KLAS ARNOLDSON

PAX MUNDI

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Pax mundi / A concise account of the progress of the movement for peace / by means of arbitration, neutralization, international law / and disarmament:

Содержание

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PREFATORY NOTE

This little work, written by one who has long been known as a consistent and able advocate of the views herein maintained, has been translated by a lady who has already rendered great services to the cause, in the belief that it will be found useful by the increasing number of those who are interested in the movement for the substitution of Law for War in international affairs.

J.F.G.

INTRODUCTION TO THE ENGLISH EDITION

It is natural that the advocates of international Peace should sometimes grow discouraged and impatient through what they are tempted to consider the slow progress of their cause. Sudden outbursts of popular feeling, selfish plans for national aggrandisement, unremoved causes of antipathy between neighbours, lead them to overlook the general tendency of circumstances and opinions which, when it is regarded on a large scale, is sufficient to justify their loftiest hopes. It is this general tendency of thought and fact, corresponding to the maturer growth of peoples, which brings to us the certain assurance that the Angelic Hymn which welcomed the Birth of Christ advances, slowly it may be as men count slowness, but at least unmistakably, towards fulfilment. There are pauses and interruptions in the movement; but, on the whole, no one who patiently regards the course of human history can doubt that we are drawing nearer from generation to generation to a practical sense of that brotherhood and that solidarity of men – both words are necessary – which find their foundation and their crown in the message of the Gospel.

Under this aspect the Essay of Mr. Arnoldson is of great value, as giving a calm and comprehensive view of the progress of the

course of Peace during the last century, and of the influences which are likely to accelerate its progress in the near future.

Mr. Arnoldson, who, as a member of the Swedish Parliament, is a practical statesman, indulges in no illusions. The fulness with which he dwells on the political problems of Scandinavia shows that he is not inclined to forget practical questions under the attraction of splendid theories. He marks the chief dangers which threaten the peace of Europe, without the least sign of dissembling their gravity. And looking steadily upon them, he remains bold in hope; for confidence in a great cause does not come from disregarding or disparaging the difficulties by which it is beset, but from the reasonable conviction that there are forces at work which are adequate to overcome them.

We believe that it is so in the case of a policy of Peace; and the facts to which Mr. Arnoldson directs attention amply justify the belief. It is of great significance that since 1794 there have been "at least sixty-seven instances in which disputes of a menacing character have been averted by arbitration"; and perhaps the unquestioning acceptance by England of the Genevan award will hereafter be reckoned as one of her noblest services to the world. It is no less important that since the principle of arbitration was solemnly recognised by the Congress of Paris in 1856, arbitral clauses have been introduced into many treaties, while the question of establishing a universal system of international arbitration has been entertained and discussed sympathetically by many parliaments.

At the same time Mr. Arnoldson justly insists on the steady increase of the power of neutrals. Without accepting the possibility of "a Neutral League," he points out how a necessary regard to the interests of neutrals restrains the powers which are meditating war. And I cannot but believe that he is right when he suggests that the problems of the neutralization of Scandinavia, of Alsace and Lorraine, of the Balkan States, of the Bosphorus and Dardanelles, demand the attention of all who seek to hasten "the coming peace."

It would be easy to overrate the direct value of these facts; but their value as signs of the direction in which public opinion is rapidly moving can hardly be overrated. They are symptoms of a growing recognition of the obligations of man to man, and of people to people, of our common human interests and of our universal interdependence.

I should not lay great stress on the deterrent power of the prospect of the ruinous losses and desolations likely to follow from future wars. A great principle might well demand from a nation great sacrifices; and the very strength of a policy of Peace lies in the postponement of material interests to human duties. But none the less the wide expansion of commercial and social intercourse, joint enterprises, even rivalries not always ungenerous, exercise a salutary influence upon the feeling of nation for nation, and make what were once regarded as natural animosities no longer possible.

Under the action of these forces we are learning more and

more to endeavour to regard debated questions from the point of sight of our adversaries, to take account of their reasonable aspirations, to make allowance for their difficulties, even to consider how they can best render their appropriate service to the race, while we strive no less resolutely to keep or to secure the power of fulfilling our own. We could not regard our enemies as our grandfathers regarded theirs. Already the conviction begins to make itself felt that the loss of one people is the loss of all.

Meanwhile the growth of popular power and popular responsibility brings a wider and more collective judgment to bear upon national questions. The masses of peoples have more in common than their leaders, among whom individual character has fuller development. The average opinion of men, when the facts are set forth, responds to pleas of fellowship and righteousness, and tends to become dominant.

Such influences in favour of international Peace spring out of steady movements which, as they continue, will increase them. The past does not limit their power, but simply reveals the line of their action. Above all, they correspond with that view of our Christian faith which the Holy Spirit is disclosing to us by means of the trials of our age. Through many sorrows and many disappointments we are learning that the fact of the Incarnation assures to us the unity of men and classes and nations; and a wider study of history, which is now possible, shows that the course of events makes for the establishment of that unity for which we were created.

I cannot therefore but hope that the Essay of Mr. Arnoldson, which gives substantial evidence of the reality and growth of this movement towards Peace, will confirm in courageous and patient labour for an assured end all who join in the prayer that it may please God "to give to all nations unity, peace, and concord."

B.F. Dunelm.

