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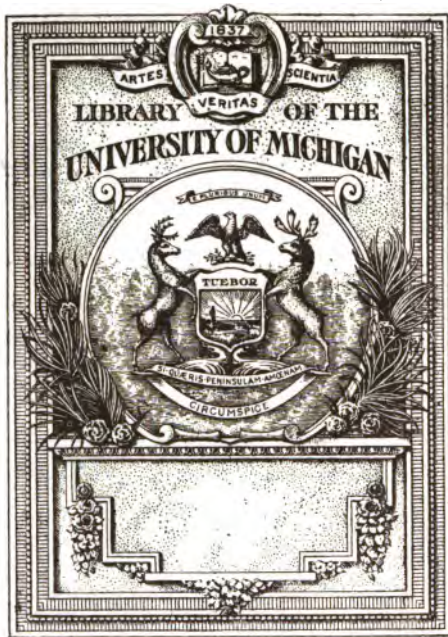
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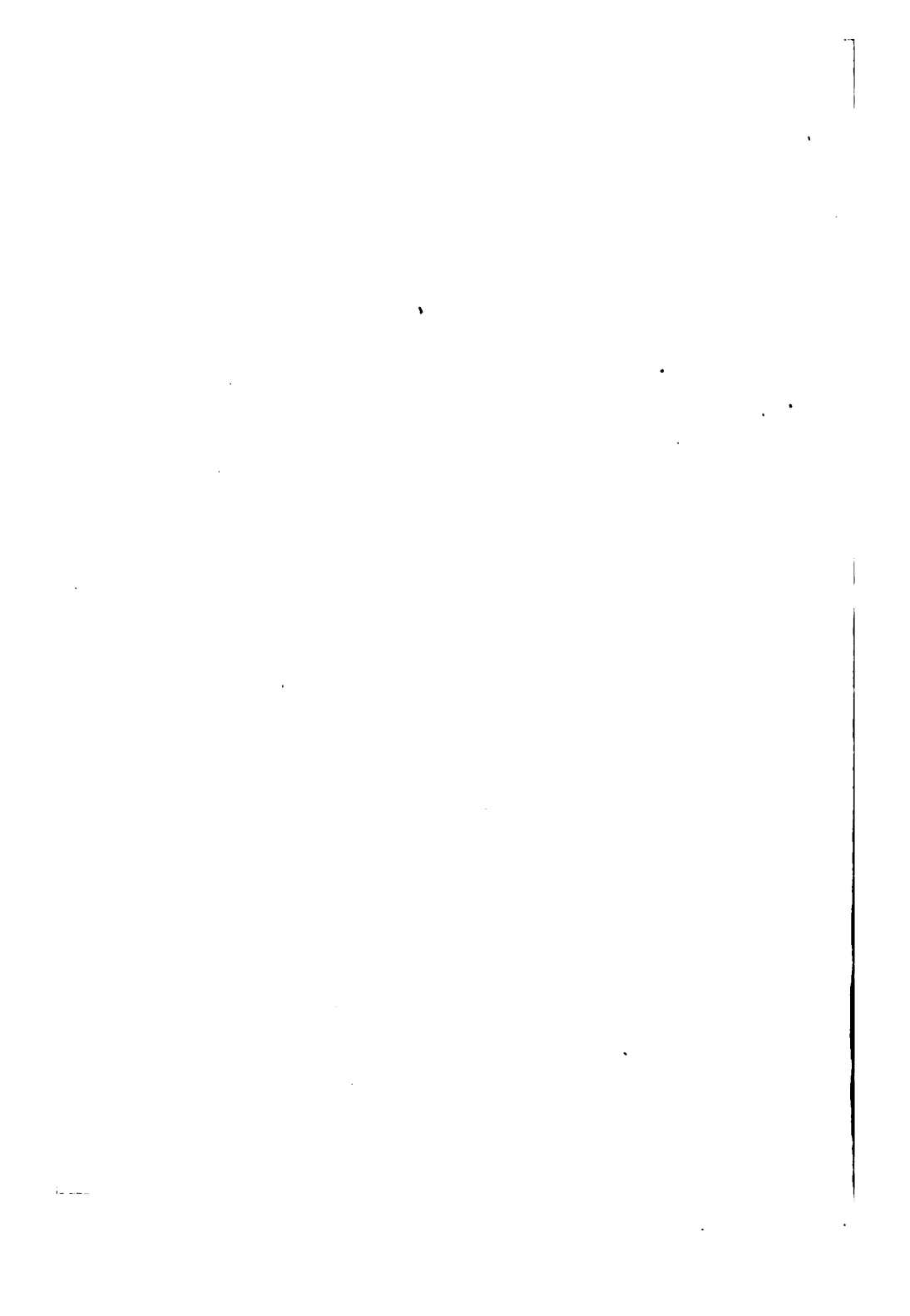




THE
NEUTRALITY OF BELGIUM

St. Louis, Mo.





