

## ARBITRATION.

BY F. R. COUDERT.

WAR, logically speaking, is an anachronism. It belongs to other ages and other forms of civilization than those in and under which we live. Its brutality, cruelty, and injustice jar against the humanizing tendencies of the nineteenth century. We are accustomed to look elsewhere than to the hazards of the battle-field for the solution of international problems, and have learned that there are better and cheaper methods of settling controversies than those which depend upon heavy artillery and needle-guns. Common schools, telegraphs, railroads, and universal suffrage are the handmaids of peace; they are the enemies of war. The *ultima ratio* of kings was based upon a blind and superstitious reverence for the royal majesty and its commands. But armies are no longer filled with unthinking and helpless creatures that killed, burned, ravaged, and destroyed because they were directed to do these things; these men constituted, in Napoleonic phrase, the *chair à canon*, or cannon food, and fed the roaring monster until it was gorged. But much of this is obsolete. Men want to know the reason for everything that they are called upon to do, and the newspaper gives it to them daily. A great monarch might say "I am the state," and tell the truth when he said it. Who dreamed to dispute his commands or to question his justice? Surely not the peasant and laborer whose wretched condition made the army a refuge where bread at least was dealt out, although there were exceptions even to this. Coarse as was the food that he ate, he did not always eat his fill, and he fought and hungered while the farm lay fallow, and the wife and children wore out their lives in the futile effort to do his work. He fought and he fought bravely, he died unnoticed or returned unrewarded, until the time arrived for his son to take his place, and thus in never-ending monotony he fulfilled his destiny, for the glory of others, and at his own expense.

In no respect is the evolution of our society more remarkable and more evident than in this one particular, viz., the ever-growing value attached to human life. The swelling buds of the fig-tree

do not announce the approach of summer more accurately than the increased estimate attached to every individual existence testifies to our advancing civilization. No better or higher test can be found of a nation's moral status than this. In China the instinct of self-preservation is weak: there is so little in life worth preserving that the burden is laid down, under trifling temptation, as a galling encumbrance. The years that followed the Norman Conquest in England present a dark picture of a society in which life for the lower classes, at least, was not worth living. The English wars in France present the same spectacle. Legislation, which is the exponent of a nation's morality and temper, proves that the law-giver himself long held life but cheaply, for the death-penalty, with hideous accompaniments, smote the transgressor even when his sin was venial. What value would a military leader place upon the lives of men who had so little to lose by death? William III. is represented as a humane prince, and yet he violated the Treaty of Nimeguen to engage in a bloody but useless battle with Marshal Luxembourg. He ran no risk, he said, for peace having been declared he would have had to dismiss his troops. What are the pawns good for but to play the game? The long struggle between Spain and Holland, the religious wars in France and other countries of Europe, the chronic condition of general slaughter that was so long accepted as the normal condition of mankind—what do they testify to but the helpless state of men whose life was of little value to others or to themselves?

With a growing consideration for human life comes the element of pity to soften the human heart and guide its emotions to gentler methods. Compassion and sympathy find a fruitful soil in generous natures, and are well matched with manly courage. War, real old-fashioned war, if I may use the expression, is the negation of kindly impulse. Tenderness to an enemy was an evidence of weakness, or of a hero's temporary aberration. When Horace describes the warrior whose exploits he loved to depict, the model warrior of his day, the fearless

son of Thetis, he tells us what he would have done had Fate permitted him to enter Troy:

Heu, nefas, heu!  
Nescios fari pueros Achivis  
Ureret flammis etiam latentem  
Matris in alvo.

No doubt he would have slaughtered his foes, men, women, and children, even babes unborn, with undistinguishing ferocity, and yet have been held the bravest of the brave. For such was war.

So Julius Cæsar, ages after this, when the manners of men had softened, sold the warriors of Gaul into slavery. He sold them by the hundreds and thousands, and paid his debts, or some of them, with the proceeds. This, too, was war, legitimate war, and he might rightfully do this as he might also drag the bravest of his foes behind his triumphal car, leaving him afterwards to die of starvation in a dungeon. There is no evidence that he was the less esteemed for acts like these. Certainly they were not used to sharpen Brutus's dagger.