Auckland Castle,
October 14th, 1891.

INTRODUCTION

It was the small beginning of a great matter when, on December 22nd, 1620, a hundred Puritans landed from the ship *Mayflower* upon the rocky shore of the New World, having, during the voyage, signed a constitution to be observed by the colonists.

These pious pilgrims were guided by the conception of religious freedom which should construct for them there a new kingdom. They had, say the annalists of the colony, crossed the world's sea and had reached their goal; but no friend came forth to meet them; no house offered them shelter. And it was mid-winter. Those who know that distant clime, know how bitter are the winters and how dangerous the storms which at that season ravage the coast. It were bad enough in similar circumstances to travel in a well-known region; but how much worse when it is a question of seeking to settle on an entirely unknown shore.

They saw around them only a bare, cheerless country, filled with wild animals and inhabited by men of questionable disposition and in unknown numbers. The country was frozen and overgrown with woods and thickets. The whole aspect was wild; and behind them lay the measureless ocean, which severed them from the civilized world. Comfort and hope were to be found only in turning their gaze heavenward.

That they did conquer that ungrateful land and open the way

for the boundless stream of immigration which for wellnigh three centuries has unceasingly poured in, must find its explanation in the faith that upheld their ways amid the dangers of the wilderness, amid the hunger, cold, and all manner of disheartening things, and gave them that power which removed mountains and made the desert bloom.

These Puritans, strong in faith, were the founders of the New World's greatness; and their spirit spoke out to the Old World in the greeting with which the President of the United States consecrated the first transatlantic telegraph cable in 1866: —

"Glory be to God in the highest, and on earth peace, goodwill to men."

When this message came to us, the roar of cannon was but newly hushed, and the man of "blood and iron" had victoriously set his foot upon one of Europe's great powers; the same Austria which since then has, by the Triple Alliance, united its warlike strength with Germany.

But that message has not been an unheeded sound to all; especially to those whose warning voices the people never listen to before the misfortune falls, but who are always justified after it has struck. Yes! perchance in the near future it may again appeal to their reason, and find a hearing only when Europe has fallen into untold miseries after another war.

While menacing forebodings of this long expected war were spreading in the summer of 1887 through various parts of our continent, a little company of courageous men, strong in faith,

like the pious pilgrims of the *Mayflower*, gathered together for the voyage across the sea to the New World, there to lay the foundation of a lasting work for peace.

Their first object was to present to the President of the United States and to Congress an address aiming at the establishment of a Court of Arbitration, qualified to deal with disputes which might arise between Great Britain and the United States of North America. In that address, signed by 270 Members of the British Parliament, allusion was made to the resolutions on peace which from time to time had been brought into Congress; and those who undersigned it declared themselves ready to bring all their influence to bear in inducing the Government of Great Britain to accept the proposition which should come from the Congress. Amongst those who signed it were, besides many distinguished Members of the House of Commons, several peers, including some of the bishops.

The address was presented to President Cleveland on October 31st, by a deputation of twelve Members of Parliament, whose spokesman, Mr. Andrew Carnegie, in his introductory speech, said: "Few events in the world's history would rank with the making of such a treaty. Perhaps only two in our own country's history could fitly be compared with it. Washington's administration established the republic; Lincoln's administration abolished human slavery. We fondly hope, sir, that it may be reserved for yours to conclude a treaty not only with the government of the other great English-speaking nation, but with

other lands as well, which shall henceforth and for ever secure to those nations the blessings of mutual peace and goodwill. The conclusion of such a treaty will have done much to remove from humanity its greatest stain – the killing of man by man. And we venture to hope, that if the two great nations here represented set such an example, other nations may be induced to follow it, and war be thus ultimately banished from the face of the earth."

In the President's favourable answer he mentioned that no nation in its moral and material development could show more victories in the domain of peace than the American; and it appeared to him that the land which had produced such proofs of the blessings of peace, and therefore need not fear being accused of weakness, must be in a specially favourable position to listen to a proposal like the present; wherefore he received it with pleasure and satisfaction.

A week later, Nov. 8th, the son-in-law of Queen Victoria, the Marquis of Lorne, presided over a great meeting in London, at which many eminent men were present. The chairman emphatically remarked in his speech, that the settlement of international disputes by a Court of Arbitration has the advantage that, through the delay which is necessary, the first excitement has time to cool. The meeting declared itself unanimously in favour of the proposed memorial. Thereupon followed many similar expressions of opinion in England, whilst simultaneously in twenty of the largest cities of North America mass meetings were held, which with unanimous enthusiasm gave adhesion to

the cause, and petitions of the same character flowed in to the President and Congress from the various parts of the great republic.

Encouraged by these preparatory movements amongst the two great English-speaking peoples, M. Frédéric Passy, with other Members of the Legislative Assembly of France, placed himself at the head of a movement to petition the French Government, requesting that it should conclude an Arbitration Treaty with the United States.

Such a memorial, bearing the signatures of 112 deputies and 16 senators, was received with much interest by the President.

On April 21st, 1888, Passy and forty-four other deputies moved a resolution in the Chamber to the same effect; and the idea has been carried forward in many ways since then, especially by a petition to the President of the United States from three International Congresses held in Paris, June 23rd-30th, 1889.

ARBITRATION

Should these efforts lead in the near future to the intended result, International Law would thereby have made an important progress.

