It gives Us great satisfaction, beloved sons of the Union of Italian Catholic Jurists, to see you gathered round Us here and to bid you heartfelt welcome. In the beginning of October another congress of jurists, dealing with international penal law, gathered in Our summer residence. Your convention is national in character, but the subject it is treating, “The Nation and the International Community,” touches again the relations between peoples and sovereign states. It is not by chance that congresses are multiplying for the study of international questions, be they scientific, economic, or political. The clear fact that relations between individuals of various nations and between nations themselves are growing in multiplicity and intensity makes daily more urgent a right ordering of international relations, both private and public; all the more so since this mutual drawing together is caused not only by vastly improved technological progress and by free choice but also by the more profound action of an intrinsic law of development. This movement, then, is not to be repressed but fostered and promoted.

I

2. In this work of expansion, communities of states and peoples, whether already existing or only a goal to be achieved, have naturally a special importance. They are communities in which sovereign states, that is to say, states which are subordinate to no other state, are united into a juridical community to attain definite juridical ends. It would give a false idea of these juridical communities to compare them to world empires of the past or of the present, in which different racial stocks, peoples, and states become fused, whether they want it or not, into a single conglomeration of states. In the present instance, however, states, remaining sovereign, freely unite into a juridical community.

3. In this connection, the history of the world, which shows a continuous succession of struggles for power, no doubt might make the establishment of a juridical community of free states seem almost utopian. The conflicts of the past have too often been motivated by a desire to subjugate other nations and to extend the range of one’s own power, or by the necessity of defending one’s liberty and one’s own independent existence. This time, on the contrary, it is precisely the will to prevent threatening conflicts that urges men toward a supranational juridical community. Utilitarian considerations, which certainly carry considerable weight, point toward the working out of peace; and finally, perhaps, it is precisely this mingling of men of different nations because of technological progress that has awakened the faith, implanted in the hearts and souls of individuals, in a higher community of men, willed by the Creator and rooted in the unity of their common origin, nature, and final destiny.

II

4. These and other similar considerations show that advance toward establishing a community of peoples does not look, as to a unique and ultimate norm, to the will of the states but rather to nature, to the Creator. The right to existence, the right to respect from others and to one’s good name, the right to one’s own culture and national character, the right to develop oneself, the right to demand observance of international treaties, and other like rights, are exigencies of the law of nations, dictated by nature itself. The positive law of different peoples, also indispensable in the community of states, has the office of defining more exactly the rights derived from nature and of adapting them to concrete circumstances, and also of making other provisions, directed, of course, toward the common good, on the basis of a positive agreement, which, once freely entered into, has binding force.

5. In this community of nations, then, every state becomes a part of the system of international law, and hence of natural law, which is both foundation and crown of the whole. Thus the individual nation no longer is—nor in fact was it ever—“sovereign,” in the sense of being entirely without restrictions. “Sovereignty” in the true sense means

† [A discourse delivered to participants in the Fifth National Convention of the Union of Italian Catholic Jurists, Ci Riesce is the most important magisterial treatment of religious freedom between the time of Leo XIII and the promulgation of Dignitatis Humanae, although certain paragraphs from Bd. John XXIII’s encyclicals make a signal contribution as well. The paragraph numbers have been added for convenient reference.]
self-rule and exclusive competence concerning what has to be done and how it is to be done in regard to the affairs of a definite territory, always within the framework of international law, without however becoming dependent on the juridical system of any other state. Every state is immediately subject to international law. States which would lack this fullness of power, or whose independence of the power of any other state would not be guaranteed by international law, would not be sovereign. But no state could complain about a limitation of its sovereignty if it were denied the power of acting arbitrarily and without regard for other states. Sovereignty is not a divinization of the state, or omnipotence of the state in the Hegelian sense, or after the manner of absolute juridical positivism.

