salutary effect upon the development of the principle along the lines suggested.

(b) As regards cases of necessity, the Preparatory Committee has propounded a general formula that refers only to the concrete case of repudiation of the contractual obligations of the State. On general principles, necessity does not justify repudiation, nor does it come within the scope of the Law of Nations. It is a situation wherein the interests of the first party, protected by the law, are in actual danger and there is no other solution but to violate the rights of the second party under juridical sanction.[1] It differs materially from self-defense in that—as stated by Carrara—self-defense is a "reaction", whereas, necessity resolves itself into an "action". This action can be defined in the municipal law, inasmuch as the measure of damages can be practically determined. Its application to international relations would be impractical and, under certain circumstances, it would tend to impair the fundamental rights of innocent States.

> "It was thus with good reason"—the eminent Mr. Charles De Visscher comments—"that the American Institute of International Law formulated in 1916 the following fundamental rule that embraces a solemn protest against the doctrine of necessity:
>
> " 'Every nation has the right to exist, and to protect and to conserve its existence; but this right neither implies the right nor justifies the act of the State to protect itself or to conserve its existence by the commission of unlawful acts against innocent and unoffending states.'
>
> "All the terms of this pronouncement are worthy of consideration: it recognizes the right of conservation within the limits imposed by due respect for the rights of others, condemns the doctrine of necessity that attempts to exceed those limits, and finally, it reserves the cases of justification arising from self-defense and from reprisals."

This same formula was proposed and discussed as one of the declarations of the rights and duties of nations at the Sixth International Conference of American States held at Habana in 1928.

The authorities cite a number of cases in which self-defense and necessity have been pleaded in order to justify or excuse international conduct. Among others, the following cases have been cited: the *Caroline,* the *Virginius,* the American expeditions against the Villa forces in 1916 and 1919, the reciprocal violation of boundaries between Greece and Bulgaria in 1919, etc. In the case of the *Caroline,* Mr. Webster, Secretary of State of the United States, thus expounded the doctrine of self-defense:

> "Undoubtedly it is just"—he stated in his note of August 6, 1842, to the British Plenipotentiary, Lord Ashburton—"that while it is admitted

[1] Von Liszt, Treatise on Penal Law, Vol. II, p. 341.