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532ND ORDINARY GENERAL MEETING.

MONDAY, MAY 6TH, 1912, 4.30 P.M.

T. G. PINCHES, ESQ., LL.D., IN THE CHAIR.

The Minutes of the preceding Meeting were read and signed.

The CHAIRMAN introduced Mr. MARCUS N. TOD, M.A., Lecturer in Greek Epigraphy in Oxford University, and invited him to read his paper.

INTERNATIONAL ARBITRATION IN THE GREEK WORLD. By MARCUS N. TOD, Esq., M.A., Fellow of Oriel College, Oxford, and University Lecturer in Greek Epigraphy.

WHEN I was honoured with an invitation to address a meeting of the Victoria Institute, I felt that, not being qualified to speak upon any question of philosophy or natural science, I could not do better than ask your consideration of a subject which for some little time has claimed my special interest and attention, namely, the part played by arbitration in the settlement of disputes between state and state in the ancient Greek world. In spite of the difference, of which we are constantly reminded, between the Greek city-state and the nation-state of the modern world, I shall retain the phrase "international arbitration," as more familiar than "interstatal arbitration," and as unlikely to lead to any misapprehension. I am emboldened to bring this subject before your notice, not only by the ever-increasing interest taken at the present day in the question of the settlement of national differences by peaceful and equitable means, not only by the growing conviction amongst thoughtful men that war, where it is not a necessity, is a crime, not only by the burden of huge armaments which presses more and more heavily each year upon many nations and by the greater destructiveness of modern weapons and appliances of war, but also by the fear that the facts of

ancient experience, the records of ancient experiments, are in danger of being forgotten. Only five years ago, in the Romanes Lecture delivered before the University of Oxford, the Chancellor of the University, himself a great scholar and an administrator of wide experience, said :—

"The earliest instance of a frontier commission that I have come across is that of the Commission of six English and Scotch representatives, who were appointed in 1222 to mark the limits of the two kingdoms, and it is symptomatic of the contemporary attitude about frontiers that it broke down directly it set to work, leaving behind it what became a Debatable Land and a battle-ground of deadly strife for centuries."

and again, referring to the settlement of boundary disputes by arbitration, he said :—

"This method is the exclusive creation of the last half-century or less, and its scope and potentialities are as yet in embryo."*

How mistaken such conceptions are I hope to make clear to you in this paper.

I shall not overstep the bounds of history and trespass on the sphere of philosophy by any discussion of the fundamental questions of the ethical significance or the moral justification of war. Whatever be our answers to those questions, we shall agree that war, one of the most striking facts of human history, deserves the most careful attention of the philosopher and the economist, it demands the thought of all who are interested in the moral and material well-being of the race,—a class which includes, or at least should include, every Christian. But a purely philosophical and abstract presentation of a case is apt to leave the ordinary man unconvinced, not to say suspicious. Ideals are, no doubt, excellent things in their way, but he prides himself upon being a practical man; his appeal is not to logic, but to experience. For him, as for all of us, war is a thing inconceivable in the ideal world; to him, and indeed to every Christian, the full realization of the Kingdom of God involves not only righteousness but peace—peace in the individual, peace between man and man, peace in the relations of nation to nation. But how is this ideal to be made real? what does the history of the past tell us of efforts made with that end more or less consciously in view? how far have they succeeded, and where have they failed?

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* Lord Curzon of Kedleston, *Frontiers*, pp. 50, 52.

International arbitration was not, as is sometimes asserted, a creation of the Greeks. The extensive discoveries, made within recent years, of documents relating to the domestic and foreign history of Egypt, the Hittite empire and the states of the Euphrates and Tigris valleys, reveal to us remarkably advanced civilizations, with developed laws and a strikingly active system of diplomatic negotiation, existing before the beginnings of heroic, we might almost say of legendary Greece. Amongst these documents, incised upon stone or imprinted upon clay, I would call your attention to one, which relates the story of a feud between the two Sumerian cities of Shirpurla and Gishkhu about 4,000 years before Christ*: it tells how, when war had failed to bring about any settlement of the frontier dispute, arbitration was tried, and Mesilim, King of Kish, was appointed to determine the frontier-line and set up a pillar between the two states to commemorate the fact. It is worth noting how prominent a part is played by religion in this early case of the arbitral settlement of a disputed boundary: the chief god of Shirpurla and the god of Gishkhu are spoken of as deciding upon this method, they do so at the command of Enlil, "the king of the countries," and the arbitrator acts under the direction of his own god Kadi. That this was an isolated instance of appeal to arbitration we cannot believe, but probably such appeals grew rarer with the rise of great empires such as those of Assyria, Media, and Persia, which swallowed up the smaller states of western Asia and based their claims upon force rather than upon equity. Yet we hear in Herodotus† how, in the early years of the sixth century B.C., a long and indecisive struggle between Alyattes of Lydia and Cyaxares of Media was concluded by the intervention of Syennesis of Cilicia and Labynetus of Babylon, who "reconciled" the two warring monarchs.

