Lord Chief Justice Russell.

THE address on International Arbitration recently delivered by the Chief Justice of England at Saratoga, before the American Bar Association, has naturally evoked much comment from the American press; and it is pleasing to note that these comments are almost invariably in terms of appreciation and approval. The New York Tribune, too often distinguished by the extreme bitterness of its anti-British utterances, makes no apology for the warmth of its commendation. "Enthusiastic exaggeration, it says, "is a common fault, but there is no fear of committing it in pronouncing this address to be one of the masterpieces of 19th-century eloquence, a composition that will become standard and classic, and will by future generations be quoted for its beauty of diction and studied for its wealth of knowledge. Uttered by the foremost lawyer and chief justice of that nation whose system of jurisprudence is of all in the world most perfect, it comes to us with the weight of an authority which is, for at least the present generation, unchallenged and supreme. This, we take it, is the supreme message which our distinguished visitor conveyed, that not this treaty nor that alliance is the best thing to be striven for, but such sweetening and enlightening of spirit as shall make nations, as well as individuals, amenable to reason rather than to violence." Lord Russell's address undoubtedly made a profound impression not only on his immediate hearers, but on the vaster audience reached through the medium of the press; and there is every indication that by it public opinion on both sides of the Atlantic has been strongly influenced in favour of the principle of International Arbitration. Lord Russell spoke in part as follows:

"International law is but the sum of those rules which civilized mankind have agreed to hold as binding in the mutual relations of states. We do not, indeed, find all those rules recorded in clear language—there is no international code. We look for them in the long records of customary action; in settled precedents; in treaties affirming principles; in state documents; in declarations of nations in conclave—which draw to themselves the adhesion of other nations; in declarations of text-writers of authority generally accepted; and lastly, and with most precision, in the field which they cover, in the authoritative decisions of prize courts. From these sources we get the evidence which determines whether or not a particular canon of conduct, or a particular principle, has or has not received the express or implied assent of nations. If we depart from the solid ground I have indicated we find ourselves amid the treacherous quicksands of metaphysical and ethical speculation. History records no case of a controversy between nations having been settled by abstract appeals to the laws of nature or of morals. But while maintaining this position, I agree with Woolsey when he says that if international law were not made up of rules for which reasons could be given, satisfactorily to man's intellectual and moral nature, it would not deserve the name of a science. Happily those reasons can be given. I would not have it, however, understood that I should to-day advocate the codification of international law. Indeed, codification has a tendency to arrest progress. It is substantially true to say that while to earlier writers is mainly due the formulation of rules relating to a state of war, to the United States—to its judges, writers, and statesmen, we largely owe the existing rules which relate to a state of peace and which affect the rights and obligations of powers, which, during the state of war, are themselves at peace.

"Experience has shown that, over a large area, international differences may honourably, practically, and usefully be dealt with by peaceful arbitrament. There have been since 1815 some sixty instances of effective international arbitration. To thirty-two of these the United States have been a party, and Great Britain to some twenty of them. There are many instances also of the introduction of arbitration clauses into treaties. Here again the United States appear in the van. Among the first of such treaties—if not the very first—is the Guadaloupe-Hidalgo treaty of 1848 between the United States and Mexico. Since that date many other countries have followed this example. In the year 1873 Signor Mancini recommended that, in all treaties to which Italy was a party, such a clause should be introduced. Since the treaty of Washington such clauses have been constantly inserted in commercial, postal, and consular conventions. They are to be found also in the delimitation treaties of Portugal with Great Britain and with the Congo Free State made in 1891. In 1895 the Belgian Senate, in a single day, approved of four treaties with similar clauses, namely, treaties concluded with Denmark, Greece, Norway and Sweden. There remains to be mentioned a class of treaties in which the principle of arbitration has obtained a still wider acceptance. The treaties of 1888 between Switzerland and San Salvador, of 1888 between Switzerland and Ecuador, of 1888 between Switzerland and the French Republic, and of 1894 between Spain and Honduras, respectively contain an agreement to refer all questions in difference, without exception, to arbitration. Belgium has similar treaties with Venezuela, with the Orange Free State, and with Hawaii. These facts, dull as is the recital of them, are full of interest and hope for the future.

"The analogy between arbitration as to matters in difference between individuals, and to 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. 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 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 honour. 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 the 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.

"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. 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. It has no ships of war upon the seas or armies in the field, and yet great potentates tremble before it and humbly bow to its rule. Again, trade and travel are great pacificators. But, although I have indicated certain classes of questions on which sovereign powers may be unwilling to arbitrate, I am glad to think that these are not the questions which most commonly lead to war. It is hardly too much to say that arbitration may fitly be applied in the case of by far the largest number of questions which lead to interna-