But Time did not relax his kindly office. War continued to be cruel and wasteful, but glimpses of sunshine lighted up the darkness. Cities were still given to soldiers that they might plunder them, and prisoners were sometimes slain in cold blood. The natural instinct of destruction broke out as it ever will when uncontrolled, but the tendency has long since been to humanize war, if such inconsistent expressions may properly be used. To prevent unnecessary suffering and to regulate destructive agencies has been the effort of more recent times. To treat prisoners with humanity, to spare non-combatants, to respect private property, these innovations upon the ancient methods testify to the growth of new ideas, and prove that war, as our forefathers understood it, has lost its hold, or at least has adopted new forms. Perhaps the day is not far distant when this same sense of compassion will place war among the relics of a barbarous past, in the company of the thumb-screw, the scavenger's daughter, the torturer's knife, and the fires that burned the witches.

A free press is another great foe of war, not only when it raises its voice directly against violence between nations, but when it faithfully portrays the horrors that were never realized until men were brought face to face with their existence.

The newspaper correspondent who writes from the bloody battle-field, and pictures with his pen the scenes which he has witnessed, does more to impress the masses with the uselessness and barbarity of war than the most eloquent preacher who ever thundered against horrors that he had not himself looked upon with his own eyes. Our fathers could not put their finger into the wounds of war and touch them with their hands, as we may do without leaving our peaceful pursuits. When Napoleon sent off his couriers to announce to his people that he had carried a new victory to the nation's credit, that he had captured thousands of prisoners and hundreds of flags, and dated his bulletins from Vienna, Berlin, Madrid, or Moscow, the people shouted for joy, the cannons roared, the *Te Deums* went up from Notre Dame, and little thought was given to the heart-ache of the mother who waited so anxiously, yearning through long weeks and months to know whether the brave boy that she loved had given his life with so many others for another feast of glory. The Grand Army Bulletin could not wait to give details; it was enough for it to say that victory had been faithful, and that Austerlitz, Jena, Eylau, were to shine as new constellations in the firmament of national victories. To achieve these things men must die. "I have grown up on the field of battle," said Napoleon to Metternich. "A man like me cares little for the lives of a million men." Perhaps but for this absence of pity, this indifference to human life, Waterloo might not have followed so closely upon Austerlitz, and Sedan might not have challenged Jena's triumph.

Still another enemy of war is the growing influence of woman. She has a voice, and it must be hearkened to. If her heart must break, she will not allow it to break in unnoticed silence. She has taken her place in literature, art, science, journalism. That influence is all in favor of peace. The Amazon is an extinct species. Joan of Arc clad in armor and leading men into battle is confined to the stage; besides, her sad fate is no encouragement to female belligerency; the fragrance of her sweet life and hapless end must suffice; she cannot be a model for modern woman. The rôle of the man has been to make war or peace, as he elected; the part of the woman to send husband, lover, son to gain glory

or find death, while she watched, wept, and prayed. This distribution of parts was, no doubt, inevitable: but as hers was entirely uncompensated, she may well be excused if in the future she protests against conflicts in which she pays a great price and receives no reward. Roman matrons sent their sons and husbands to fight for Rome, with brave speeches and tearless eyes; but they were helpless to prevent and accepted the situation as best they might. Our American mothers would be quite as brave, even if less eloquent; but it is not their sole function to knit togas in the remote rooms of their lord and master's house. To this passive function and acceptance of fortune's frowns she is not confined to-day, much to the advantage of the world. The Roman poet described war as "*bella detestata matribus*"—wars hateful to mothers. So they ever have been. But what the mothers of the last decade of the nineteenth century really hate stands in some peril.

But the great and fatal argument against war is that *it does not pay*. There was a time when the force of this plea was not generally recognized. The mediæval spirit, with its chivalry and love of glory, survived long after the bodies of the old barons had turned to dust and their swords to rust. Passions were fierce, traditions strong, popular rights in embryonic feebleness. The hope of conquest, the quarrels of dynasties, religious differences, all tended to obscure the dawn of the coming era—the era of common-sense, which balances the good and the bad of any given course and adopts the more expedient. Did not Louis Napoleon, when Emperor of the French, once boastfully proclaim that the French nation was the only one that would go to war for an idea? Perhaps he was right. Alas! many thousand lives, many millions in money, a mutilated territory, and national pride most bitterly humbled eloquently attest that the mitrailleuse and the chassepot may not be safely trusted to disseminate ideas, however noble and however useful to mankind.