Whether the Greeks consciously adopted the expedient from their eastern neighbours or discovered independently of them this mode of settling quarrels, we cannot determine. The importance of what they did in this field lies in their recognition of the possibilities involved in arbitration, their frequent application of it to heal the differences existing between individuals or states, and their introduction of it into the political life of the western world. From primitive times we can trace in the Greek world attempts to settle disputes by means of negotiation,

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* L. W. King and H. R. Hall, *Egypt and Western Asia*, p. 171.
† i, 74.

and it must be remembered that throughout the course of its history this was the normal and natural mode of settling differences between state and state. If diplomacy failed, recourse was had to force, either in the form of armed reprisals, usually of the nature of border raids, or in that of open war. But at an early period the Greeks saw that the appeal from negotiation directly to force was not inevitable, that if each state based its claim upon justice and equity they might agree to accept the decision of some neutral tribunal, whether composed of an individual or of a body of men. If the disputants in this way bound themselves beforehand to abide by the verdict of the arbitrator, we have an instance of arbitration in the proper sense of the term; if, however, there was no such agreement, but the intervention of the neutral person or power took the form of a suggestion, which the two states engaged in the dispute were free to accept or reject as they thought fit, we have an instance of mediation, which lacks the judicial character and the binding force of arbitration.

We are told that, as early as the eighth century before our era, the Messenians sought to avoid an impending war with Sparta by offering to abide by the award of an unprejudiced court, such as the Argive Amphictiony or the Athenian Areopagus. We have grave reasons for questioning the historical truth of this statement, but there are two well-authenticated examples of international arbitration in the seventh century, and another probably falls very early in the sixth. From these early days down to the time when the Greeks lost their independence and were swallowed up in the irresistible advance of the Roman power, we have an ever-increasing volume of evidence, culminating in the second century before Christ, in which we know from inscriptions alone of some forty-four cases; if we add to these the numerous instances referred to by Polybius and other historians, and remember that in all probability not one-half of the arbitrations which actually took place have left any trace in our extant sources, we shall be in a better position to realize how important was the part played, in later Greek history at least, by this method of settling international disputes. Again, not only is the appeal to arbitration common throughout Greek history, but it is found in all parts of the Hellenic world, from Sicily to Western Asia Minor, from Crete to the shores of the Black Sea. Where it first found a home on Greek soil we cannot say: we should have expected to find it practised amongst the Ionians earlier than elsewhere, for not only were

they in the closest touch with the Oriental Empires, but they proved themselves the pioneers in many branches of Greek thought and activity. But the historical records of early Ionia are very scanty, and we cannot test this conjecture. One piece of evidence does, indeed, seem to tell against it: Herodotus (vi, 42) tells us how, about 493 B.C., at the close of the Ionian Revolt, the Persian governor, Artaphernes, summoned envoys from all the Ionian cities, newly reduced to their allegiance to Persia, and compelled them to conclude treaties with each other, agreeing to submit to arbitration disputes which should in future arise between them, instead of seeking reparation by reprisals or war. The Ionians, it is said, at the beginning of the fifth century, require a Persian to teach them the lesson of arbitration. But this is not a necessary inference: it may well be the case that Artaphernes was merely taking steps to secure the peace and tranquillity of this portion of the Persian Empire by making it obligatory upon the Ionians in all disputes to adopt a procedure which they had themselves previously employed, though only in isolated instances. We may notice, however, that this action of Artaphernes marks a decided advance on previous Greek usage, so far as we know it. Hitherto, they had waited for the dispute to rise, and then, if negotiation failed to discover a solution of the difficulty, they had turned their thoughts to arbitration, and had employed that means of averting war provided that both the states concerned agreed to submit the case to such and such an arbitrator. Now, however, the states enter into a compact, each with each, binding themselves to settle in this way the differences which might arise between them in future. The second half of the fifth century witnessed the extension of this principle to the free states of Hellas itself, and we have several examples of the insertion of such a compromise-clause in Greek treaties recorded by Thucydides, notably in the Thirty Years' Peace, concluded between Athens and Sparta early in 445 B.C. It may be that some of the more sanguine members of the peace-party in either state thought that a new era of peace had been ushered in: if so, they were cruelly undeceived. The treaty had not been in existence for half its stipulated term of years when difficulties and recriminations arose between the contracting parties. Repeatedly Athens appealed to the Peace and demanded arbitration; Sparta as repeatedly refused. What her excuse was—if, indeed, she had any—we do not know; perhaps it was that the questions at issue were too important to be left to the settlement of an arbitral court, or

that no arbiter could be found capable of undertaking so serious a task and at the same time wholly unbiased, or that the Assembly had no proper opportunity of expressing its view clearly upon the question. All we know is that the long and disastrous Peloponnesian War ensued, that the Spartans felt many a twinge of conscience as they reflected on their refusal to accept arbitration,* and that the Greek world received a clear proof that arbitration is no infallible and automatic cure for war, but that its efficacy is wholly conditioned by the sincerity and the good faith of both the states which are involved in the dispute.

The rise of the Macedonian power, the conquests of Philip and Alexander, and the partition among the Diadochi of the vast empire they had acquired, brought the Greek world under the sway of a small number of powerful rulers, who, while careful to maintain their supremacy, did not attempt to control all the relations between city and city. There was thus a continuance of the old feuds between the Greek states and an opportunity, of which advantage was frequently taken, of employing arbitration as a means of settlement. Again and again, before the fateful battle of Chaeronea, Philip had urged Athens to decide its differences with him by reference to an arbitrator, and although its citizens, swayed by the eloquence of Demosthenes and those who shared his political views, suspected his *bona fides* and rejected his reiterated appeals, he and his successors were constantly invoked during more than a century and a half to settle the differences which arose, or those which had previously existed, between various Greek states. That this was due solely to the might of the conquering kings, on the one hand, and to the servility of a degenerate Greek race, on the other, as is sometimes asserted, I cannot believe. We must bear in mind that though the potentate, whoever he might be, may well have been pleased to have such cases referred to him for decision, yet his award could not satisfy both the states concerned save in very rare cases; if it was in favour of the one, it disappointed the other. Surely the truth is rather this (and the appointment of the Czar of Russia, the Emperor of Germany, and our own King Edward VII. as arbitrators in recent international disputes will confirm our view), that in the Macedonian and Seleucid monarchs the Greek cities found rulers, most of whom possessed considerable gifts of