III

6. There is no need to explain to you students of law how the setting up, maintenance, and operation of a real community of states, especially one that would embrace all peoples, give rise to many duties and problems, some of them extremely difficult and complicated, which cannot be solved by a simple yes or no answer. Such would be the question of race and origin, with their biological, psychological, and social consequences; the question of language; the question of family life, with its relations, varying according to nation, between husband and wife, parents, the larger family group; the question of the equality or equivalence of rights in what regards goods, contracts, and persons for the citizens of one sovereign state who either live for a short time in a foreign state or, retaining their own nationality, establish permanent residence there; the question of the right of immigration or of emigration, and other like questions.

7. The jurist, the statesman, the individual state, as well as the community of states should here take account of all the inborn inclinations of individuals and communities in their contracts and reciprocal relations, such as the tendency to adapt or to assimilate, often pushed even to an attempt to absorb; or contrariwise, the tendency to exclude and to destroy anything that appears incapable of assimilation; the tendency to expand, to embrace what is new, as on the contrary, the tendency to retreat and to segregate oneself; the tendency to give oneself entirely, forgetful of self, and its opposite, attachment to oneself, excluding any service of others; the lust for power, the yearning to keep others in subjection, and so on.

8. All these instincts, either of self-aggrandizement or of self-defense, have their roots in the natural dispositions of individuals, of peoples, of races, and of communities, and in their restrictions and limitations. One never finds in them everything that is good and just. God alone, the origin of all things, possesses within Himself, by reason of His infinity, all that is good.

9. From what We have said, it is easy to deduce the fundamental theoretical principle for dealing with these difficulties and tendencies: within the limits of the possible and lawful, to promote everything that facilitates union and makes it more effective; to remove everything that disturbs it; to tolerate at times that which it is impossible to correct but which, on the other hand, must not be permitted to make shipwreck of the community, from which a higher good is hoped for. The difficulty rests in the application of this principle.

IV

10. In this connection, We wish to treat with you who are happy to profess yourselves Catholic jurists, concerning one of the questions which arises in a community of peoples, that is, the practical co-existence [convivenza] of Catholic with non-Catholic states.

11. Depending upon the religious belief of the great majority of citizens, or by reason of an explicit declaration of law, peoples and member states of the international community will be divided into those that are Christian, non-Christian, indifferent to religion or consciously without it, or even professedly atheist. The interests of religion and morality will require for the whole extent of the international community a well-defined rule, which will hold for all the territory of the individual sovereign member-states of the international community. According to probability and depending on circumstances, it can be foreseen that this ruling of positive law will be thus enunciated: within its own territory and for its own citizens, each state will regulate religious and moral affairs by its own laws. Nevertheless, throughout the whole territory of the international community of states, the citizens of every member-state will be allowed the exercise of their own beliefs and ethical and religious practices, insofar as these do not contravene the penal laws of the state in which they are residing.

12. For the jurist, the statesman, and the Catholic state arises here the question: can they give their consent to such a ruling when there is question of entering and remaining in an international community?
13. Now, in regard to religious and moral interests, a twofold question arises: the first deals with the objective truth and the obligation of conscience toward what is objectively true and good; the second deals with the practical attitude of the international community toward the individual sovereign state and the attitude of the individual state toward the international community in what regards religion and morality.

14. The first question can hardly be a matter for discussion and legal ruling between the individual states and the international community, especially in the case of a plurality of different religious beliefs within the international community. On the other hand, the second question can be of extreme importance and urgency.

V

15. Now to give the right answer to the second question. Above all, it must be clearly stated that no human authority, no state, no community of states, whatever be their religious character, can give a positive command or positive authorization to teach or to do that which would be contrary to religious truth or moral good. Such a command or such an authorization would have no obligatory power and would remain without effect. No authority may give such a command, because it is contrary to nature to oblige the spirit and the will of man to error and evil, or to consider one or the other as indifferent. Not even God could give such a positive command or positive authorization, because it would be in contradiction to His absolute truth and sanctity.