But the Anglo-Saxon race prefers to express its preferences and to make converts in other ways. It is now in the ascending period. Its influence upon the world is vast and growing. The United States is the leading nation of a hemi-

sphere, and bids fair in a brief period to be the first of the civilized world in population and general prosperity. We have all the territory that we require, so that wars of conquest hold out no temptation. Our government is so free that revolution would border on the ridiculous. So far as we may now foresee, there is no reason to apprehend such aggression from other nations as to make armed resistance imperative. The people of these States have proved their ability on too many battle-fields to make their prudence suspicious. On the same principle that a tried duellist may refuse to fight because he has shown his mettle, sword in hand, nations with honorable records of brave deeds may be slow to wrath. When Germany a few years since became embroiled with Spain on the subject of the Caroline Islands, Prince Bismarck gracefully offered to submit the pending differences to the Pope. This was accepted, an award was made to the satisfaction of all concerned, and the war cloud passed away. Germany could afford to take this conciliatory step, for her duels had been many, and her prowess great.

One of the evidences to show that a tribe or nation is passing from barbarism to civilization is the readiness to substitute peaceful methods for those of war. There is no period known to history in which instances are not found of arbitration as a substitute for force, and we can only wonder when we consider the historical antiquity of the former that the latter should have maintained its hold so long, so constantly, and so fiercely.

We naturally expect to find that Greece adopted a system which would leave full scope and liberty for the artistic nature of her people, and afford leisure for the cultivation of those arts in which she excelled and in which she has not yet found a peer. This tendency found an expression in the Amphictyonic Council, which was frequently appealed to for the settlement of controversies not only respecting material interests, but to determine those nice questions somewhat vaguely spoken of as "questions involving the honor of the nation." Even where it was claimed that injury had been inflicted or insult offered, war was averted by the decrees of the council. Nay, Persia herself, far inferior as she was in all the polite arts to her brilliant

rival, is known to have submitted a dispute with the Assyrians to the King of India. The Carthaginians preferred arbitration to a war with Masinissa, King of Numidia, and so well was this practice settled in Greece that when Sparta and Argos made a treaty of alliance they sought to avoid the possibilities of armed collision in the future by providing, "In case a difference arises between the two contracting nations, the parties shall have recourse to the arbitration of a neutral city, *according to the custom of their ancestors.*" Such language would be worthy a place upon the statute-books of the most civilized nation of our day. So well satisfied was the moral sense of the ancients that war should be avoided and peace promoted that Thucydides declares it to be a crime to treat as an enemy one who is willing to arbitrate.

The Romans, in their pride of power, were not likely to resort to proceedings that placed them and their weaker enemies on a footing of equality. Cæsar relied more upon the Tenth Legion than upon abstract principles, even if these had the high sanction of Thucydides. It must be admitted that in the conflict with Vercingetorix he fared better with his cohorts at his back than if he had submitted his claims of conquest to an impartial tribunal. Rome was the mistress of the world, and her supremacy practically undisturbed. Her word was the law, and her sword its instrument; when she dealt out justice, it was grace; when she spared the weak, it was generosity; when she spoiled foreign nations, it was her right. But even she recognized that arbitration had its good side where others were concerned, for Pompey ordered the Parthians and Armenians to regulate their frontiers through the medium of arbitration. A Gothic tribe, the Gepidæ, once said to the Lombards, in language that might well be imitated by the remote posterity of both, "We are ready to put an end to our quarrels by recourse to arbitration; it is iniquitous to use violence towards those who are ready to submit the controversy to the decision of a judge." Even in the Middle Ages, when the light was so near going out, this instinctive groping after peaceful ways occasionally showed itself. In one case we see the kings of France and England, whose feuds cost the world so much, submitting to the decision of

four lawyers a controversy touching a large sum of money. The Pope was selected as arbitrator at various times, and his decree was accepted with the reverence and submission due to his exalted office. But notwithstanding these and many instances which might be cited, the nineteenth century is the golden age of arbitration. Bloody conflicts have been repeatedly averted by the growing tendency to avoid physical strife. Men realize that the cost of war is so great that nations cannot afford to indulge in it. They sometimes allow sentiment to eliminate reflection, and delude themselves with the notion that honor requires bloodshed and burning towns to keep it clean, but on the whole, the disposition to allow a sober second thought time to whisper its words of wisdom is growing steadily. In 1870, Great Britain tendered her services to France and Germany as an arbitrator. France refused. The cry of *à Berlin!* drowned every other voice. A ransom of four thousand million francs, two lost provinces, and the final crash of Napoleon's dynasty were part of the price paid for rejecting this proposal.