* Thucydides, vii, 18.

statesmanship, willing to take pains in the investigation of the facts, anxious for the success of their efforts to heal the feuds and discords which were weakening the forces and destroying the cohesion of their Empires, possessing sufficient power and prestige to secure obedience and effectiveness for their awards, and at the same time likely to act fairly and impartially. For the disputes of which we hear centered very largely round contested frontier-lines, and the adjustment of these would increase neither the power nor the revenue of the monarch who was suzerain lord of both communities alike. The utility of arbitration became more and more widely recognized during these years, and the principle was adopted by the Greek Leagues, which figure so largely in the later days of Hellenic history, and was enforced by them on their component states.

During the early years of the second century B.C. Rome became the dominant political factor in the eastern, as she had already made herself in the western Mediterranean. The close of the second Punic War was followed immediately by the Roman attack on Philip V. of Macedon, who was conquered at Cynoscephalæ in 197, and on Antiochus III. of Syria, who was defeated at Magnesia in 190, and was compelled to evacuate a great part of Asia Minor, which was assigned to Roman allies, Pergamum and Rhodes. A further Macedonian rising under Perseus was crushed in 168, at the battle of Pydna, and gradually the whole of the Greek world passed under Roman rule. Rome had at this time no monarch; the government was practically in the hands of the Senate, which, amongst its various functions, exercised an almost unquestioned control over foreign policy. It is no wonder, then, that the Greek states frequently submitted their disputes to the arbitration of that august body which had superseded the Kings of Macedon and Syria and had made a deep impress upon the minds and imaginations of Rome's oriental subjects. In such cases the Senate might adopt any one of three courses, for its political interests would hardly allow it to refuse outright the position of arbitrator. Occasionally it played the part of an arbitral court, listened to the advocates of the two contending states, and passed a *senatus consultum* embodying its award. But more frequently it delegated its powers to an envoy or body of envoys, whom it despatched to the scene of the dispute to enquire into the circumstances on the spot and to arrive at a decision which was practically binding, although in theory it required senatorial ratification to make it valid. Sometimes, as we learn from several interesting inscriptions, a third course was followed. The Senate, realizing

that it was too far off to be able properly to examine the facts of the situation, and that it was too heavily burdened with business to be able adequately to investigate the case, contented itself with laying down the rule which was to govern the decision and then deputing to some Hellenic state the task of discovering the facts and applying the rule. In one well-known instance, for example, Sparta and Messene both laid claim to a piece of border-land, the ager Dentheliates, which lay between their territories on the western slope of Mount Taygetus. After several decisions the question was referred to the Senate for settlement: that body decided that the land in dispute was to belong to that state which had been in *de facto* possession of it when L. Mummius, the Roman general who had destroyed Corinth and had made Greece a province of the Roman Empire, was in Greece as consul or pro-consul. The matter was then referred to the Milesians, whose sole duty was to find out which state had been master of the ager Dentheliates in the year referred to and to enter judgment accordingly.

I have tried to set before you in barest outline an historical sketch of the development of arbitration in the Greek world, based upon a large number of extant records dealing with individual cases. These records are of two kinds. On the one hand we have the references to arbitration which occur in the pages of Herodotus, Thucydides, Polybius, Plutarch, and other authors, both Greek and Latin, consisting for the most part of brief statements of the cause of the dispute, the two states engaged in it, the arbitrator to whom the matter was referred and the result of the appeal. The cases thus mentioned are usually of some historical importance, they are placed in their true setting, and the record, brief as it is, is generally complete and easily intelligible. On the other hand we have the inscriptions, contrasting in many ways with these literary records. In the first place, their survival is wholly independent of the historical value of the events they narrate; thousands of inscriptions are extant to-day, thousands more have perished, but there has been no selection at work determining which should be preserved. In this sphere at least there is no survival of the fittest. The historian selects his materials, chooses out some facts for permanent record and deliberately allows others, so far as he is concerned, to fall into oblivion; but the chance which has partially preserved, partially destroyed the epigraphical records of ancient Greece is blind, and has followed mere caprice and not intelligent principle. Again, the surviving inscriptions are not placed in their proper historical

setting and perspective. Each stone has a story of its own to tell, or maybe but a mutilated fragment of such story; they are isolated pages torn at random from the tale of national and civic and private life. Once more, they are often fragmentary and sometimes almost or quite unintelligible. A stone may be broken and part of it may have been irrevocably lost, it may have been exposed to the weather for generations or even centuries and its contents may be impossible to decipher: frequently the date can only be determined within a century by the character of the writing or the general features of the historical situation indicated by its content, while in other cases such essential points as the name of one, or even of both, of the contending states cannot be discovered.