16. Another question, essentially different, is this: could the norm be established in a community of states—at least in certain circumstances—that the free exercise of a belief and of a religious or moral practice which possess validity in one of the member states, be not hindered throughout the entire territory of the community of nations by state laws or coercive measures? In other words, the question is raised whether in these circumstances non impedit or toleration is permissible, and whether, consequently, positive repression is not always a duty.

17. We have just adduced the authority of God. Could God, although it would be possible and easy for Him to repress error and moral deviation, in some cases choose the non impedit without contradicting His infinite perfection? Could it be that in certain circumstances He would not give men any mandate, would not impose any duty, and would not even communicate the right to impede or to repress what is erroneous and false? A look at things as they are gives an affirmative answer. Reality shows that error and sin are in the world in great measure. God reprobs them, but He permits them to exist. Hence the affirmation: “religious and moral error must always be impeded, when it is possible, because toleration of them is in itself immoral,” is not valid absolutely and unconditionally.

18. Moreover, God has not given even to human authority such an absolute and universal command in matters of faith and morality. Such a command is unknown to the common convictions of mankind, to Christian conscience, to the sources of revelation, and to the practice of the Church. To omit here other Scriptural texts which are adduced in support of this argument, Christ in the parable of the cockle gives the following advice: let the cockle grow in the field of the world together with the good seed in view of the harvest (cf. Mt. 13:24-30). The duty of repressing moral and religious error cannot therefore be an ultimate norm of action. It must be subordinate to higher and more general norms, which in some circumstances permit, and even perhaps seem to indicate as the better policy, toleration of error in order to promote a greater good.

19. Thus the two principles are clarified to which recourse must be had in concrete cases for the answer to the serious question concerning the attitude which the jurist, the statesman, and the sovereign Catholic state is to adopt in consideration of the community of nations in regard to a formula of religious and moral toleration as described above. First: that which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread, or to be activated. Secondly: failure to impede this with civil laws and coercive measures can nevertheless be justified in the interests of a higher and more general good.

20. Before all else the Catholic statesman must judge if this condition is verified in the concrete—this is the “question of fact.” In his decision he will permit himself to be guided by weighing the dangerous consequences that stem from toleration against those from which the community of nations will be spared, if the formula of toleration be accepted. Moreover, he will be guided by the good which, according to a wise prognosis, can be derived from toleration for the international community as such, and indirectly for the member state. In that which concerns religion and morality he will also ask for the judgment of the Church. For her, only He to whom Christ has entrusted the guidance of His whole Church is competent to speak in the last instance on such vital questions, touching international life; that is, the Roman Pontiff.
VI

21. The institution of a community of nations, which today has been partly realized but which is striving to be established and consolidated upon a higher and more perfect level, is an ascent from the lower to the higher, that is, from a plurality of sovereign states to the greatest possible unity.

22. The Church of Christ has, in virtue of a mandate from her divine Founder, a similar universal mission. She must draw to herself and bind together in religious unity the men of all races and of all times. But here the process is in a certain sense the contrary: she descends from the higher to the lower. In the former case, the superior juridical unity of nations was and still is to be created. In the latter, the juridical community with its universal end, its constitution, its powers and those in whom these powers are invested are already established from the beginning, by the will and decree of Christ Himself. The duty of this universal community from the outset is to incorporate all men and all races (cf. Mt. 28:19) and thereby to bring them to the full truth and the grace of Jesus Christ.

23. The Church, in the fulfillment of this her mission, has always been faced and is still faced in large measure by the same problems which the functioning of a community of sovereign states must overcome; only she feels them more acutely, for she is obligated to the purpose of her mission, determined by her Founder Himself—a purpose which penetrates to the very depths of the spirit and heart of man. In this state of affairs conflicts are inevitable, and history shows that there have always been conflicts, there still are, and, according to the words of the Lord, there will be till the end of time.

24. For the Church with her mission has been, and is, confronted with men and nations of marvelous culture, with others of almost incredible lack of civilization, and with all possible intermediate degrees: diversity of extraction, of language, of philosophy, of religious belief, of national aspirations and characteristics; free peoples and enslaved peoples; peoples that have never belonged to the Church and peoples that have been separated from her communion.