It can no longer be denied that International Law does actually exist; but we undervalue its significance because we are impatient. We do not notice the advances it has made because they have been small; but they have been numerous; and slowly, step by step, international jurisprudence has progressed. This affects not only the awakening sense of justice and acknowledged principles, but also their application, which from the days of Hugo Grotius, 250 years ago, down to Martens, Bluntschli, Calvo, and other most distinguished jurists of our day, has been the subject of great scholarly activity, by means of which the various regulations of jurisprudence have little by little been pieced together into a foundation and substance of universally accepted law.

What has been most generally done to gain the object in view has been the Insertion of Arbitral Clauses in treaties which were being concluded or had already been concluded in reference to other questions. In this direction Signor Mancini of Italy has been especially active. As during the time he was Minister of Foreign Affairs he had the concluding of a great number of treaties between Italy and other countries, he made use of the

opportunity to insert into almost all – in nineteen instances[1]– an arbitral clause.

We have examples of treaties with such clauses in the commercial treaty between Italy and England, 1883; Norway, Sweden, and Spain, by a supplement in 1887; also England and Greece, 1886. According to the first two agreements, all disputes about the right understanding of the treaties shall be settled by arbitration, as soon as it becomes apparent that it is vain to hope for a friendly arrangement. In the Greco-English treaty it is further stipulated that all disputes which directly or indirectly may arise in consequence of that treaty always shall, if they cannot be amicably arranged, be referred to a committee of arbitration, which shall be nominated by each party with a like number of members; also that if this committee cannot agree, there shall be appointed a tribunal of arbitration, whose decision both nations bind themselves to accept.

The idea of concluding distinct Treaties of Arbitration, or of giving a widely extended range to arbitral clauses, so that they should affect the whole relation of the contracting parties to one another, is comparatively new.

So far as I know, Mr. William Jay was the first who in modern times advocated this idea, in a work which came out in New York in 1842, and in which he proposed: that in the next treaty between, for example, the United States and France, it should

[1] Mazzoleni, in his "L'Italia nel movimento per la Pace," gives twenty instances. See pp. 58, 59. trans.

be stated that in case any dispute should arise between the two nations, not only in respect of the interpretation of that treaty, but also in respect of any other subject whatever, the dispute should be settled by means of an arbitration by one or more friendly powers.

A similar proposition was presented to Lord Clarendon in 1853. By sending a deputation to the plenipotentiaries at the Congress at Paris in 1856, the English "Peace Society" succeeded in inducing them to introduce into, one of the protocols a solemn recognition of the principle of Arbitration. In the name of their governments they expressed the wish that the states between which any serious misunderstanding should arise, should, as far as circumstances permitted, submit the question to the arbitration of a friendly power before resorting to arms. This proposition, which was unanimously adopted, was made by Lord Clarendon, the representative of England, and supported by the emissaries of France, Prussia, and Italy, – Walewsky, Manteufel, and Cavour.

But the first movement in favour of independent Treaties of Arbitration came up in a petition in 1847, from the English Peace Society to Parliament.

The next year this subject was discussed in the Peace Congress at Brussels.

A few months later, Cobden brought forward in the House of Commons an address to the Government, with the request that the Minister of Foreign Affairs should be charged to

invite foreign powers to enter into treaties with this object. The proposal was in the beginning received with astonishment and scorn; but called forth later an earnest and important debate.

About six years later, Henry Richard drew the attention of many influential members of the American Congress to the relations which were felt to be favourable for trying to arrange a treaty of arbitration between Great Britain and the United States. American statesmen, less bound by the old traditions of European diplomacy would, it was thought, be able with greater freedom to attempt such a novelty. The replies to this application were very favourable and encouraging, and in various ways since then attempts have been made to realize the idea.

In many Parliaments from time to time propositions in this direction have been brought forward and approved.

On July 8th, 1873, Henry Richard brought before the English Parliament a proposition requesting the Government to invite negotiation with foreign powers for creating a universal and well-established international system of arbitration. The then Prime Minister, Gladstone, expressed himself as favourable to, the proposal, but advised its being withdrawn. Richard, nevertheless, persisted that it should be dealt with, and obtained the remarkable result, that it was carried with a majority of ten.

This example was followed by the Italian Chamber of Deputies, Nov. 24th of the same year; and again on July 12th, 1890;[2] by the States General of Holland, Nov. 27th, 1874; by

[2] On a motion by Ruggiero Bonghi, supported by Crispi in a speech in which he said

the Belgian Chamber of Representatives, Dec. 19th, 1875; and shortly after by the Senate of the United States of America, and Congress also, June 17th, 1874; and April 4th, 1890.

The last-named resolution of Congress had been accepted by the Senate, Feb. 15th of the same year, being recommended by the Committee on Foreign Affairs, and runs thus: —

> The President be, and is hereby requested to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to the end that any difficulties or disputes arising between them, which cannot be adjusted by diplomatic agency, may be referred to arbitration, and be peaceably adjusted by such means.