Yet, in spite of these disadvantages, it is not too much to say that but for the inscriptions we should hardly have any idea of the method and procedure of arbitral enquiries in ancient Greece. For the literary sources very rarely tell us anything but the particulars which are essential from the historian's point of view,—the names of the states involved in the dispute, the nature of their difference, the individual or state invoked to arbitrate between them, and the effect of the award. The inscriptions, on the contrary, are precise and detailed to a degree which is never equalled, very rarely even approached, by the literary histories, and from them we learn not merely the cause, the fact and the result of arbitration, but also its method and its spirit. Let me illustrate this statement by a single example. In one instance, and in one alone, so far as I know, the same arbitral case is recorded both by an historian and also by an inscription. Tacitus (*Annals*, iv, 43) tells us that the dispute between Sparta and Messene, to which I have already alluded, was referred to the Milesian state, which decided in favour of the Messenians. This is all he tells us. Turn now to the Milesian record of this same occurrence, inscribed upon stone at Olympia: it tells us of the meeting of the assembly, convened in the theatre, the exact date on which this took place, the sortition from the whole body of citizens of a court of 600, "the largest permitted by law." The task before this tribunal was to consider the dispute between the Lacedæmonians and the Messenians, to discover which state was in possession of the territory in question when L. Mummius was in the province and to assign it to that state, as directed by a letter from the Roman praetor Q. Calpurnius Piso and a senatorial resolution. The names of the advocates are next recorded and the maximum time allowed for the first and second speeches on

each side: finally, the verdict pronounced by the court is stated in full, together with the number of votes given, 584 for the Messenians and 16 for the Spartans. I have entered somewhat fully into this example because it gives what I cannot but regard as a typical illustration of the characteristic differences between the literary and the epigraphical evidence.

Let us turn for a few minutes, then, especially to this latter class, and try to gain a clearer view of the methods of Greek international arbitration.

In its field it differed but little from that of modern times. A recent writer has attempted to classify the questions susceptible of arbitral settlement on a review of the cases so decided in the last century, and divides them into five groups: boundary disputes, pecuniary claims arising from the unlawful seizure of property, claims for damage by destruction of life and property, disputed possession of territory, including disputed water-rights, such as fishing, and, lastly, the interpretation of treaties. All these classes are represented in the ancient Greek records, though frontier and territorial disputes are by far the commonest, and seem to have been regarded in ancient times as the normal differences between states. Again and again the arbitrators are asked to assign some piece of land to one or other of two contiguous states which claimed it, or to determine the precise boundary-line between the territories of two neighbouring cities. Greece is a narrow land, where states are closely crowded together, and the cultivable soil is so limited in area that even a comparatively few acres might make a considerable difference to the welfare of a community: sometimes, moreover, the land in dispute was of great importance owing to the fact that it contained some temple or harbour, some perennial spring or some position of strategic value. Monetary disputes play a secondary, but by no means negligible, part in the records before us. In such cases the arbitrators might have to determine the liability of a state, as when the Spartans refused to pay a fine to which the Achæan League had sentenced them, or the Lepreates discontinued the payment of an annual rent due to Elis, or the state of Cos claimed from Calymna the repayment of a loan made to it by two Coan citizens; or the task of the court might be to assess damages and to award due and proper compensation to some state which had suffered at the hands of a neighbour. Sometimes, again, the dispute is not so definite as this, and the arbitrators are authorized to settle a number of outstanding differences between the two states whose mutual relations have

become strained ; this might be done before the occurrence of hostilities between them, or else arbitration might be resorted to as a means of bringing to a conclusion a war which had already broken out. Finally, as I have already said, the Greeks might, and frequently did, make a compact to refer to arbitration disputes which might arise in the future, thus pledging themselves beforehand to the employment of a peaceful and equitable means of settling their differences.

Let us suppose that a feud has arisen between two states which cannot be settled by the ordinary means of diplomatic negotiation : how is arbitration called into play ? The preliminary step is an agreement concluded between the two contending parties, by which they bind themselves to ask for the decision of some neutral person or body, and to abide loyally by the award when given. Such an agreement may, of course, be reached, without the intervention of any third party, on the initiative of the states themselves ; frequently, however, it was made at the suggestion of some friendly power, which stepped in to counsel the adoption of this means to avoid, or to cut short, war ; or, again, the states might be members of a League which, in its very constitution, provided for the arbitral settlement of all disputes between its members, or some superior power might use compulsion or the threat of force to make the states settle their disputes in this way. In any case, the necessary preliminary of a valid arbitration is the consent of the two states involved, embodied in a formal agreement. A number of these have come down to us and show us that they always dealt with three questions: the matter to be submitted to arbitration, the choice of the arbitrator, and the validity of the award : in some cases they went on to determine the date of the trial, the nature of the tribunal, the way in which the award was to be reached and published, and the penalties attending any contravention of it. When these points were not settled in the preliminary agreement, they were left, we may conclude, to the discretion of the arbitrator.

The next step was to approach the proposed arbitrator and ask his acceptance of the task, which, being at the same time a high honour, was seldom, if ever, refused. What determined the choice of arbitrator we are often unable to discover, as on this question the records are usually silent, or speak in quite general terms. Neutrality was, of course, a *sine qua non* : friendliness and "kinship" to the two disputing states are frequently referred to, and in some cases the state which intervened to bring about the agreement to refer the question

to arbitration was itself chosen to give the award. Trustworthiness, prestige, and power were also required; it is only very seldom, if ever, that the arbitrator, whether state or individual, is insignificant. Emperors, kings, despots or high officials were often appealed to: two famous athletes and the poet Simonides are credited with undertaking the office at different times, but these may be cases of mediation rather than of arbitration proper. Of two arbitrators—Stratonax of Apollonia and Lanthes of Assus—we know only the names, and cannot say what was their civic or social position, and of one—Maco of Larisa—we learn that he was a private citizen, though an eminent one, of his state, who was chosen, no doubt, because of his skill and the confidence inspired by his high character.

