

because nations are unequal in might. To reconcile a theory so inconsistent with the practice, war requires many rules both for the protection of the parties and of neutrals. Arbitration needs no rules for this purpose, for it regards nations as equal both in right and might. Arbitration, settling international disputes by a method known to individuals, is governed by rules found in the common and civil law; while war, employing its own peculiar means, needs its own peculiar laws. For this reason the writers on international law have laboured principally to define the *leges belli*, and have given but little space to the laws of arbitration.

"An arbitrator is a person selected by the mutual consent of the parties to determine the matters in controversy between them, whether they be matters of law or fact."

An arbitrator "is a person authorised by the parties in difference to decide what shall be done with regard to the matters submitted to his judgment."

The above are definitions, one from Russell on Arbitration, and the other from Wildman on International Law. In the first quotation the parties are men, and in the second they are nations. The consent in one case is shown by a writing known as the submission; stating the matter in controversy and the points on which the decision of the arbitrator is desired. A treaty, or convention, in which the parties agree to be bound by the award of an arbiter in certain matters of difference between them, gives the authority named in the second definition. Nations may submit any questions they choose to whomsoever they choose. When they have submitted any question, and the award has been given, that award must be conclusive.

"Although the civil law may decide upon the conduct of arbitrators to whom a compromise is referred, so as to allow an appeal from their decision or complaints against their injustice, this can never take place between kings and nations. For here there is no superior power that can rivet or relax the bonds of an engagement. The decree, therefore, of such an arbiter must be final and without appeal."*

These are the words of Grotius, and would seem to indicate that a nation would never be justified in refusing to accept the conclusions of an arbitrator; but later writers state distinctly that no State is bound by an award presenting a clear departure from the terms of the reference, an absolute conflict with justice, or resulting from fraud and connivance.

* Grotius, Book III. Chap. 20.