First of all among the nations that may claim credit for fostering peace and promoting its blessings we find our own country. Her record in this respect is one to make her children proud. Her voice from the earliest days has been in favor of peace; she has preached it and its blessings from the beginning of our national existence; she has insisted upon the rights of weaker nations to respect, and the fame of Jefferson should be immortal if it rested upon nothing else than his vigorous championship of the privileges of neutrals. She has been ready at all times, whether her own interests were concerned or those of others, to promote arbitration and to discountenance war. We cannot overestimate the value of her conduct in this respect, and if the closing decade finds nations more ready with every passing year to permit reason to take the place of force, we may claim that it is in a large measure due to her influence. A brief review of the arbitrations in which she has been concerned may here be made, and must prove satisfactory to all who are proud of her services to humanity.

The first submission to arbitration recorded in our history is contained in the Jay Treaty, as it was called. No other

compact made by the United States was ever denounced so fiercely and opposed so violently. It was considered by many as a surrender to Great Britain. Unreasoning and unmeasured abuse was heaped upon it by the press, and it was long the chosen weapon of demagogues. This treaty contained a reference to a board of three commissioners who were to determine a question touching our northeastern boundary. The matter in doubt was the line designated by the river St. Croix. It was finally held that the treaty-making powers had by that designation intended to describe the Schoodic River.

The commission was also to determine the amount of compensation due certain citizens of Great Britain, which had been delayed by vexatious laws of some of the States. These laws were clearly in violation of the Treaty of Peace, but feeling ran so high that argument was silenced. The opposition to this feature of the treaty was especially fierce, but thanks to the firmness of the government and of the more reasonable element of the people, the arbitration was proceeded with. The case was one of those wherein it was said that our national honor was concerned, and that arbitration involved the loss of national self-respect. It does not seem to-day that the government forfeited its honor by accepting the decision of a tribunal rather than by resorting to the chances of a war. There were men even in those days who failed to recognize the logic of war, and refused to accept its verdict as proving anything but that one of the fighting parties was stronger than the other.

It is proper to add that, as a measure to decide disputed rights, this part of the treaty failed, one of the British commissioners, a Mr. McDonald, having persistently exhibited an insolent disregard of the feelings and opinions of his former fellow-subjects. His language was discourteous and offensive. Whether he designed it or not, he drove the American commissioners to a withdrawal. Perhaps this arrogant tone of assumed superiority was not, after the Treaty of Peace, unusual; perhaps it was not unnatural that the representatives of Great Britain should exhibit some rancor when dealing with men but lately rebels against their sovereign's authority. But fortunately, so far as the establishment of equal

relations is concerned, the day was not distant when Andrew Jackson was to settle old scores, in his own fashion, at New Orleans. After this the atmosphere was cleared of much that was unpleasant, and the two nations could deal on equal and friendly terms. Since that day in January, 1815, many questions have arisen between the United States and Great Britain. They have always been settled in the same bloodless and inexpensive way. The indemnity to British subjects, which should have been determined by arbitration under the Jay Treaty, was finally agreed upon diplomatically, and \$600,000 paid Great Britain.

Other and most important questions were also submitted to arbitration by the same Jay Treaty. They involved the rights of neutrals, the effect of prize-court decisions, and the rules in regard to contraband of war. Mr. Pinkney, the leading lawyer of his day, represented the government of the United States as one of its commissioners. He delivered opinions in the course of the proceedings which, according to Mr. Wheaton, were finished models of judicial eloquence, uniting powerful and comprehensive argument with a copious, pure, and energetic diction.

The Treaty of Ghent, signed on the 24th of December, 1814, and on its way to the United States when the battle of New Orleans was fought, was equally fruitful in arbitrations. The first question of difference referred was that which involved the title to Passamaquoddy Bay. Curiously enough, the arbitrators were two in number, it being stipulated that if they disagreed they should refer the points of difference to a friendly sovereign or state. They did agree, however, and made their award without foreign assistance.

