claim would be inadmissible under the treaty, but that we could not possibly allow the tribunal to arbitrate concerning its admissibility. Under no circumstances could we consent to stand the risk of an arbitration, however slight, in a matter of so much importance. There is but one theory that can explain in a rational manner the nature and functions of a court of arbitration. Two disputants narrow their differences by negotiation to a specific issue, or a series of specific issues. They agree to refer those issues —those, not any others—to a third party. The jurisdiction thus conferred on the third party is essentially a jurisdiction *ad hoc*. The arbitrators have no more authority to determine a new dispute arising subsequently to their appointment—whether it concerns the limits of their jurisdiction or a wholly independent matter—than to determine any old dispute standing apart from those they were appointed to consider. Their authority was only called into existence by mutual agreement; it can only continue in existence by mutual agreement. To conceive an effectual decision by arbitrators we must begin by conceiving two suitors ready to receive that decision; pledged to one another, agreeing with one another, that in reference to the matter before the arbitrators they would abide by that decision.

As we write negotiations are in progress, the character of which is concealed from us, and the issue of which it is impossible to foresee. All that we know of them is that they have begun badly. When at last the Government was roused by the press and the country from a lethargy which it has yet to explain, and when it grew aware that something had to be done in consequence of the unfair manœuvre that the United States had attempted, Lord Granville, on the 3rd of February, sent a despatch to General Schenck, which was described in the Queen's Speech as a 'friendly communication,' and the contents of which were understood to be as nearly colourless as the circumstances would allow. Timid to the verge of servility at a time when honour and policy would have alike dictated some boldness and precision of tone, the Government seems to have done nothing more than feebly suggest that the United States was asking too much in asking us to give the arbitrators at Geneva power to treat us as a conquered nation. As a matter of course the United States Government maintained the position it had already assumed. Lord Granville's despatch practically encouraged that Government to persevere in the course on which it had entered. We do not say that he could easily have persuaded it to draw back. The lessons of fifty years are not to be unlearned in a day. We have displayed towards the United States such miserable weakness and servility in the past, that now—or whenever we may ultimately be compelled to change our tone with them, as sooner or later it is inevitable that we must—we may have to face some disagreeable contingencies before convincing them that we are in earnest. But very ordinary sagacity should have shown the Government that indecisive remonstrances, however sweetened with sugary phrases, were absurdly out of place when we had to deal with such an extraordinary aggression as that attempted by the American Government. The course before us was to say plainly that, in signing the Washington treaty, we meant to concede the most liberal terms we could agree to, compatibly with the maintenance of our own honour, but that we never contemplated the discussion before arbitrators, nor imagined that the American Government contemplated advancing, demands of so extravagant a nature as those they have put forward. Those demands, we should have explained, constituted so serious an infringement of the understanding embodied in the treaty, that we could only regard the proceedings before the arbitrators as suspended until the American Government might choose to conform to the stipulations therein laid down. An explanation of this kind would have required no reply of an argumentative character. We should have known at once whether to regard the arbitration as still pending, or the treaty of Washington as null and void by reason of the irremediable infringement of its provisions by America.*

What, on the other hand, is the painful position in which we are placed by the feeble and inadequate diplomacy of the Government? We are drifting on, in spite of

* The advice which Lord Westbury gave to the Government upon this point in the debate in the House of Lords on March 22nd is so excellent that it deserves to be recorded here:—'What I beg the Government to do is to take a firm stand upon the truth of what was understood on both sides at the time, and not to be beguiled into a question concerning the construction of a treaty, for it is idle to discuss the construction of a document which you contend does not contain your real sentiments, and does not tally with the belief and understanding which you were induced by the other side to entertain. Insist that no question as to the construction of the treaty on this matter shall go to the arbitrators; for there is something superior to language—the question what was intended by us, and what was represented to us to be intended by them. Have that point raised and decided before you begin quibbling as to the interpretation of the language.'