On May 9th, 1890, Don Arturo de Marcoartu moved in the Spanish Senate that the Spanish Government should enter into relations with other European powers to bring about a permanent tribunal of arbitration in Europe. In the first place, the mover proposed that the states should come to an agreement upon a general truce for five years. In that interval a congress of emissaries from all the European Governments and Parliaments should be called together. The business of the congress should be to work out a code of international law. The proposition was urged, especially with regard to the necessity of finding a reasonable solution of the great social question, since all effort in that direction appears to be hopeless so long as the savings of the

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that the future depended upon a European tribunal of arbitration.

nations are swallowed up by military expenditure. The Minister of Foreign Affairs requested the Senate to take the proposition into serious consideration, and on June 14th the Senate resolved to authorize the Government to enter into negotiations with foreign powers for the object indicated.

Neither are the Scandinavian Parliaments unaffected by this movement.

As far back as 1869 the question of arbitration was mooted in the Swedish Parliament by Jonas Jonassen. In 1874 he proposed in the second chamber that Parliament should submit to the King "that it would behove his majesty on all occasions that might present themselves to support the negotiations which foreign powers might open with Sweden or with each other with reference to the creation of a tribunal of arbitration for the solving of international disputes." The committee which dealt with the proposition advised its acceptance. The Lower House passed it, March 21st, by seventy-one votes against sixty-four; but the Upper House rejected it.

The miserable dealing of the Parliament of 1890 with the question I shall have occasion to refer to further on.

In the same year, the question made surprising advance in Norway. On March 5th the Storting voted on the motion of Ullmann and many others, by eighty-nine votes against twenty-four, an address to the King, which begins thus: —

> "The Storting hereby respectfully approaches your Majesty, with the request that your Majesty will make use

> of the authority given by the constitution in seeking to enter into agreements with foreign powers, for the settling by arbitration of disputes which may arise between Norway and those powers."

And concludes with these words: —

> "In the full assurance that what the Storting here requests will be an unqualified benefit to our people, it is hereby submitted that your Majesty should take the necessary steps indicated."

A similar resolution was very near being voted by the Danish Folketing in 1875. The proposition as brought forward was, May 13th, unanimously recommended by the committee in charge, but on account of the dissolution of the House two days later, could not be acted upon.

Several years ago a petition was circulated in the various districts of Denmark, by which Parliament was urged to co-operate as early as possible in bringing about a permanent Scandinavian treaty of arbitration.

In such a treaty, binding in the first instance for thirty years, the petition affirms that the three northern kingdoms will have an efficient moral support when there is occasion to withstand the efforts of the great powers to entice or to threaten any of them to take part in war as allies on one side or the other. Such a treaty will, therefore, in great measure serve to preserve the neutrality of the northern kingdoms, and thereby their lasting independence.

This petition was dealt with in the Folketing, March 27th, 1888. After a short discussion, the following motion of F. Bajer was passed by fifty votes against sixteen.

> "Since the Folketing agrees with the wish expressed in the petition, provided it is shared by the other States without whom it cannot be carried out, the House passes on to the order of the day."

In his little paper: *On the Prevention of War by Arbitration*, F. Bajer writes:

> "It may certainly be granted, that a little State like Denmark cannot well work at the creation of a European tribunal of arbitration, so far as that means setting itself at the head of a movement for inviting the other European States to a Congress by which its creation shall be adopted.
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> "But a little State like Denmark can always do something in the direction of arbitration between States. It can bring the matter a practical step forward by applying first to the other small States, especially to the neighbour States of Sweden and Norway, and proposing to them that mutual disputes shall in future, as far as possible, be settled by arbitration when other means have failed. The relations between the three northern kingdoms are indeed now so friendly that a war between them can hardly be thought of for a moment. But – as was said in confirmation of the resolution in the first northern Peace Meeting, respecting a permanent arbitration treaty between the three kingdoms – they have carried on many bloody internecine wars, which

have only benefited their powerful neighbours, but have been in the highest degree injurious to themselves; and the possibility of war between the three northern kingdoms is not excluded so long as they are not simultaneously neutralized, or in some other way engaged to carry out a common foreign policy. It is no longer ago than 1873 that the so-called "pilots' war" in Oeresund caused much bad blood among relatives on both sides of the sound. That that was settled authoritatively by the mutual declaration of the 14th of August is due to circumstances on whose continuance for the future it is not possible to reckon. Had a strained relation at the same time obtained between one or more of the great powers within or without the Baltic ports, and had these endeavoured to sow discord between the coast powers, that they might fish in the troubled waters, and feather their own nests by getting these small states as their allies; and if one power had got Denmark, but its enemy got Sweden-Norway as an ally – a new northern fratricidal war would have broken out. Even if such a future possibility cannot be entirely eradicated by a mutual arbitration treaty amongst the northern nations, a new guarantee for peace would be secured." (Bluntschli's expression.) "For the small northern kingdoms would by such a treaty acquire an excellent moral support when it came to withstanding the attempt of the great powers to entice or threaten them into taking part in wars as their allies. Such a participation is always a dangerous game, because, as history shows, the small States lose rather than gain. The small States are used as counters for the great ones to play with."