The same Treaty of Ghent provided for the ascertainment of the northeastern boundary of the United States from the source of the river St. Croix along a certain described course to the river St. Lawrence. Here the commissioners failed to agree, and submitted their differences to the King of the Belgians, who made an award which both parties consented to ignore, as it did not profess to follow the line marked out in the treaty.

Even a brief notice of the various arbitrations to which the United States have been a party would extend this paper far beyond its intended limits. It may be



truly said, arguing from the frequency of instances, that a resort to arbitration has become the practice of the United States whenever its interests or the interests of its citizens clash with those of foreign powers. Experience has demonstrated the wisdom of these submissions, and has proved that upon the whole they resulted in a just determination of the questions at issue. It may be confidently asserted that the tribunals selected by great nations to pass upon conflicting rights are more likely to formulate just and equitable judgments than to violate the judicial duty imposed upon and accepted by them.

Professor Moore, of Columbia College, summarizes the result of his researches by saying that the government of the United States has entered into forty-seven agreements for international arbitration; that one of its representatives has seven times acted as arbitrator; and that it has erected thirteen tribunals under its own laws to determine the validity of international claims; the total, therefore, of the arbitrations or quasi-arbitrations to which it has been a party is sixty-seven. In many cases highly important questions of law, both public and private, were involved, although not infrequently, it may be added, the public mind was aroused, as in olden times, to the pitch of war. Professor Moore justly adds, that if the contending parties in some of these cases had resorted to force, they would, perhaps, never have realized how easily and honorably their differences might have been adjusted by reasonable methods.

Probably the most interesting and important of the arbitrations in which our country has been involved was that known as the Geneva Arbitration. The provisions under which it was formed are contained in the Treaty of Washington. The question to be decided was nominally one merely of money, but in reality much more than this lay beneath the surface of the discussion. Great Britain, by her conduct during the most trying period of the national history, had created general irritation among the people of the United States. She had sympathized almost openly with the rebellion, and had permitted her ports to be used for building and fitting out privateers. The commerce of the North had been driven from the seas, valuable property destroyed, and

material encouragement offered the States in rebellion. The sensitiveness with which this unfriendly action, and still more unfriendly inaction, on the part of Great Britain was regarded threatened to burst into open resentment. The circumstances were such as to make the efforts of the peace-maker equally delicate and difficult. It is to the credit of President Grant that, warrior as he was, he preferred this peaceful method of solving international questions to the lottery of war. His words do him great honor, and should be kept in lasting remembrance by his people: "Though I have been trained as a soldier, and have participated in many battles, there never was a time when, in my opinion, some way could not have been found to prevent the drawing of the sword. I look forward to an epoch when a court, recognized by all nations, will settle international differences instead of keeping large standing armies as they do in Europe."

To us of America the problem may seem easier than to any other nation in the world, because we have in permanent session a tribunal of arbitration which we call the Supreme Court of the United States. Sovereign States which have retained all of their sovereignty that was consistent with "a more perfect union" appear before that court and settle their differences, their boundaries, and their respective claims as easily, and acquiesce as readily in the result, as private individuals. Iowa sues Illinois\* much as A sues B — takes out process, procures depositions, submits points of fact and of law, and leaves the rest to the court. Making due allowance for the distinction between the jurisdiction of this national court, dealing with members of the Union, and a court sitting to decide the rights of independent nations, we may still claim that the analogy between the two is marked enough to deserve consideration.

In 1876, even the bitterness of a contested election could not startle our people from their propriety. They made a court to suit the emergency; both sides submitted arguments and proofs to the tribunal; they accepted the result, and gave one of the most triumphant examples in the history of the world of the extent to which a free people may forbear in accepting the forms of law for the preservation of peace.

\* See *Iowa vs. Illinois*, 147 U. S. Reports, p. 1.