But the appeal to a council or a state is even more common than that to an individual. The Amphictiony of Delphi plays a disappointingly small part, and even more surprising is the almost entire absence of the Delphian oracle from the arbitral records. Ordinarily a state is chosen, a Hellenic state down to the time when the Romans become regarded as possible, or perhaps as the natural, arbitrators in Hellenic quarrels; it must be a state enjoying prestige and a certain position in the Greek world, far enough away to be wholly unprejudiced and yet near enough, in the majority of cases, to be able to send a body of arbitrators, if necessary, without too great trouble and expense. For in all such cases the state appealed to had to delegate its functions to a tribunal of its citizens. In the majority of instances known to us, this tribunal consisted of three or of five members—I know of seven examples of the former and six of the latter number—an odd number being chosen to obviate the danger of an equality of votes in a court where no unanimity was requisite but the verdict of the majority was regarded as that of the whole body. The members who composed these courts were elected obviously for some special qualifications they possessed. But the arbitral tribunal does not always take the form of a small body of experts: the whole democratic constitution of the majority of the Greek states was based upon the assumption that, although for executive purposes a small committee is best and perhaps necessary, deliberative and judicial functions are best undertaken by the whole, or by large sections, of the citizen body, and this doctrine results in the appointment, by the thoroughly democratic method of the lot, of large arbitral courts, intended to represent the "common sense" of the state which appoints them. We have seen that 600 Milesians decided the dispute

between Sparta and Messene, and other examples are known to us in which the court consisted of 334, 301, 204, and 151 members, all of whom had equal voting powers.

Thus constituted, the court set about the fulfilment of its task with all reasonable speed; a limit of time within which the award must be published was sometimes fixed, either by the agreement of the two disputants or by the state which appointed the court. The enquiry was held in the arbitrating state or on other neutral ground or else in the territory which was the subject of the dispute: occasionally it was thought advisable to combine several of these plans, as when a Pergamene court enquired into the difference between Pitane and Mytilene, first hearing the statements of the respective advocates in one or other of the two cities, then paying a visit to the territory in question and finally adjourning to the temple of the Dioscuri at Pergamum for the concluding stage of the trial, or a Rhodian tribunal, after hearing the preliminary speeches in the temple of Dionysus at Rhodes, went to the territory under discussion and ended by giving its verdict in the Artemis temple at Ephesus. The mention of these sanctuaries in which the courts sat reminds us of the religious character and sanction attaching to the whole proceedings, an aspect which was also emphasized by the oath which the arbitrators took. Let me give you the formula of one which has been preserved:—

"By Zeus and Lycian Apollo and Earth, I will judge the case, to which the contending parties have sworn, in accordance with the justest judgment, and I will not judge according to a witness if he does not seem to be bearing true witness, nor have I received gifts from anyone on account of this trial, neither I myself nor anyone else on my behalf, in any way or under any pretext whatsoever. If I swear truly, may it be well with me, if falsely, the reverse."

At the trial each of the contending states was represented by one or more elected delegates, to whom it entrusted the task of watching its interests, bringing before the court all the available evidence in its favour and pleading its case as effectively as possible: they were usually citizens of the state which appointed them, sometimes its most prominent men, though occasionally a talented and eloquent pleader was secured from some other city. We possess in full the regulations laid down for the production of the evidence and the conduct of the trial in one well-known dispute, in which Cnidus acted as arbitrating city, and we see that every precaution is taken to

secure that all the relevant evidence, duly attested and confirmed, shall be laid before the court. The actual trial begins with the speeches, limited in duration, of the two advocates, into the course of which are introduced the pieces of evidence, oral or documentary, adduced to confirm the statements made: only the actual speech is timed, the water-clock being stopped so long as a witness is heard or a document read aloud by the secretary. Then follows an interval for the cross-examination of such witnesses as are able to be present, and at its conclusion the advocates are allowed to sum up, within a reduced time-limit. There is no further speaking: the court at once finds its verdict, each member voting as he feels inclined, without any "retirement of the jury" or opportunity for combined discussion and consideration. Sometimes we learn exactly how many votes were given on each side. In the case between Sparta and Messene the numbers were 16 and 584 for the two states respectively, in another they were 126 and 78, while in a third, between Cierium and Metropolis in Thessaly, 298 judges voted for the former and 31 for the latter, while five votes were invalid, for some reason which is not stated. Usually, however, the numbers are not given, the majority deciding the award of the court.

There is one characteristic feature of the records of Greek arbitration as contained in inscriptions which deserves at least a passing mention. The arbitrators recognized that they had an even higher task to fulfil than the mere settlement of a quarrel between two states; if possible, those states must be reconciled to each other, and the friendship, which had been interrupted, must be restored. And with this end in view they constantly attempted (the same holds true also of arbitration in private disputes) to induce the states to agree to an equitable settlement. In other words, they tried to decide the difference by mediation before they exercised their arbitral powers and delivered a binding verdict. For they realized that mediation is the function of a friend, arbitration that of a judicial tribunal. I give you a single illustration, the clearest, perhaps, known to us, yet assuredly typical rather than exceptional. In the report on the case between two towns of eastern Crete, Itanus and Hierapytna, the court, composed of eighteen Magnesians, records that, at the conclusion of the speeches made by the advocates of each side, the judges put down their verdicts in writing, that is, they definitely decided what verdict they would give if such were rendered necessary, but were anxious, if possible, to avoid the hard and fast decision of the judicial sentence and therefore,

in their anxiety to restore the friendship which had once existed between the two states, used every effort to bring about reconciliation and amity between them. In this instance the effort was frustrated,—"our purpose," the report continues, "was hindered of its fulfilment by the exceeding bitterness of their enmity, and the award was consequently decided by vote," —but there were many occasions, as the inscriptions testify, on which this aim of the arbitrators was realized and the settlement took the form of an agreement or reconciliation and not of an arbitral award. This is no mere question of words and names; it is indicative of the healthy spirit which inspired these arbitral boards.