25. The Church must live among them and with them; she can never declare before anyone that she is “not interested.” The mandate imposed upon her by her divine Founder renders it impossible for her to follow a policy of non-interference or laissez-faire. She has the duty of teaching and educating in all the inflexibility of truth and goodness, and with this absolute obligation she must remain and work among men and nations that in mental outlook are completely different from each other.

26. Let Us return now, however, to the two propositions mentioned above: and in the first place to the one which denies unconditionally everything that is religiously false and morally wrong. With regard to this point there never has been, and there is not now, in the Church any vacillation or any compromise, either in theory or in practice. Her deportment has not changed in the course of history, nor can it change whenever or wherever, under the most diversified forms, she is confronted with the choice: either incense for idols or blood for Christ. The place where you are now present, Eternal Rome, with the remains of a greatness that was and with the glorious memories of its martyrs, is the most eloquent witness to the answer of the Church. Incense was not burned before the idols, and Christian blood flowed and consecrated the ground. But the temples of the gods lie in the cold devastation of ruins howsoever majestic; while at the tombs of the martyrs the faithful of all nations and all tongues fervently repeat the ancient Creed of the Apostles.

27. Concerning the second proposition, that is to say, concerning tolerance in determined circumstances—toleration even in cases in which one could [legitimately] proceed to [take steps of] repression—the Church, out of regard for those who in good conscience (though erroneous, but invincibly so) are of different opinion, has been led to act and has acted with that tolerance, after she became the State Church under Constantine the Great and the other Christian emperors, [and she has done so] always for higher and more cogent motives. So she acts today, and also in the future she will be faced with the same necessity. In such individual cases the attitude of the Church is determined by what is demanded for safeguarding and considering the bonum commune—on the one hand, the common good of the Church and the State in individual states, and, on the other, the common good of the universal Church, the reign of God over the whole world. In considering the pro and con for resolving the “question of fact,” as well as what concerns the final and supreme judge in these matters, no other norms are valid for the Church except the norms which We have just indicated for the Catholic jurist and statesman.

VII

28. The ideas We have set forth may also be useful for the Catholic jurist and statesman when, in their studies or in the exercise of their profession, they come in contact with the agreements (concordats, treaties, agreements, modus
vivendi, etc.) which the Church (that is to say, for a long time now, the Apostolic See) has concluded and still concludes with sovereign states. The Concordats are for her an expression of the collaboration between the Church and the State. In principle, that is, in theory, she cannot approve complete separation of the two powers. The Concordats, therefore, must assure to the Church a stable condition in right and in fact in the State with which they are concluded, and must guarantee to her full independence in the fulfillment of her divine mission.

29. It is possible that the Church and the State proclaim in a Concordat their common religious conviction; but it may also happen that a Concordat have, together with other purposes, that of forestalling disputes with regard to questions of principle and of removing from the very beginning possible matters of conflict. When the Church has set her signature to a Concordat, it holds for everything contained therein. But, with the mutual acknowledgment of both high contracting parties, it may not hold in the same way for everything. It may signify an express approval, but it may also mean a simple tolerance, according to those two principles which are the norm for the co-existence [convivenza] of the Church and her faithful with the civil powers and with men of another belief.

30. This, beloved sons, is what We intended to treat of with you rather fully. For the rest, We are confident that the international community can banish every danger of war and establish peace, and, as far as the Church is concerned, can guarantee to her freedom of action everywhere, so that she may be able to establish in the spirit and heart, in the thoughts and actions of men, the Kingdom of Him who is the Redeemer, the Lawgiver, the Judge, the Lord of the world, Jesus Christ, who rules as God over all things, blessed forever (Rom. 9:5).

31. While with Our paternal good wishes We follow your work for the greater good of nations and for the perfecting of international relations, from the fullness of Our heart We impart to you, as a pledge of the richest divine graces, the Apostolic Benediction.

✠ Pius XII