

The analogy between arbitration as to matters in difference between individuals and matters in difference between nations, carries us but a short way.

In private litigation the agreement to refer is either enforceable as a rule of court, or, where this is not so, the award gives to the successful litigant a substantive cause of action. In either case there is behind the arbitrator the power of the judge to decree, and the power of the executive to compel compliance with the behest of the arbitrator. There exist elaborate rules of court and provisions of the legislature governing the practice of arbitrations. In fine, such arbitration is a mode of litigation by consent, governed by law, starting from familiar rules, and carrying the full sanction of judicial decision. International arbitration has none of these characteristics. It is a cardinal principle of the law of nations that each sovereign power, however politically weak, is internationally equal to any other power, however politically strong. There are no rules of international law relating to arbitration, and of the law itself there is no authoritative exponent nor any recognized authority for its enforcement.

But there are differences to which, even as between individuals, arbitration is inapplicable—subjects which find their counterpart in the affairs of nations. Men do not arbitrate where character is at stake, nor, will any self-respecting nation readily arbitrate on questions touching its national independence or affecting its honor.

Again, a nation may agree to arbitrate and then repudiate its agreement. Who is to coerce it? Or, having gone to arbitration and been worsted, it may decline to be bound by the award. Who is to compel it?

These considerations seem to me to justify two conclusions:—The first is that arbitration will not cover the whole field of international controversy, and the second that unless and until the great powers of the world, in league, bind themselves to coerce a recalcitrant member of the family of nations—we have still to face the more than possible disregard by powerful States of the obligations of good faith and of justice. The scheme of such a combination has been advocated, but the signs of its accomplishment are absent. We have, as yet, no league of nations of the Amphictyonic type.

Are we then to conclude that force is still the only power that rules the world? Must we then say that the sphere of arbitration is a narrow and contracted one?

By no means. The sanctions which restrain the wrongdoer—the breaker of public faith—the disturber of the peace of the world, are not weak, and year by year they wax stronger. They are the dread of war and the reprobation of mankind. Public opinion is a force which makes itself felt in every corner and cranny of the world, and is most powerful in the communities most civilized. In the public press and in the telegraph, it possesses agents by which its power is concentrated, and speedily brought to bear where there is any public wrong to be exposed and reprobated. It year by year gathers strength as general enlightenment extends its empire, and a higher moral altitude is attained by mankind.