At this point we may remark, that as far back as 1848, the same year that the Peace Congress was held in Brussels, Feb. 2nd, a treaty (the Guadaloupe-Hidalgo Treaty) was concluded between the United States of America and Mexico, containing a clause that a committee of arbitration shall settle, not only such differences as may arise directly concerning that treaty, but also shall, as the highest authority, adjudicate as far as possible all disputes which may arise between the high contracting States.[3]

Switzerland concluded, July 20th, 1864, a similar treaty with the Hawaian Islands, and on October 30th with San Salvador.[4]

Siam, whose monarch has given many proofs of sympathy for Oskar II., concluded a similar treaty, May 18th, 1868, with the United Kingdoms, and also with Belgium, Aug. 29th of the same year.[5] The Central and South American Republics, Honduras, and the United States of Colombia did the same when on April 10th, 1882, they signed an arbitration treaty between themselves.[6]

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[3] See Martens' "Nouveau recueil général," xiv. p. 32 (art xxi.), and Calvo, "Droit International," II., § 1499.

[4] According to a Manuscript by President Louis Ruchonnet, addressed to F. Bajer.

[5] See "Svensk förfaltningssamling," 1869, No. 74, page 26, and "Lois Beiges," 1869, No. 36, § 24. In the Swedish-Siamese treaty, art. 25, it is stated: "Should any disagreement arise between the contracting parties which cannot be arranged by friendly diplomatic negotiation or correspondence, the question shall be referred for solution to a friendly neutral power, mutually chosen, whose decision the contracting powers shall accept as final." Similar agreements are to be concluded between Italy and Switzerland, Spain and Uruguay, Spain and Hawaii, and between France and Ecuador.

[6] The Treaty is given word for word in the *Herald of Peace*, July, 1883.

Since that time this vigorous idea has grown into the Central and South American Arbitration League, and is now making good way towards being applied to the whole of America.

The question now is, whether the value of peace treaties, in general or in particular, which are established between mutually distant small States can be estimated as highly as the good intention of their creation, which is habitually acknowledged to be good? Are they something to be depended upon? Will they be carried into effect?

That depends in the first place upon what is meant by peace treaties.

If reference is made to certain international settlements which the conquered, with hatred in their hearts, bleeding, upon their knees were forced to accept, we may at once grant that they imply no security for peace, but, on the contrary, are a fresh source of warlike complications.

Thus, for example, the conclusion of peace which France was forced to sign at Versailles, Feb. 26th, 1871, and by which Alsace-Lorraine was torn from France, became a volcano which now for nineteen years has held the nations in suspense and unrest, and still threatens to ruin Europe.

Neither would it be advisable to set much store on such obligations as the Western Powers undertook in the agreement which goes by the name of the November Treaty, to help us to defend the northern part of our peninsula against Russia; because a guaranteed neutrality implies in reality more danger

than safety, if the guarantee is not mutual; that is, in this instance, if our eastern neighbour is not included in the guarantee; which is so far from being the case that the treaty, on the contrary, is a source of menace and distrust to him.[7]

With respect to certain treaties of alliance, whose object is to collect the greatest possible number of bayonets as a mutual security against other powers, who, on their side, seek to protect themselves by uniting their forces, nobody can see in them anything else than a guarantee for an armed peace, which, by the necessity of its nature, leads to war.

If, on the contrary, by peace treaties are meant such international contracts as are not written in blood; such as relate to trade and commerce, industry, art, science and so on, it would be in vain to seek for a single instance of the breach of contract, either on the side of the weaker or the stronger.

Neither can any example in our time be pointed to of open violation of the rights of a small country in its quality of an independent State, as long as these rights have stood under the mutual guarantee of the great powers.

As evidence to the contrary, the London treaty of May

[7] In this treaty, which was concluded at Stockholm, Nov. 21st, 1855, the King of Norway and Sweden bound himself not to resign to Russia, or to barter with her, or otherwise allow her to possess, any portion of the territory of the united kingdoms, nor to grant to Russia right of pasture or fishery, or any similar rights, either on the coast of Norway or Sweden. Any Russian proposal which might be made under this head must be made directly to France or England, who then by sea and land must support us by their military power. A glorious contrast to the declaration of neutrality, Dec. 15th, 1853!

8th, 1853, has been adduced, which was intended to secure Denmark's neutrality; the Treaty of Paris, April 14th, 1856, respecting the Black Sea; and the fifth article of the Peace of Prague in 1866. But here the fault lies in a misunderstanding.

What the Treaty of London established was not the indivisibility of Denmark, but of the Dano-German monarchy. The German territory was to be fast linked to the Danish. This was admitted, as a principle, by the treaty to be fitting and right, but the treaty contained no trace of stipulations as to guarantee.

With respect to Russia's breach of treaty of the stipulations as to her banishment from the Black Sea as a military power,[8] it must be remembered that the representatives of the powers, and of Russia also, on January 17th, 1871, signed a protocol, whereby it was settled as an essential axiom in international law, that no power can absolve itself from the obligations which are entered into by treaty without the consent of the contracting parties. Therefore Russia openly acknowledged that her declaration of not choosing to abide by the injunctions stipulated for in the Treaty of Paris respecting the Black Sea, was precipitate, and that, consequently, the treaty was permanently in force until it was formally abrogated. This took place in the new treaty of March 3rd, of the same year. Besides, here comes in what was said above about the value of such treaties as are concluded

[8] Conquered Russia had to bind herself, at the conclusion of peace, not to keep war ships in the Black Sea, not to have any haven for war ships on her coasts. Stipulations which were perceived by all thinking men at the time to be untenable in the long run.

after brute force has determined the issue. And this not only was the case in the Black Sea stipulations, but also with respect to the unfulfilled promises of article 5 of the Treaty of Prague, whereby the Danish people was to be given the opportunity for a plebiscite in determining upon their reunion with Denmark. As to the peace treaties between the lesser States, which certainly have important trade relations one with another, but which, on account of their mutually distant position, cannot reasonably be expected to go to war with each other, it is true that one cannot in general attribute any special importance to them. Nothing is gained by over-estimating their value. But they deserve to be brought forward as enrichments of international law and guide-posts for other States. And that the small States need not wait until the great ones are ready to unite appears just as much in accordance with the nature of the case as with the interests of their own well-being.

