PART IV

THE LAW OF PEACE
LE DROIT DE LA PAIX
VATTEL AND THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES

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I. INTRODUCTION

Those called upon to do research and to write in the field of international dispute settlement are not in the habit of turning to the classics of international law, nor to the classics of law in general. Yet it is true that, from the time when there were statal entities, there were disputes between them; and those disputes were not always settled by the use of force.

In his book on International Arbitrations from Athens to Locarno (1929), Jackson Ralston wrote of the peaceful settlement of disputes between Greek City-States and in the framework of the Roman Empire, and of the dispute-settling activities of the Papacy. He also mentioned that the first treaty of alliance between the communities of Uri, Schwyz and Unterwalden – which alliance was he referring to?1 – contained a clause according which, in the event of a dispute between the Confederates, the wisest men among them would intervene ‘by arbitration’ to appease the difficulty ‘as it may seem to them suitable’ and, if a party were to disobey the sentence, the other Confederates would declare themselves against that party.2

This clause may seem to raise more questions than it answers: Who are the ‘wisest men’ among the Confederates? And what is meant by appeasing the difficulty ‘as it may seem to them suitable’ – settlement in terms of law or on another basis? In other words, are we in presence of a true compromissory arbitration clause or of a clause

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1 According to Ernst von Reibstein, Völkerrecht: Eine Geschichte seiner Ideen in Lehre und Praxis (K. Alber, Freiburg, 1958), vol. I, p. 204, the treaty in issue seems to have been the Federation between Uri, Schwyz and Unterwalden of 1315.