Of the evidence brought forward in such trials we are well informed, especially by a series of long inscriptions which contain not only the official account of the enquiry and of the award, but also a summary of the evidence used by each side in support of its claims. This depended upon the nature of the dispute, and was of the most varied character. The appeal to mythology and the early epic poems carried considerable weight with a Greek court in determining the original ownership of territory, and we find archæological evidence also employed in the early dispute between Athens and Megara for the possession of Salamis. On that occasion Solon, the Athenian spokesman, cited two verses from the Iliad in confirmation of his case, the crucial one of which he is said to have himself foisted upon the poem, and backed up his contention by an appeal to the manner in which the Athenians buried their dead and a demand for the excavation of Salaminian tombs. The works of historians were also brought forward. We hear, for instance, of a dispute between the Prienians and the Samians, in which the latter rested their cause mainly upon the evidence of four historical writings, which they cited as supporting their claim; but a more careful examination showed the arbitrators that only one work—that which bore the name of Mæandrius of Miletus, but was widely regarded as a forgery—really favoured the Samian contention, while all the other historians—Creophylus and Eualces of Ephesus, Theopompus of Chios, and, most important of all, the four native Samians, Uliades, Euagon, Olympichus, and Duris—ran directly counter to it. Treaties and other public documents, receipts and decrees, deeds of sale and letters were also quoted as evidence, whether written upon paper and produced from state archives or engraved upon stone and set up in temples or other public places. Frequently the report of the

arbitrators quotes verbatim the decisive passages from such documents, in order to show how strong was the evidence upon which they based their verdict. A fragment has also survived recording the depositions made in a territorial dispute between two states of northern Thessaly: there we can read the testimony of an elderly shepherd, who had long pastured his flocks on the land in dispute and can tell, moreover, what the elders of the village used to say about the ownership of the territory, together with that of some fishermen, who add their witness in favour of the same side. The evidence was often complex and conflicting; much of it was indirect in its character, and the truth of oral statements and the authenticity of written works had to be carefully weighed. Yet the impression we receive upon a review of the extant records is that the courts were genuinely anxious to sift the evidence thoroughly and to arrive at an equitable verdict, and that if they sometimes made mistakes, as no doubt they did, it was not from any lack of conscientiousness or sincerity.

The award was written out by the court and copies of it were handed to the two states interested, to be lodged in their public archives. Sometimes this award was quite brief and contained nothing superfluous, as we see, for example, in the Argive award, declaring that three islets belonged to Cimolus and not to its rival Melos: in this case the whole record contains only forty-three words. Later, the desire not merely to declare but to justify their sentence led the arbitrators frequently to write lengthy reports, such as that of the Magnesians, the extant portion of which contains 141 long lines, or that of the Rhodians appointed to arbitrate between Samos and Priene, which is even longer. In order to secure public and permanent records of the verdicts, these were frequently engraved upon stone, both in the arbitrating state and in that which was successful in the trial, as well as in some neutral sanctuary, which was a common meeting-place of the Greeks of that region in which the contending states lay—for example, that of Apollo at Delphi or at Delos, that of Zeus at Olympia, or that of Asclepius at Epidaurus. Again and again our records speak of a quadruple or even quintuple publication of this kind, securing for all who were interested the opportunity of learning the exact terms of the award.

I am only too conscious that in my desire for, or rather, let me say, under the necessity of, compression I have run a serious risk of robbing what I have said of its human interest.

My hope was to bring before you part of the life and thought of the Greeks—I fear I have only presented you with a skeleton of dead, dry facts. For history, to be appreciated aright, demands an effort not only of the intellect, but also of the imagination: those whose lives and actions we study were not automata, but living men and women with hopes and fears, passions and aspirations like our own, and it is possible to possess a full and accurate knowledge of the ascertained facts about them and yet fail to come into contact with that living, pulsating humanity which made them what they were. This effort of sympathetic imagination I ask from you to endow with life the facts I have set before you. I can only ask one question in conclusion, and indicate rather than formulate the answer I would give. Was arbitration amongst the Greek states a success? Bérard, in his treatise on this subject, replies with an emphatic negative, basing his verdict upon the continued existence, for centuries, of disputes which were repeatedly made the subjects of arbitral awards, such as those between Samos and Priene, or Sparta and Messene. Yet these form a very small proportion indeed of the cases known to us, and must be treated not as normal, but as exceptional, and even they will, I think, if carefully examined, lead us to a different conclusion. We shall admit that it was "unsportsmanlike" of the worsted city to refuse to accept its defeat as final, and to reopen the question again and again, but we shall also insist upon two facts, that the renewed appeal was always to a fresh arbitration, never to war, and that for a time, at least, often for half a century or even more, the award is accepted and acted upon. For, in spite of the oft-repeated yet one-sided truth, that an arbitral sentence cannot be enforced, that there is no international police to compel acquiescence, one lesson clearly taught by the experience both of ancient and of modern times is this, that it is only in very rare cases that the arbitrator's award is repudiated by either of the parties concerned. And thus, although remembering the existence of those age-long disputes, those chronic maladies of the Greek body politic, and of those other cases in which arbitral settlement was refused even by those who had bound themselves by solemn compact to employ it, I would emphatically record my own conviction that among the Greeks arbitration proved a striking success in averting war, in bringing national quarrels and misunderstandings to an equitable conclusion, and in promoting friendship and goodwill between state and state.