Calvo, undeniably the first authority in these matters, emphasizes as a significant fact, that no single example can be pointed to in which States, after their mutual disputes have been referred to the consideration or judgment of arbitrators, have sought to *withdraw from the operation* of the decision. And according to Henry Richard and other authorities, by allowing international questions to be settled by arbitration, at least in sixty-seven instances, disputes of a menacing character have been averted.

I shall not here give a detailed account of all these instances,

but only with the greatest conciseness refer to some of them.

In 1794 a contest between England and the United States of America respecting St. Croix river was settled by arbitration; in 1803 France was in the same way condemned to pay 18 million francs to the United States of America for unlawful seizure of vessels; in 1818 a threatening dispute between Spain and the United States of America was settled by arbitration, and a contention between these and England was arranged by the Emperor of Russia, who was chosen as arbitrator, etc.

The best known of such disputes was the so-called Alabama question, which threatened a desolating world-war. This affair sprang out of the North American civil war 1861-65. The Southern States had privateers built in England, among which the *Alabama* especially wrought great mischief to the Northerners. The Government of the Union considered that England had broken her neutrality in allowing the equipment of the privateer, and requested compensation.

A bitter feeling grew up and war appeared inevitable. But on January 24th, 1869, an agreement was happily entered into, which, with fresh negotiations, led to the Washington treaty, May 8th, 1871. In harmony with this the dispute was referred for settlement to a Court of Arbitration consisting of five members, of which England and the United States each chose one, and the neutral states of Italy, Switzerland, and Brazil, likewise each chose one. These five met on December 15th, 1871, as a tribunal of arbitration, at Geneva, and delivered their judgment

on September 14th following (four votes against England's one), that the English Government had made a breach in its duty as a neutral power with respect to some of the privateers under consideration, and therefore England would have to pay an indemnity of 15½ million dollars to the United States.[9]

England bowed to the award and fulfilled her duty.

In the same way the powerful insular kingdom voluntarily submitted to settlement in the weary contention regarding the possession of Delagoa Bay and the surrounding region on the east coast of Africa. The dispute was entrusted for settlement, in 1874, to the President of the French Republic, MacMahon, and he decided in July, 1875, in favour of Portugal. That the new contention between these two States, which for some time now has excited an inflammable spirit, not only in Portugal, but in other countries as well, will be arranged in the same friendly manner, there is but little doubt.

The claim of Portugal is much older than that of England. Its special ground is the discovery of the coast which was made by Portuguese mariners three hundred years ago. The Portuguese urge, that since the coast is theirs, they have a right to go as far inland as they choose and place the country thus entered under their dominion. They say further, that they have made a treaty with a native ruler over a kingdom which stretches far inland, and that ruined fortresses are still to be found which show that they

[9] £3,196,874 were received by Sec. Fish, Sept. 9th, 1873. See Haydn's "Dictionary of Dates."

once had this distant region in possession. To this assertion Lord Salisbury answers, that where ruined fortresses are found they only testify to fallen dominion. The English Government could not recognise Portugal's construction of the contested question; according to that construction the question would virtually turn upon the possession of Shireland and Mashonaland (the inland country north and south of the Zambesi). It denied Portugal's claim to this territory as so entirely groundless that it could not enter into such a question; but has on the other hand made a peremptory claim, arising from Portugal's violence towards the natives who are under England's protection, for dishonour to the English flag, and for other international offences, etc.

The right of possession of the regions in question can no longer be regarded as doubtful, since Portugal had set aside the general international axiom, that the claim for possession according to colonial usage can only be held valid when colonization is actually carried out to the furtherance of civilization and public safety. Portugal's assertion that the signatories of the Congo Act would be the right adjudicators of the question was denied, upon the ground that Portugal had delayed to make her claim valid when Nyassaland was declared to belong to the sphere of England's interests. On July 1st, 1889, the Under-secretary, Sir James Fergusson, in the Lower House, explained that the Portuguese Government had been informed that they would be held answerable for all loss which Englishmen might suffer by the annulling of the Delagoa railway convention.

The same day Lord Salisbury informed the Upper House that the English Government would send three war-ships to Delagoa Bay, to be ready in case of need. Portugal's conduct was, in his opinion, unjustifiable.