THE NEUTRALITY OF BELGIUM

A STUDY OF THE BELGIAN
CASE UNDER ITS ASPECTS
IN POLITICAL HISTORY
AND INTERNATIONAL LAW

BY
ALEXANDER FUEHR
DOCTOR OF LAW



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PREFACE

When the news of Germany's invasion of Belgium reached the Far East, where I was living at the outbreak of the war, it did not create any particular measure either of surprise or of indignation.

In the official communication of the British to the Japanese Government on the reasons for Great Britain's intervention in the war, given out by the Tokio Foreign Office on August 5th, the Belgian incident was referred to in the following manner:

“Germany, however, committed a hostile act towards Belgium in invading her territory, the permanent neutrality of which was guaranteed by the Triple Alliance (*sic*) and by an understanding between the Great Powers.”¹

Altho the alleged guarantee of Belgium's neutrality on the part of the Triple Alliance was a mystery to everyone, the nature of the “understanding” in question was fairly well known to many a

¹ Japan Weekly Chronicle of August 13, 1914, page 309.

PREFACE

member of the cosmopolitan communities of the Far East. However, very little at the time was made of it out there. Most of the foreign residents of Eastern Asia having lived, only nine years before, at close range through the Russo-Japanese War, which was almost entirely fought on neutral Chinese soil, it did not strike them as anything particularly surprising or criminal that part of the hostilities between Germany and France should take their course across neutral Belgian territory.

Several weeks later, I came to America, in order to regain my country; but found myself "marooned" in New York.

Here I met with a very different sentiment regarding Germany's invasion of Belgium. Germany was, and still is, accused of having violated the principle of the sacredness of treaties, whilst credit is claimed for Great Britain on the ground that she is fighting to vindicate that high principle.

Such being the case, I undertook to examine a little more closely than seems to have been done by others the "sacredness" of the treaties invoked by the British and the Belgian Government. The result of my studies is this little book, the publication of which I have purposely delayed in order to offer some material for quiet reasoning to work upon after the waves of emotionalism, raised by the fate of the Belgian people, have somewhat abated.

PREFACE

This study treats the subject of Belgium's neutrality under two aspects,—the aspect of political history and the aspect of international law.

The first part will outline the origin of that legal institution, as well as its breakdown, revealing, in either phase, the traditional deep concern of Great Britain in Belgium as her continental bulwark.

The second part will deal with the question whether, under the established rules of international law, Germany, by her invasion of Belgium, violated international obligations, and whether, under the said rules, her action presents itself as right or wrong. In this connection, I shall have to quote a number of recognized authorities who have established the doctrine on this matter. I could, of course, have brought in any number of quotations from German authors. But I shall confine myself to expert opinions of American and English origin, because I wish to show just what the attitude of Americans and Englishmen has been in parallel cases, and because this affords me the advantage of inviting the reader to follow up the matter himself, by turning to the original works, throughout available in the Public Library of New York City and, doubtless, in most of the many other excellent libraries of this country.

