv. I, ch. VI.

we have already remarked that those which relate to realty must conform to the laws of the country where the realty is situated. A foreign testator can not dispose of property, personal or real, which he holds in his own country, except in the manner prescribed by its laws. But as for personal property, money and other effects, which he possesses elsewhere, or which he has with him, or which follow his person, a distinction must be made between the local laws, whose effect can not extend beyond the territory, and the laws which have a direct relation to him as a citizen. Since a foreigner remains a citizen of his own country he is always bound, wherever he happens to be, by this latter class of laws, and must conform to them in the disposition he makes of his personal property of whatever kind. The corresponding laws of the country where he happens to be, and of which he is not a citizen, are not binding upon him. Thus, a man who makes his will and dies in a foreign country can not deprive his widow of so much of his personal property as is assigned to her by the laws of the State of which he is a citizen. Thus, a citizen of Geneva, being bound by the law of Geneva to leave a certain share of his property to his brothers, or to his cousins if they are his nearest heirs, can not deprive them of it, so long as he remains a citizen of Geneva, by making his will in a foreign country; and, on the other hand, a foreigner dying at Geneva is not bound to comply in this matter with the laws of the Republic. It is quite otherwise with respect to local laws; they regulate what can be done in the territory, and have no force outside of it. Testators are no longer subject to them, when once they are outside of the territory, and such of their property as is likewise outside of the territory is unaffected by them; whereas a foreigner is bound by them with respect to the property he holds within the territory. Thus, a citizen of Neufchatel, who is forbidden to entail property held in his own country, may, if he dies in a country where entails are permitted, dispose in this manner of property which he has there and which is out of the jurisdiction of his own country; while a foreigner making a will in Neufchatel can not entail even personal property which he holds there, unless, indeed, it may be said that his personal property is excepted by the spirit of the law.

§ 112. Droit d'aubaine.

The principles we have laid down in the three preceding chapters suffice to show how little justice there is in the practice of certain States which convert into the public treasury the property left there by a foreigner at death. This practice is based upon what is called *droit d'aubaine*, by which foreigners are prevented from succeeding to property held in the State either by citizens or aliens, and are therefore incapable of being appointed by will as heirs or of receiving legacies. Grotius justly observes "that this law has come down from ages when foreigners were almost regarded as enemies."(*a*) Even when the Romans had become a highly civilized and enlightened Nation they could not accustom themselves to regard foreigners as men having rights in common with them. "The Nations," says the jurist Pomponius, "with whom we have neither bonds of friendship, nor of hospitality, nor of alliance, are not our enemies; nevertheless, if our property falls into their hands they become the owners of it; our free citizens become their slaves, and they are on the same footing with respect to us."(*b*) It can not be thought that so wise a people retained such inhuman laws except as a means of retaliating upon Nations which were not bound to them by a treaty of any sort and which could not otherwise be brought to terms. Bodin(*c*) shows that the *droit d'aubaine* is derived from these

(*a*) *De Jure Belli et Pacis*, Lib. II, cap. VI, § 14.
(*b*) Digest. Lib. XLIX, Tit. XV, De Captivis et Postliminio. (I make use of the translation by President de Montesquieu, in his *Esprit des Lois*.)
(*c*) *De la République*, Liv. I, ch. VI.

worthy sources. It has been successively mitigated, or even abolished, in most States. The Emperor Frederic II was the first to abrogate it by an edict, which allowed "all foreigners dying within the limits of the Empire to dispose of their property by will, or if they died intestate, to have their nearest relatives as heirs." (*a*) But Bodin complains that the edict has been very badly carried out. How can there remain any vestige of so barbarous a practice in the Europe of our days, which is so enlightened and so influenced by humane principles? The natural law can only permit it by way of rataliation. This is the use made of it by the King of Poland in his hereditary States. The *droit d'aubaine* exists in Saxony, but its just and equitable sovereign puts it into effect only against those Nations which on their part subject the Saxons to it.

§ 113. The right of traite foraine.

The right of *traite foraine* is more in accord with justice and with the mutual duties of Nations. This is the right by virtue of which the sovereign keeps a moderate part of the property, whether of citizens or of foreigners, which passes out of the State into foreign hands. As such property is thus lost to the State, it is reasonable that the State should receive fair compensation for it.

§ 114. Realty held by a foreigner.

Every State is at liberty to grant or to refuse to foreigners the right to own land or other real property in its territory. If it grants the right, such property held by foreigners remains subject to the jurisdiction and to the laws of the State and liable to taxation like other property. The sovereignty of the State extends over its whole territory, and it would be absurd to except certain portions of it because they are owned by foreigners. If the sovereign does not permit foreigners to possess realty, no one may rightly complain; for the sovereign may have very good reasons for so doing, and since foreigners can claim no rights in his territories (§ 79) they should not take it ill if he uses his power and his rights in the manner he thinks best for the State. Moreover, since the sovereign may refuse to foreigners the right to possess realty, he may, of course, grant the right subject to certain conditions.