Then came the noble lord's ultimatum, with the demand that Portugal should recall all Portuguese officers and troops from the territory which stands under the sovereignty of England or lies within the sphere of England's interests, and give an answer within twenty-four hours; otherwise England would be compelled to break off her relations with Portugal. This threatening manner of procedure, by which a weaker nation was humbled by superior power, roused bad blood in Portugal and was sharply censured in many parts of Europe; yes, even in England, and in Parliament, in the press, and at many great public meetings. At one of these meetings, composed of 700 workmen delegates from various parts of England and 130 Members of Parliament, in quality of vice-presidents, it was unanimously resolved to protest against Lord Salisbury's conduct as at variance with the dignity of the British nation; and to request that the dispute should be settled by arbitration – so much the rather, as the more certain one is of being in the right, the more confidently can one's cause be placed in the hands of an impartial tribunal. Later on the English Government, together with the North American virtually resolved on this expedient for solving, the difficulties relating to Delagoa Bay. Portugal made difficulties and delays, but at length declared herself willing to

enter into a proposal for arbitration.[10] All three States were now united in asking the Government of Switzerland to choose three of her most distinguished jurist officials as arbitration judges.

At the time when the first Anglo-Portuguese contest was settled by the President of the French Republic there occurred a second example of both importance and interest. For many years there had been a menacing boundary dispute between Italy and Switzerland, just a little seed of quarrel, such as formerly always broke out into bloody strife, since according to the traditions of national honour not an inch of a patch of ground must be given up except at the sword's point. But the two kingdoms decided to commend the case to an arbitrator, viz., the United States minister in Rome, P. Marsh, who, after a careful study of the claims of the contending parties, declared judgment in favour of Italy, and so the contention was adjusted.

Two dangerous disputes, which in 1874-75 and 1880 threatened an outbreak of war between China and Japan, but were happily solved by arbitration, might be named, but for fear of being prolix I dare not go more particularly into them, instructive as they are.

The first arose as a result of a murder of some Japanese on the island of Formosa, and was settled by the English minister in Pekin, who was chosen by both parties as arbitrator, who decided that China should give Japan in redress a large sum of money,

[10] *The Arbitrator*, 1890, April.

which was done.[11]

The second of these disputes concerned the sovereignty of the Liu Kiu Islands, and was adjusted by a compromise brought about by ex-president Grant, who in a conversation with the Chinese Minister uttered these memorable words: "An arbitration between two nations will never satisfy both nations alike; but it always satisfies the conscience of humanity."[12]

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[11] The Japanese Government demanded redress, which was at first refused by China. This led to a stormy correspondence, which at last became so bitter that both sides prepared for war. The Japanese troops had already taken possession of Formosa. During this dangerous juncture, the British minister in Pekin, Sir Thomas Wade, offered to mediate as an arbiter. The offer was accepted, and led to an agreement between the Chinese Government and the Japanese ambassador in Pekin, by which China was to pay Japan 50,000 taels, and the Japanese troops were to evacuate Formosa. When Lord Derby, who was at that time Foreign Secretary of Great Britain, received a telegram from Sir Thomas Wade respecting this happy result, he answered him: "It is a great pleasure to me to present to you the expression of the high esteem with which her Majesty's Government regards you for the service you have rendered in thus peaceably adjusting a dispute which otherwise might have had unhappy consequences, especially to the two countries concerned, but also for the interests of Great Britain and other parties to treaties." Sir Harry Parkes, the English minister in Japan, wrote to Lord Derby, that the Mikado, the Emperor of that land, had invited him to an interview for the purpose of expressing his satisfaction at the result, and through him to present his warm thanks for his brave and efficient service. The Japanese minister in London also called upon Lord Derby and expressed the thanks of his Government to Mr. Wade. "He could assure me," said Lord Derby, when he repeated the words of his excellency, "that the service which has thus been rendered will remain in grateful remembrance among his countrymen."

[12] This dispute had assumed quite a serious and menacing character when the ex-president Grant, on his journey round the world, came to China. When his arrival became known, the Chinese prince, Kung, submitted to him that he should use his great influence in mediating between the two countries. A specially interesting conversation

Not to be tedious, I pass over here many other remarkable instances in which war and lesser misfortunes have been averted by arbitration; and will now name further only some of the latest date.

In 1887 a lengthened dispute about boundaries between Chili and the Argentine Republic was adjusted by arbitration, through the mediation of the United States Ministers in the two countries. After a complete and precise fixing of the boundary line, an agreement was added: That the Straits of Magellan shall for ever be neutralized; free passage shall be secured to ships of all nations, and the erection of forts or other military works on either of its shores shall be forbidden.

Fresh in the memory is the passionate quarrel between Spain and Germany about the Caroline Islands. That was submitted, on Prince Bismarck's proposal, to Pope Leo XIII. for settlement, and was adjusted by him.

Most people now living remember the Afghanistan boundary

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followed: "We have," said Prince Kung, "studied international law as it is set forth by English and American authors, whose works are translated into Chinese. If any value is to be set upon principles of international right, as set forth by the authors of your nation, the doing away with the independence of the Liu Kiu Islands is an injustice." Grant reminded him that he was there only as a private individual, but added, "It would be a true joy to me if my advice or efforts could be the means of preserving peace, especially between two nations for whom I cherish such interest as for China and Japan." Immediately afterwards he returned to Tokio, the capital of Japan, called upon the Emperor and his Minister, and advocated a peaceable settlement of the dispute. He wrote to Prince Kung the result of his mediation, and produced a scheme for a Court of Arbitration.

question, which was happily solved by the friendliness on both sides of the Russian and English Governments. The whole world followed for a while that dispute with anxiety and disquietude. The press unhappily, as usual, employed its influence in stirring up the national passions in both countries. But before it had gone too far, fortunately the feelings were quieted by the public being reminded that both England and Russia had taken part in the resolution of the Paris Congress, which declared that when any serious dispute arose between any of the contracting powers, it should be referred to the mediation of a friendly power. Upon this ground the English Government proposed to the Russian that the "dispute should be referred to the ruler of a friendly State, to be adjusted in a manner consistent with the dignity of both lands." This proposal was accepted, but did not come into practice. It was not needed. The Afghanistan boundary commission itself carried out its duties to a successful issue.