We, in this twentieth century, boast a higher civilization, a more enlightened public opinion, a stronger and more developed moral sense: in our midst is the Christian Church, and the person and teaching of its Founder exercise an influence far beyond its visible borders. May we not take the example of the Greeks in this matter as a stimulus, and accept their experience as of happy augury for our own future?

Discussion.

Mr. David Howard said: This valuable paper is one much easier to appreciate than to criticize. There is nothing new under the sun, and those who think that all noble and valuable ideas date from the beginning of this century, or very little earlier, would do well to learn the value of minute and laborious studies of past history, which seem to them of little value, but throw invaluable light upon the possibilities of applying to modern conditions the admirable, if not new, idea of substituting the civilization of arbitration for the barbarism of war.

The Rev. H. J. R. Marston congratulated the lecturer upon his great knowledge, his lucid exposition, and the general excellence of his paper. The reflection which arose to his mind was the greatness of the Greek endowment, not only in art, in which they were *facile principes*, but also in judgment and philosophy, and now from this paper he learnt they were equally great in some moral achievements of which arbitration was a most interesting case. He felt personally indebted to Mr. Tod for this instruction. The Greeks tried it very widely and very successfully. Their moral sense was so strong that, despite repeated failure, yet they stuck to the practice rather than come to blows.

Possibly the conditions between the small states made arbitration easier. Modern conditions as, for example, between England and America were very different, and made the principle far more difficult in practice. Again, the central authority, the Senate, could bind the small powers to carry out the results, and they would therefore be less likely to dispute the awards. The long existence of the spirit of arbitration, proved by this paper, encourages its continuance. He cordially agreed with the opening sentences. No

doubt war had done good, but certainly not such wars as those of Louis XIV. The Dutch wars did good, and there is undoubtedly a sense in which war may become a Christian act. But, unless necessary, it was a crime. He trusted the policy of the Greek world would be more and more adopted among Christian states.

Dr. THIRTLE said: One cannot but recognize that the subject before us is one of peculiar interest, and that it has been opened up in a singularly lucid manner. I am tempted, nevertheless, to raise a side issue, and inquire whether there is in the Old Testament any reference to arbitration as a means of settling disputes. Assuredly the term is not there, but is the thought equally absent? Pursuing our inquiry, we suggest that, in its elementary meaning, arbitration is an appeal to reason (as distinguished from an appeal to force), with the object of settling differences between parties that are estranged from one another, or are likely to become so. Though not prepared to indicate a concrete instance of such a proceeding in Old Testament history, I think we have the thing itself expressed in a well-known appeal found in the prophecies of Isaiah.

It is a celebrated passage to which I refer. By sin and evil courses the people of Judah had become alienated from Jehovah, and though judgment was due, if not imminent, words of mercy were spoken from heaven—all the while with the object of averting the terrible consequences of sin. Then it was that the appeal was made: "*Come, now, and let us reason together, saith the Lord.*" (Isaiah i, 18.) It is, of course, admitted that the machinery of arbitration is not brought before us in the passage; but the language implies a tenderness and consideration for the side that is in the wrong, such as lies at the base of arbitration. The words may be paraphrased: "Come, now, let us face the issue; and may the difference be decided in a manner that shall result in your finding acceptance in my sight, and the doom of sin be averted." In following verses (19, 20) the consequences of acquiescence or refusal are indicated. I suggest that the appeal of Jehovah by the prophet is in the spirit of arbitration in the interest of the wayward nation; and if the language admits of such interpretation, it is reasonable to conclude that the idea of arbitration cannot have been altogether foreign to the Hebrew mind.

The CHAIRMAN said: Though our lecturer does not treat of world-arbitration, but only of that of the ancient Greek states, his

researches have been not only interesting, but also important. It is a paper which breaks new ground, and throws a flood of light in a quarter, and upon a subject, little suspected by the majority of antiquarians who are not Greek specialists.

When thinking over the paper we have just heard, one realizes how advanced the Greeks really were. It is true that there is some doubt whether they brought all the good-will, and all the determination to give and take, which it is hoped that present-day arbitration would exhibit; but one may say that their efforts in that direction had in many—perhaps in most—cases all the elements needful for success. Then, as would also be the case now, one side or the other may have had the determination to yield in nothing, and to take from the other side all that it could possibly get.

We shall never know how early men first thought of submitting their disputes to arbitration. From our knowledge of savage tribes it may be assumed that primitive men were always fighters. Nevertheless, it is difficult to believe that the most uncultured, the rudest, the savagest, always loved strife for strife's sake. Underlying all their disputes and conflicts (when not due to the mere desire for revenge) was the yearning, common to all our race, to get more than their rightful share of this world's goods and advantages. and also to prove that they were the better men physically, and the most determined morally. From time to time they must have realized, however, that they had met their match, and arbitration was the result.

Mr. Marcus Tod has added to the interest of this interesting paper by calling attention to what is apparently a very early instance of arbitration in the ancient world, the states between which it took place being those of Lagaš and Umma* in Babylonia, and the date 3500 years before Christ, or earlier. One would like to be just a little more certain of the meaning of one or two of the words before accepting this as a real instance of arbitration, but it may be admitted that, if not altogether the real thing, it was at least something very much like it. The text does not state that Me-silim, king of Kiš (the predecessor of Babylon in importance), was the arbitrator, but, apparently enlightened by his goddess Gu-silim,† he

* Thus, according to the published explanatory lists, instead of Sirpurla and Gišuḫ.