§ 115. Marriages of foreigners.

Generally speaking, there is no reason why foreigners should not be able to marry in the State. But if a Nation finds that such marriages are hurtful or dangerous to it, it has the right and is even in duty bound to forbid them or to grant the permission subject to certain conditions. And as the determination of what is best for the State belongs to the State itself, or to its sovereign, other Nations must accept what it enacts on this subject. It is forbidden in nearly all States for citizens to marry foreigners of a different religious belief. In several parts of Switzerland a citizen may not marry a foreign woman unless he furnishes proof that she brings him in marriage a sum fixed by law.

(*a*) Bodin, *De la République*, Liv. I, ch. VI.

obtain the necessaries of life, or the means of satisfying some other indispensable obligation, except by passing across those lands, you may force a right of way from one who unjustly refuses you. But if the owner is compelled by an equal necessity to refuse you access the refusal is just, since his right prevails over yours. Thus a vessel, under stress of weather, has a right to enter into a foreign port, and may even force an entrance; but if the vessel is carrying persons infected with the plague the owner of the port may drive it off by firing upon it, and in so doing will offend neither against justice, nor even against charity, which in such a case should certainly begin at home.

§ 124. And of procuring things of which one has need.

The right of passage through a country would be in most cases worthless unless one had likewise the right of procuring at a fair price the things of which one has need; and we have already shown (§ 120) that in a time of necessity food supplies can be obtained even by force.

§ 125. The right to dwell in a foreign country.

In speaking of exile and banishment, we observed (Book I, §§ 229–231) that every man has the right to find a habitation somewhere upon the earth. The principles we established with respect to individuals can be applied to whole Nations. If a people are driven from the lands which they inhabit they have the right to seek a place of abode. The Nation to which they present themselves should, therefore, grant them lands in which to dwell, at least for a time, unless it has very serious reasons for refusing. But if its own lands are not large enough for itself, it can have no obligation to admit foreigners into them permanently; and should it not find it convenient even to grant them the rights of perpetual residents, it may send them away. As they have the further resource of seeking an abode elsewhere, they can not avail themselves of the *right of necessity* and remain there despite the Nation's wish. But, after all, these fugitives must find an asylum somewhere, and if every Nation refuses to grant it to them, they may justly settle in the first country where they find sufficient land without having to deprive the inhabitants. However, even in this case, necessity only gives them the right of dwelling in the country, and they should submit to whatever tolerable conditions are imposed upon them by the lord of those lands; they should pay him tribute, become his subjects, or at least live under his protection and depend upon him in certain respects. This right, as well as the two preceding ones, is a survival from the original community of ownership.

§ 126. Things of which the supply is not exhausted by use.

We have been at times obliged to anticipate the matter of the present chapter when points arose in connection with the subjects treated. Thus, in speaking of the high seas, we remarked (Book I, § 281) that things of which the supply is inexhaustible can not become the subject of ownership or private property, because in the free and independent state in which nature has produced them they can be equally useful to all men. Even things which in other respects are subject to private ownership, if they are not exhausted by a certain use of them, remain common property as to that use. Thus a river may be subject to ownership and sovereignty, but as a body of running water it remains common to all men; that is to say, the owner of the river can not prevent any one from drinking or drawing water from it. Thus even those parts of the sea that are held in possession are large enough to be navigated by all men, so that the holder of them can not refuse passage through them to a vessel from which he has nothing to fear. But it may possibly happen that persons can not take advantage of that inexhaustible supply without inconvenience or injury to the owner, in which case he would be justified in refusing to allow it to them. For example, if you can not come to my river for water without passing across my lands and injuring the crops which grow upon

CHAPTER VI.

The Several Grades of Public Ministers; the Representative Character of Ministers; and the Honors which Are Due Them.

§ 69. Origin of the several grades of public ministers.

In former times public ministers were almost always of the same grade, and were called in Latin *legati*, a term which is rendered in French by the word "*ambassadeurs.*" But when courts became more ostentatious and at the same time more insistent upon ceremonial, and especially when they undertook to regard the minister as representing even the dignity of his sovereign, it was thought expedient, in order to avoid disputes, trouble, and expense, to employ, on certain occasions, agents of less exalted rank. Louis XI, King of France, was, perhaps, the first to set an example of this. In thus establishing various grades of ministers a proportionate dignity was attached to their character, and corresponding honors demanded for them.

§ 70. The representative character.