But it is not only by instances of arbitration treaties that the United States have placed themselves upon record in favor of peace; they have sought to pave the way for the establishment of a system that would result in the avoidance of war. The idea was not a new one. As far back as the reign of Louis XIV. a simple abbé wrote a treatise which he called a "project of perpetual peace."\* It was his idea—we might call it his hobby—and he rode his hobby so hard that he ran recklessly into the premises of royal majesty, and was thrown out of the Academy for his pains. He was laughed at and ridiculed two hundred years. The rare friends who ventured to follow timidly in his footsteps were seldom taken seriously; they were looked upon as harmless optimists whose theories were as refreshing as their conduct was inoffensive. But today the friends of peace, as they called themselves, may be said to cover the globe. As a French publicist recently put it: Suppose that upon a given day, at the same hour, a *plebiscitum* should call upon two hundred and seventy millions of Europeans from the Ural to the Atlantic, and from the Baltic to the Mediterranean, and should ask them, do you want war? no one doubts that the answer would be a negative. And yet, if the next day a decree emanating from competent authority should say, march! in an instant these millions of men would fling aside their hoes, leave their homes, and rush forward, as if hypnotized, to destroy each other.†

To return to the United States and its efforts to establish a system of arbitration. As long ago as 1848 the Treaty of Guadalupe Hidalgo was made between the United States and Mexico, providing for arbitration as a general obligation on the part of the two countries. "If unhappily any disagreement should hereafter arise between the governments of the two republics, whether with respect to the interpretation of any stipulation in the treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of

peace and friendship in which the two countries are now placing themselves, using for this end mutual representations and specific negotiations. And if by these means they should not be enabled to come to some agreement, a resort shall not on this account be had to reprisals, aggression, or hostility of any kind by the one republic against the other until the government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborhood, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation."

Much more recently another great example was held out when the International American Conference was called. The result of long deliberations was the formulation of a proposed international treaty or plan of arbitration. This plan received the warm approval of President Harrison and of Mr. Blaine. It commences thus:

"The delegates from North, Central, and South America in conference assembled:

"Believing that war is the most costly, the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

"Believing that the growth of moral principle in the world has awakened a public opinion in favor of the amicable adjustment of all questions of international interest by the intervention of impartial counsel;

"Animated by a realization of the great moral and material benefits that peace offers to mankind, and that the existing condition of the several nations is especially propitious for the adoption of arbitration as a substitute for armed struggles;

"Believing that the American republics, sharing alike the principles, the obligations, and the responsibilities of popular constitutional government, and bound together by vast and increasing mutual interests, may, within their own circle, do much to establish peace on earth and good-will to men;

"And considering it their duty to declare their assent to the high principles which tradition has authorized, public reason supports, and the whole of mankind proclaims, in protection of the weak

\* The Abbé de Saint-Pierre.

† See a strong paper in *Le Correspondant* of June 10, 1893, by A. du Pradeix.

states, in honor of the strong, and to the benefit of all;

"Do solemnly recommend all the governments by which they are accredited to celebrate a uniform treaty of arbitration in the articles following."

President Harrison, in laying this proposition before Congress, gave it his unqualified and solemn endorsement. He said:

"I transmit herewith a letter from the Secretary of State, which is accompanied by three reports adopted by the Conference of American Nations, recently in session at Washington, relating to the subject of international arbitration. The ratification of the treaties contemplated by these reports will constitute one of the happiest and most hopeful incidents in the history of the Western Hemisphere."

Mr. Blaine, then Secretary of State, closed the proceedings in these eloquent terms:

"The extent and value of all that has been worthily achieved by your conference cannot be measured to-day. We stand too near it. Time will define and heighten the estimate of your work; experience will confirm our present faith; final results will be your vindication and your triumph.

"If in this closing hour the conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace, and to the prosperity which has peace for its foundation. We hold up this new *Magna Charta*, which abolishes war and substitutes arbitration between the American republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring, 'If in the spirit of peace the American Conference agrees upon a rule of arbitration which shall make war in this hemisphere wellnigh impossible, its sessions will prove one of the most important events in the history of the world.'"

All lovers of peace and advocates of arbitration will deplore the failure of this plan to receive the approval of Congress. In all that concerns the advancement of civilization and the benefit of mankind the United States should lead the world; and if this be really such an ad-

vance, let us hope that final consecration may soon be given the inchoate scheme.