† So I read instead of *Kadi*.

set up a monument to commemorate the boundary between the two states. To all appearance it was Enlil, "king of the lands, father of the gods," who expressed his divine will, and Me-silim (his name means "the voice of peace," or the like) communicated it to the contending states.

The lesson for us would seem to be, that the code of honour in heathen Greece in such matters was higher than in Christian Europe at the present time—and this not only in arbitration, but also in the declaration of war, when that unfortunate necessity arose; they regarded invasions without notice rather as robberies than as lawful wars. We have sadly fallen off from that high ideal.

I will ask you to return a most hearty vote of thanks to our lecturer for his engrossing paper, which I am sure we have all listened to with great interest, and greatly appreciate for its learning and originality. There is one remark which I should like to make concerning it, and that is, that certain of the details which he has given treat of the subject *at first hand*, thus placing their accuracy beyond the shadow of a doubt.

The AUTHOR: I should like to offer to the Council and members of the Victoria Institute my sincerest thanks for their kindness in giving me this opportunity of submitting to their judgment and criticism this paper, which embodies in a short form some of the conclusions reached in a branch of study which has been of great interest to myself, and also for the cordial reception which has been given to what I have said. In especial let me thank you, Mr. Chairman, for the fresh light you have thrown upon the early document to which I referred. I can claim no knowledge either of the monument itself or of the language in which it is inscribed, and am greatly indebted to you for your remarks about it and for the corrections you have made in that account of the text to which I had recourse. To answer in detail the various questions raised in the discussion would take me too long, and would carry me far beyond the limits of the subject to which I have confined myself in my paper. One point only I should like to emphasize afresh, that the recrudescence of feuds which have been previously settled, once or several times, by arbitration is no proof of the failure of the experiment. Arbitration may be regarded as a medicine employed to heal a disease of the body politic. In most cases of which we have record the cure was

immediate and complete: in a small minority the disease was alleviated but not eradicated, but the fact upon which we must insist is this, that the fresh outbreak of the disease could always be met and relieved, at least temporarily, by a fresh application of the remedy. The ill was incurable by any means known to the political science of the day, and it is fairer to recognize the service which was rendered to Greek public life by arbitration than to criticise it because the cure effected was not always instantaneous and final.

Text Referring to the Stele of Me-Silim.*

By T. G. Pinches.

Enlil, king of the lands, father of the gods, by his faithful (everlasting) word, divided the territory for Nin-Girsu and the god of Umma. Me-silim, king of Kiš, by the word of his goddess Gu-silim, in her enlightenment (?)†, set up a stone on the spot. Uš, ruler of Umma, acted according to a design too ambitious—he shattered the wrought stone, he entered the plain of Lagaš.

Nin-Girsu, warrior of Enlil, by his righteous word opposed Umma. By the word of Enlil, the great net‡ overthrew, (and) an earth-mound on the plain, in their territory, was founded (*i.e.*, for the burial of the fallen). Ê-anna-tum, chief of Lagaš, ancestor (in reality he was the uncle, as Thureau-Dangin says) of En-temenna, chief of Lagaš, decided the boundary with En-â-kalli, chief of Umma. He made a watercourse to come forth from the river to the edge of the plain; by that watercourse he inscribed a stele. He restored the stele of Me-silim to its place. He did not occupy the plain of Umma. Upon the platform of Nin-Girsu he built, with massiveness, the shrine of Enlil, the shrine of Nin-ḫursag, the shrine of Nin-Girsu, (and) the shrine of Babbar (the sun-god).

(At this point the offerings to the shrines are enumerated.)

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* Based upon the translation of M. Thureau-Dangin.
† In the enlightenment due to her, or the like.
‡ The destruction from on high.

THE 533RD ORDINARY GENERAL MEETING.

HELD IN THE ROOMS OF THE INSTITUTE ON MONDAY MAY 20TH, 1912, AT 4.30 P.M.

E. WALTER MAUNDER, ESQ., F.R.A.S., PRESIDED.

The Minutes of the preceding Meeting were read and confirmed.

The SECRETARY announced the Annual Address to be delivered by Sir ANDREW WINGATE, K.C.I.E., who would take for his subject "The Bible and Modern Unrest," and that the following presentations to the Library had been received by the Council: Two volumes from Dr. Thirtle entitled *Old Testament Problems* and *The Titles of the Psalms*, and one volume from Mr. H. B. Guppy on *Seeds and Fruits*.

The CHAIRMAN introduced the lecturer, the Rev. E. A. EDGHILL, M.A., B.D., who read a paper on "Miraculous Christianity and the Supernatural Christ."

A discussion followed in which Mr. ROUSE, Professor ORCHARD, Archdeacon POTTER and Dr. IRVING took part. The CHAIRMAN closed the discussion with a few remarks and moved a cordial vote of thanks to the Lecturer, which was carried unanimously.

This paper, owing to its author's ill-health, had not been submitted in time to get it in print before the Meeting. After the Meeting he took it away to abbreviate, and the MS. of the discussion was sent to him to revise his reply. It is with most sincere regret that the Council learned that he subsequently injured his foot, when blood-poisoning set in and he died in two or three days. Mr. Edghill had a brilliant University career, and had held

many important offices during his short life. He was Hulsean Lecturer in 1911. The following is an extract from *The Times* obituary :—

"Mr. Edghill was a man of great energy and enthusiasm, and devoted much time and thought to the Children's Guild, Poor Law Schools, and Annual Boys' Camp and Boy Scout movements, combining such activities with more definitely intellectual pursuits, he lived a strenuous life, with little regard for the limitations of health and strength."