Every minister represents to some degree his sovereign, just as every agent represents his principal. But this general position of representative is relative to the business to be negotiated; the minister represents the person in whom resides the rights which he is to look after, maintain, and enforce—the rights concerning which he is to treat in his sovereign's stead. While acting as the representative of his sovereign in general, and as far as the actual business to be transacted is concerned, the minister is not regarded as representing the dignity of his sovereign. Later on, sovereigns desired to be represented not only in their rights and in the conduct of their affairs, but even in their dignity, in the preeminence of their power and position. It was doubtless those brilliant events, the ceremonies attending such an occasion as that of a royal marriage, which ambassadors were sent to attend, that gave rise to this custom. But the exalted rank of the minister interferes greatly with the conduct of business, and often gives rise not only to trouble, but also to difficulties and disputes. The result has been the creation of the several grades of public ministers, representing their sovereign in different degrees. Custom has established three principal grades. The minister who bears what is called preeminently the *representative character* is appointed to represent his sovereign, even as to his very person and dignity.

§ 71. Ambassadors.

A minister bearing the *representative character*, taken thus in its preeminent sense, or in contradistinction to the other degrees of that character, belongs to the first grade, that of *ambassador*. He stands above all other ministers who are not invested with the same character and takes precedence over them. There are, at the present day, *ambassadors ordinary* and *ambassadors extraordinary;* but this is merely an accidental distinction, relative to the object of their mission. However, a somewhat different treatment is almost everywhere accorded to these two classes of ambassadors; but this is a mere matter of custom.

§ 72. Envoys.

Envoys are not invested with the representative character, strictly so called, or in the first degree. They are ministers of the second grade, upon whom their sovereign has conferred a degree of dignity and honor, which, while inferior to that enjoyed by an ambassador, comes immediately after it, and gives place to no other. There are also *envoys ordinary* and *extraordinary*, and it seems that princes intend that the latter shall be held in greater respect; but this again is a matter of custom.

§ 73. Residents.

The term *resident* formerly referred merely to the fact that the minister remained permanently in the country, and history presents instances in which ambassadors ordinary were designated by the simple title of residents. But since the practice of appointing various grades of ministers has become generally established, the name of *resident* had been applied to ministers of a third grade, whose character has come to be generally regarded as attended with a lesser degree of honor. The resident does not represent the sovereign as regards the royal dignity, but merely as regards the business to be transacted. In reality, he represents the sovereign in the same way in which the envoy represents him; so that the resident is often called a minister of the second grade, as is the envoy, thus distinguishing only two grades of public ministers, namely, ambassadors, who bear the representative character preeminently, and all other ministers who are not invested with that eminent character. This is the most necessary distinction, and the only essential one.

§ 74. Ministers.

Finally, an even more recent custom has established a new class of public ministers, whose representative character is not specifically determined. They are called simply *ministers*, to indicate that they are invested with the general capacity of agents of their sovereign, without possessing any special rank or representative character. Here again the formalities of court ceremonial gave rise to this new class. Custom had fixed the special treatment to be shown to an ambassador, an envoy, and a resident; but disputes frequently arose on the subject between the ministers of the different sovereigns, and particularly disputes over the question of rank. In order to avoid all trouble on occasions when there were grounds for anticipating it, the plan was adopted of sending ministers without designating them as belonging to any of the three recognized grades. No prescribed ceremonial was assigned to such ministers, and they could not lay claim to any special treatment. The *minister* represents his sovereign in a vague and undefined manner which falls short of the highest grade, and consequently he readily yields precedence to an ambassador. In general, he should enjoy the respect which belongs to a person in whom his sovereign has manifested confidence by committing to him the care of his affairs; and he possesses all the rights essential to the character of a public minister. The position of the *minister* is so indeterminate that the sovereign can confer it upon those of his servants whom he would not wish to invest with the character of ambassador; and, on the other hand, it can be accepted by a man of rank who would not be satisfied with the position of resident and the treatment accorded to that office at the present day. There are also *ministers plenipotentiary*, whose position is much more honorable than that of simple ministers, but, as in the case of ministers, no particular rank or representative character is assigned to them. Custom, however, appears to prescribe that they shall be ranked immediately after the ambassador, or with the envoy extraordinary.

§ 75. Consuls, agents, deputies, commissioners.

Consuls have been treated of under the head of commerce (Book II, § 34). *Agents* were formerly a class of public ministers; but at the present day, when titles have been multiplied in such profusion, the name *agent* is given to persons who are appointed by sovereigns merely to transact their private affairs. Frequently, indeed, they are citizens of the country in which they reside. They are not public ministers, and consequently are not under the protection of the Law of Nations. But out of deference to the prince whom they serve a more special protection is due them than is given to other foreigners or citizens, and a certain respect is shown them. If the prince sends an *agent* bearing letters of credence and appointed to transact public business, the agent is thereby constituted a public minister, what-