It is proper to add that this advance on the highway that leads to peace is not confined to America. The same struggle against the prejudices of the past has been going on for many years in Europe. Kings rarely start upon their ventures of war without apology, and are gracious enough to make some demonstration of respect to the sentiment which provides against these destructive methods. Louis Napoleon had hardly been seated upon his uncle's throne when he captured the commercial and agricultural interests of the country by proclaiming that the Empire was peace. Before him Louis Philippe, who was indeed sincerely averse to war, proclaimed that Peace is the chief necessity of nations. And but a few months since the French Minister of War found leisure to say that the time has come when the voice of humanity should be substituted for that of cannon. He then returned to his other duties—that is, to multiply the men, guns, and the horses upon which he relied to insure peace.

Public men have officially come forward and joined hands to condemn war. The Parliamentary League, so called, is gaining constant acquisitions to its membership. Only five years ago forty members of the French and English parliaments came together in Paris as "friends of peace." The outlook was not encouraging. All Europe was, as it now is, armed to the teeth, and war seemed imminent. In October, 1891, the congress was held at Rome, and in four years the forty had reached fourteen hundred, all of them occupying a more or less conspicuous position in public life.\*

A still nearer approach than the United States Supreme Court to a permanent international tribunal is the Federal Court, which settles all disputes arising between the various cantons of Switzerland. These cantons, it will be remembered, are different in blood, customs, and jurisprudence. They are French, and governed by the French code; German, and governed by

\* It is curious to note the details that make up the composition of this association, which is known as the "Permanent Parliamentary Committee in favor of Arbitration and Peace." There are but twenty-eight German representatives, while Great Britain sends two hundred and forty. France is represented by one hundred and eighty-one, Italy by three hundred and fifty-seven, Austria by forty-two, etc.



the German law; or Italian, in which last named the legislation and jurisprudence of Italy have been followed. And yet for centuries these states have submitted their controversies to a court which may be traced back through various modifications to the fourteenth century. So near an approach to the great court which sits in the philosopher's dreamland must give encouragement to those who abhor war as a crime and deride it as an absurdity. Calvo\* claims that the Swiss system is a demonstration that the idea of a permanent tribunal for deciding controversies between people of different races is not the dream of a visionary, but quite practicable.

The latest instance of an arbitration between great nations is that at Paris between the United States and Great Britain. The question to be settled involved the right of the United States to protect its seal interests in the Bering Sea and the North Pacific Ocean. That the seals resort to the territory of the United States for the purpose of breeding and suckling was practically conceded; as was the further fact that unrestricted pelagic sealing (*i. e.*, killing at sea), being by its very nature indiscriminating, tends to exterminate the herd. Both parties conceded that this valuable race of animals is in danger of rapid extinction. The chief point of difference between the two nations arose out of the *claim of property* made by the United States and denied by Great Britain. This assertion and denial threatened to produce serious complications. The United States began by seizing the ships that were engaged in the depredations complained of, and in some instances caused them to be condemned under a statute prohibiting seal-killing at sea; but in view of the earnest protest and remonstrance of Great Britain it desisted from this summary course and consented to arbitration. What would have resulted from a persistent assertion of its rights by force, on the part of the United States, is of course a matter of conjecture. Mr. Phelps, Minister at the Court of St. James, was in favor of vigorous measures, and urged the continuation of the only course which, in his judgment, was consistent with self-respect. He felt and expressed entire confidence that Great Britain, knowing that she was in the wrong, would never go to war in defiance of the impregnable moral grounds on which the claims of the United States

were based. This view was entitled to special consideration, emanating as it did from a profound jurist who had also proved himself an exceptionally skilful diplomat. But there certainly was some danger that the seizure of British vessels in the open sea might lead to a disturbance of the friendly relations between the two great powers, and that danger was not to be incurred except under circumstances of exceptional gravity. War between two such powers would set the hand on the dial far back, and would deal a severe blow to those who longed for peace and good-will among men. If the two leading Anglo-Saxon nations cannot control their temper and their judgment, if they cannot settle their disputes by rational processes, where is the hope of the world?

This made the Bering Sea controversy, and its submission to arbitration, especially significant and important. In proportion as the causes of irritation are more marked, and the appeal to national pride more stirring, just in that proportion is arbitration more difficult to secure, and more satisfactory when secured. The lesson is worth much to the world when a nation refuses to draw its sword under real provocation, and trusts its cause to a tribunal of wise and just men.