Still later many smaller international disputes have been solved by arbitration; for instance: —

Between Italy and Colombia in South America, respecting Italian subjects who had suffered loss through the last revolution in Colombia, in which Spain as arbitrator decided in favour of Italy.

Between Brazil and Argentina respecting their boundaries, a dispute in which both parties appealed for a settlement to the President of the United States of America, and which was adjusted by him.

Between the United States of North America and Denmark, in which the latter was, by the chosen arbitrator, the English Ambassador at Athens, Sir Edward Monson, after long delay freed from the obligation to pay compensation to the Americans, because the Danish authorities had fired at an American ship which in 1854 was escaping out of the harbour of St. Thomas, and which was suspected of carrying supplies to Venezuela, at that time in insurrection.

In conclusion it can be urged, —

That France and Holland agreed to have the boundary between their possessions in Guiana determined by arbitration.[13]

That the international committee which met in Washington to arrange the impending fishery question between Great Britain, Canada and the United States, decided to recommend the creation of a permanent tribunal of arbitration for adjusting future disputes respecting these relations; also:

That the council of the Swiss Confederation, at the combined request of Portugal and of the Congo State Government has undertaken to arbitrate the possible disputes which may arise respecting the regulation of boundaries amongst their African territories.

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[13] At the Peace of Utrecht, 1713, it was decided that the course of the river Maronis was the boundary. But that river divides itself into two branches which embrace a large tract of land, almost a fifth part of French Guiana. Neither France nor Holland had claimed that land until gold beds were discovered there, and it had to be decided which of the two arms of the river was to be considered as the Maronis, and which as a tributary.

Besides these and other instances which I am acquainted with, many others have certainly taken place, though attracting less attention.

The idea of arbitration goes peacefully and quietly forward, and the world therefore takes little notice of it.

It is quite otherwise with the crash of war, whose external show of greatness and glory, and whose inward hatred and crime, are desolating the happiness of the nations and are accompanied by distress and gloom.

The one is a fearful hurricane which rends the mountains and breaks in pieces the rocks.

The other is the still small voice, mightier than the devastating storm, since it speaks to us in the name of everlasting righteousness, because it is the voice of God.

NEUTRALITY

Side by side with the idea of arbitration, another pacific idea, already powerful, is pressing forward, and growing into an International Law, namely, the Law of Neutrality.

He is neutral, who neither takes part for, nor against, in a dispute. Neutrality is the impartial position which is not associated with either party. The State is called neutral which neither takes part in a war itself, nor in time of war sides with any of the warring parties.

In ancient times neutrality was not understood as a national right. Neither the Greek nor the Latin language has any word to express the idea. In the days when Roman policy was seeking to drag all the nations of the earth into its net, the Romans saw in other peoples only tributaries who had been subdued by their armies, subject nations who had submitted to the Roman yoke, allies who were compelled to join in their policy of conquest, or lastly enemies, who sooner or later would have to bow before their victorious legions. Neutral States there were none.

The centuries immediately following the dissolution of the Western Roman Empire were filled with constant strife. This continued long before the refining power which exists in the heart of Christianity began to show itself in the foreign relations of States.

The foundations of modern Europe were laid in war.

During the Crusades the whole of our continent was under arms. The struggle against the "infidel" was not simply a contest between one State and another, it was also a contest between Christian Europe and Mohammedan Asia. To be neutral in such a struggle would, according to the judgment of the time, have been equivalent to denying the faith. Within the European States, feudalism exerted no less a hindrance to the embodiment of the principle of neutrality. It would have been thought the gravest crime to loosen the bond of military service which compelled vassals to support with arms the cause of their feudal lords. It was only with the close of the age of feudalism, when Europe began to separate into three or four great monarchies, that neutrality in politics became a means of preserving the balance.

In later times increasing communication and trade have above all contributed to the development of neutral laws. Without the sanction of these, a naval war between two great nations would have made any maritime trade all but impossible. Down to the close of the last century, however, neutral rights were dependent either on national statutes or on special treaties concluded between one State and another. The law only gained certain international importance towards the close of the eighteenth century through the neutral alliances which from time to time were contracted between States.

In the period between 1780 and 1856 the subject gained an entrance by degrees among all maritime nations except England, who, independent of it, and always relying on her own strength,

continuously sought to maintain unlimited domination at sea.

In 1854-56 begins, so far as neutrality is concerned, a new era of international law.

From this time the opposition which England raised to the practical application of neutrality in naval war may be regarded as having broken down. On the 30th of March, 1854, the French Minister of Foreign Affairs, Drouyn de Lhuys, published a communication, including, amongst other things, that the neutral flag during the then begun (Crimean) war, should be regarded as a protection for all neutral and hostile private property, except contraband of war. The same day the English Government gave forth in the *London Gazette* a similar declaration, and on April 19th of the same year the Russian Government notified in the *Official Gazette*

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