

that we are now called upon to meet fresh claims which may amount to some hundreds of millions sterling. Much discussion has been devoted to the question whether the indirect claims now advanced were understood by the American Commissioners at the time the treaty was signed to be included in that instrument. We need not travel over this discussion, nor follow those writers who have busied themselves, in the interests of peace, in trying to show to the United States honourable paths along which they might retreat from their present untenable position. Efforts have been made in this way to prove that the treaty itself was the 'amicable settlement' mentioned in one of the protocols as calculated, it could be arranged, to bar all further prosecution of the indirect claims. But in this matter we must adopt the American view. It is evident that the American Commissioners, when they spoke of an amicable settlement, contemplated an arrangement by which Great Britain should, without even taking her case to arbitration, have accepted the worst consequences that an arbitration could have inflicted upon her. With what intention the American Commissioners made this proposal it is difficult to understand. It assumed either that Great Britain had previously for years been dishonestly refusing the American people compensation which it knew to be their due, or that it had finally sunk so low that it might be induced through fear to submit to a claim it knew to be unjust. Certainly it would appear that American statesmen do not refrain from making proposals to this country from any dread of rousing its indignation, if the policy suggested be ignominious. But it would be waste of time to discuss at length the intentions which actuated the American negotiators during the conferences at Washington. The American Case formally calls upon the arbitrators to declare that this country ought equitably to reimburse the United States for the expenses entailed upon them by the prolongation of the war after the battle of Gettysburg. Whatever was intended by the negotiators of the treaty, the intention of the authors of the Case—that is to say, of the American Government—is perfectly clear. It is to obtain, if possible, a decision, that we are equitably bound to pay the consequential damages; and if any sane Englishman imagines, that having obtained such a decision, the American Government would be content to leave it a dead letter without adding up the claims and producing a definite sum total in dollars, he must certainly have studied American policy, if at all, to very little purpose. The theory that the indirect

claims mean nothing, that they are really introduced for the sake of their moral effect, is almost unworthy of examination. If it were sound, we should be none the less enabled to object to devices for producing a moral effect on the minds of the arbitrators, by means of pleadings irrelevant to the question at issue, but the argument is altogether delusive. If the arbitrators admitted what the American Case asks them to admit, that we ought in equity to pay certain charges not yet estimated, they could not, in the discharge of their appointed functions, do otherwise than proceed to assess those charges, or refer them for assessment to another tribunal.

The claim for the indirect damages lies before us; and this country will deserve the worst consequences that can befall it if it consents to any course of action which is based upon the belief that the claim can be in any way ignored. In making that claim the American Government has clearly overstepped the rights conferred upon it by the treaty. Whether Mr. Gladstone is justified in declaring that the treaty is not ambiguous, or whether its clumsily constructed sentences are ambiguous, one thing is certain, even Mr. Gladstone's Government, in advising the Queen to ratify the treaty, was incapable of intending to submit to arbitration the question whether Great Britain ought to pay half the cost of the American war. Starting from this indisputable position, we venture to say it is absurd to contend that a great nation can be entrapped by adroit diplomatists into signing away, without intending to do so, sums that would involve national disgrace. The reference of the indirect claims is not sanctioned under the treaty, because this country never consciously consented to any such reference, and because treaties cannot be applied to purposes of unforeseen extortion like acceptances in the hands of a money lender. They are nothing if they are not the record of a mutual agreement between the states in whose names they are signed.

On the part of the United States it is contended that the court of arbitration at Geneva is the proper tribunal to determine whether the indirect claims are admissible under the treaty. But to refute this view it is only necessary to apply the principle on which it is based to an imaginary case. Suppose the American Government had gone to the Geneva tribunal declaring that the only compensation it would really accept would be the deposition of the Queen, and the entrance of this country into the American Union as a new state. Any person of sane mind will see, not only that such a

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