How such a tribunal should be constituted has been much discussed by writers. The fashion of referring international controversies to sovereigns has lost favor, and naturally, for the sovereign delegates others, of his own selection, to do the work of studying and practically deciding the case. Dr. Francis Lieber expresses the opinion that the best tribunal is the law faculty of some foreign university, or a tribunal of jurists whose vast knowledge and unswerving fidelity to justice and to legal truth had earned them an international reputation. To such a court as is thus described the Bering Sea controversy was submitted. The United States claimed, with great confidence, that its cause was just; that it was based upon recognized principles of international law, upon sound rules of dealing as between nations, upon moral necessities long since admitted by the civilized world.

The decision of the High Tribunal in the Bering Sea controversy, while upholding the resistance of Great Britain to certain claims of exclusive right in the

\* Calvo, iii., 477.

Bering Sea, has framed such regulations as practically put an end to pelagic slaughter and its destructive results. The United States reap the substantial fruits of the controversy, which was only initiated to preserve and protect the race of seals.

Taking the arbitration as a whole, it must afford a singularly gratifying spectacle to the haters of war. Two great nations have entered into a friendly discussion before an enlightened court to settle a dispute which threatened to produce an armed conflict. The forms of law, precious to both nations, have been carefully observed by court and counsel; an earnest desire to bring out all the facts and all the arguments fairly to be based upon such facts has been apparent. The tribunal itself was admirably constituted. It was a *judicial* body, composed of jurists of fame deservedly bestowed. The indi-

rect results of this submission to peaceful methods must far outweigh in importance the immediate advantages which either party may claim to have received. When an honorable and satisfactory adjustment of international disputes is shown to be easy and economical by arbitration, war seems to be not only cruel but ridiculous.

Especial praise should be awarded to Baron de Courcel, the presiding officer of the court. His unvarying tact, his dignified and judicial bearing, his quick apprehension, and manifest anxiety to be just, entitle him to a high place in the respect of both nations. If it be true, as he himself expressed it, that "every international arbitration renders war less probable," he may well enjoy the satisfaction of knowing that he and his distinguished associates have made mankind their debtor.

## VORBEL.

BY ANNIE NATHAN MEYER.

TO Margaret Shipley, as she drew off her long gloves and placed the napkin upon her lap, there was a certain malicious satisfaction in John Renwick being by her side. On his right was a lady whose deafness would have barred her from dinners if it had not been for her husband, whose genial manners and entertaining stories made him indispensable; so it looked as if during a long dinner John Renwick could do nothing better than devote himself to his neighbor on the left. Margaret could see between the silver candelabra and the tall chrysanthemums a dainty figure in pure white chiffon, a very young person with a soft mass of pale brown hair, great gray eyes, and a telltale little mouth which drooped very considerably. Now to her, thought Margaret, this dinner is a dreadfully mismanaged affair, a bitter failure, a mere dull succession of undistinguishable courses. She had watched the lithe young figure bound up the stairs, fling aside its wraps, and hasten into the parlor, trembling and vibrating with an intensity of emotional life which Margaret with a sigh acknowledged to herself could never again be hers. The composed, stately Miss Shipley trailed her long black silk after the fluffy white chiffon, and she could see John Renwick bend over the radiant girl before he received his orders

to escort Miss Shipley to the dinner. The light was instantly quenched in the speaking gray eyes when he obediently offered his arm to Miss Shipley, murmuring some complimentary expression about the pleasure it afforded him, etc., etc. It would not have been John Renwick had he failed to do that.

Margaret ate her oysters savagely. "Little goose!" she thought; "doesn't she know he is not in earnest? Must she make herself miserable over the first pair of black eyes she meets?"

With the soup there came a change; her indignation was directed entirely against the man at her side. What right had he to flit about, season after season, from one *débutante* to another? What right had he to bend before the freshest bud just long enough to extract the first delicate perfume, and then hie away at the merest suggestion of the opened flower?

With the fish came an overwhelming compassion for the disconsolate little maid, stirring up in Margaret's breast a force of pent-up wrath against the indifferent cause of the suffering. Many things were brought back to Margaret as she watched the sad face before her, and yet it seemed impossible to realize that she herself had been just such a sensitive, fluttering bit of pink and white.