

**INTERNATIONAL
ARBITRATION
AMONGST THE GREEKS**

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International arbitration amongst the Greeks by Marcus Niebuhr Tod

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MARCUS NIEBUHR TOD

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INTERNATIONAL
ARBITRATION
AMONGST THE GREEKS

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PREFACE

FOR many years past there has been a pressing need for a fresh treatment of the subject of international arbitration among the ancient Greeks. M. H. E. Meier dealt with it in his essay on *Die Privatschiedsrichter . . . Athens sowie die Austrägalgerichte in den griechischen Staaten des Altertums* (Halle, 1846), and R. Egger has some remarks on the question in the second edition of his *Études historiques sur les traités publics chez les Grecs et chez les Romains* (Paris, 1866). A new era was marked by the full and careful study of E. Sonne entitled *De arbitris externis, quos Graeci adhibuerunt ad lites et intestinas et peregrinas componendas, quaestiones epigraphicae* (Göttingen, 1888), which covers the whole field indicated by the title and is not confined to the subject of international arbitration; but Sonne's task was mainly that of collecting, discussing, and classifying the relevant inscriptions and passages from ancient authors, and he has devoted only twelve pages to the discussion of our subject in general. Six years later V. Bérard's monograph *De arbitrio inter liberas Graecorum civitates* (Paris, 1894) appeared, a work which, though it gives a somewhat fuller account of the procedure and the history of arbitration among the

Greek states, is in many respects unworthy of the eminent French scholar and writer whose name it bears.

These two dissertations were still regarded as the standard authorities when I wrote the essay which follows, and no fresh treatise upon the subject had appeared, so far as I am aware, within the past eighteen years, in spite of the remarkable interest recently aroused in the question of arbitration. A popular but stimulating account of the Greek employment of this means of avoiding an appeal to arms was contributed in 1904 by J. Gennadios to the pages of a journal entitled *Broad Views*, and an interesting article dealing with the same subject appeared six years ago in the *Classical Journal* from the pen of W. L. Westermann, while C. Phillipson has devoted a chapter to it in his recent work on *The International Law and Custom of Ancient Greece and Rome* (London, 1911), which, characterized though it is by great industry and legal knowledge, has failed to utilize the new evidence upon international arbitration which has accumulated since Bérard's work was written.

My manuscript was already in the hands of the Delegates of the University Press when A. Raeder's treatise *L'Arbitrage international chez les Hellènes* (Christiania, 1912) appeared under the auspices of the Norwegian Nobel Institute, giving what is by far the fullest and best account extant of the employment of arbitration in ancient Greece. My first thought was to withdraw my own essay, but the

Delegates determined to proceed with its publication and I deferred to their decision. I have not attempted to treat all the questions involved with the minuteness which marks Raeder's work. He has discussed with great care and in considerable detail the circumstances of every known example of arbitration between state and state, and has traced the historical process which I have merely summed up in a brief sketch (Chap. VI). Yet I am not without hope that my essay may succeed in meeting a real need. To some the greater familiarity of its language, to others its brevity, may be a recommendation, while others again may see its justification in the number of inscriptions used as the basis of my study which previous writers have left unnoticed. In any case, since this essay represents an inquiry conducted quite independently of Raeder's work, it may at least serve the useful purpose of confirming his results where we agree and of calling attention to the problems where we arrive at different conclusions. Raeder has not furnished me with any new evidence, and if I have omitted some of the inscriptions which he cites, it is because I had previously come to the conclusion that they were not really relevant.

My aim is to give as accurate and complete a view as I can of the evidence, especially that which comes from inscriptions, relating to the occasions and methods of arbitration among the Greek states. Although I have consulted the modern works already mentioned and owe to them no inconsider-

able debt, my object throughout has been to divest myself as far as possible of all preconceptions and bias, and to go directly to the ancient authorities for my material.

I have retained the term 'international' in connexion with arbitration in Greece as being more familiar than 'interstatal', and as unlikely to give a false impression; for in using the word we instinctively think of it as referring to a nation in its political rather than in its ethnological sense, as denoting a state rather than a race.

I have not thought it needful to reproduce in full, as Bérard does, the inscriptions which form a large proportion of the evidence at our disposal in dealing with this subject. On the other hand, an enumeration of the texts in question has seemed to me to be essential if the foot-notes are to be kept within a moderate compass.

This essay was awarded the Conington prize in 1912; my sincere thanks are due to the Delegates of the University Press for undertaking the burden of its publication.

M. N. T.

OXFORD,
February 7, 1913.

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