I wish to point out that the present study does not

PREFACE

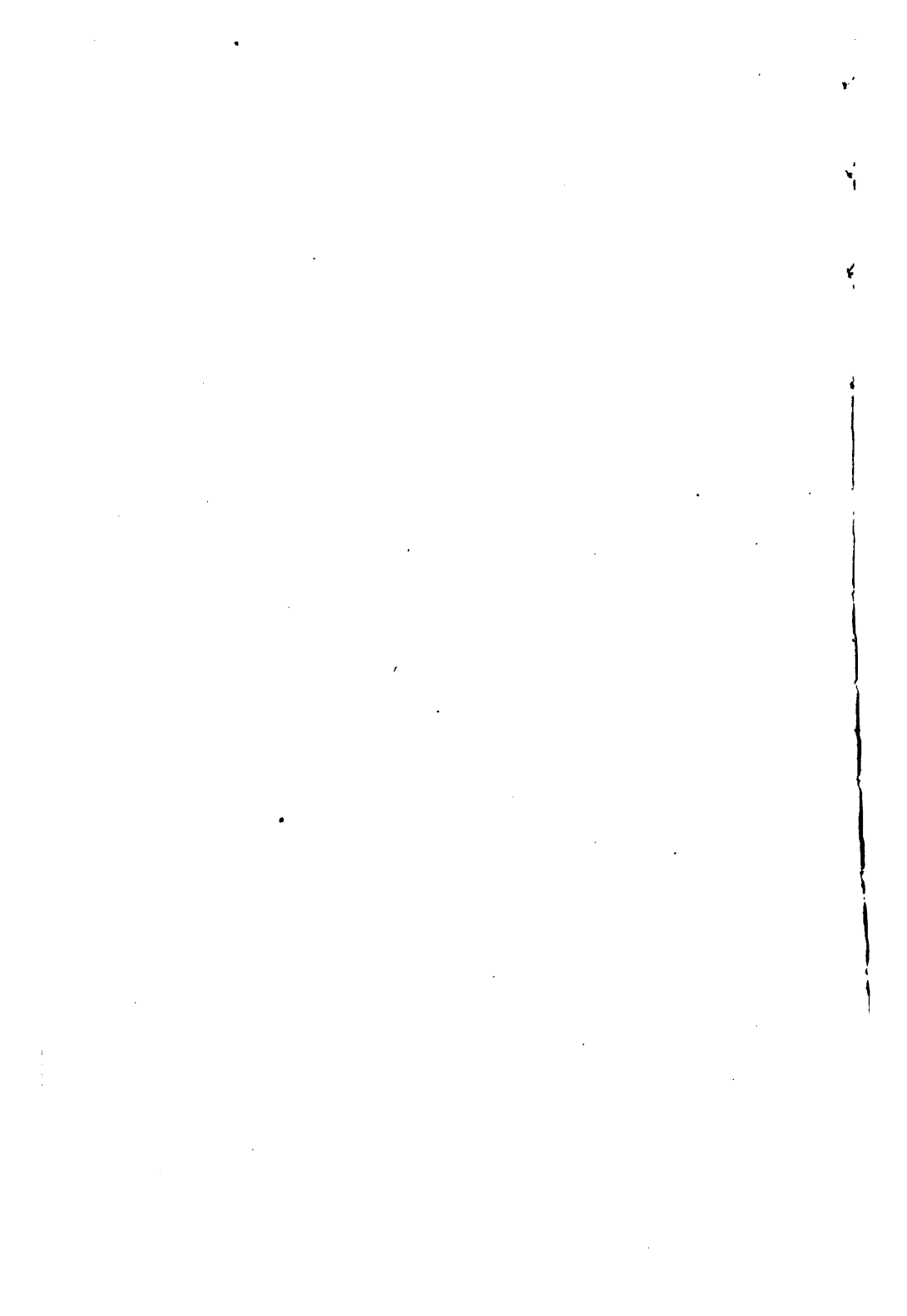
concern itself with events following the entry of German troops into Belgium, especially not with the so-called "Belgian atrocities." The invasion of Belgium and the subsequent military actions on Belgian soil are two totally different subjects which, in my opinion, have to be kept strictly separate. I have taken it as my task only to investigate Germany's case with regard to the former subject. As for the charges in connection with the latter, I beg to refer the reader to the recently published German White Book on the Belgian People's War, with its very comprehensive evidence; to the excellent treatise on Belgium's case by Dr. Richard Grasshoff; and to a little pamphlet, entitled "Der Franktireurkrieg in Belgien," being a compilation of characteristic, incentive utterances of the Belgian press, in the early days of the war.

New York City, July, 1915.

A. F.

PART I

*The Historical and Political Aspect of Belgium's
Neutrality*



THE NEUTRALITY OF BELGIUM

CHAPTER I

A PAGE FROM BELGIUM'S EARLIER HISTORY

The history of the territories known in modern times as Belgium was never in any marked degree shaped by their inhabitants but by the nations surrounding those territories.

Since the close of the middle ages, the main features of that history have been: on the one side, the ever latent desire of Belgium's neighbors, particularly of France, to annex those territories; and on the other side, England's firm determination not to allow them to fall into the hands of a strong Power which might use them as a base against the British Isles. England has not coveted the formal possession of Belgium; but she has looked at that country as her Continental bulwark and, during centuries, shaped its fate in such a manner that her safety was in no way endangered,—regardless of what that country's own interests demanded. The question of the possession of the mouths of the

Scheldt has always been considered by England as one of her most vital questions.

The following utterances of four prominent men, belonging to different periods of history, illustrate the deep and particular interest which England has always attached to her Belgian policy.

The famous Dutch jurist, Hugo Grotius, who is often called the "Father of International Law," remarks in a letter to his brother, in 1632: "The King of England will stand anything save the passing of the ports of Flanders into the hands of the French."¹ In quite the same strain Lord Castlereagh, English Premier, writes to Lord Aberdeen, British Ambassador at Vienna, in November, 1813: "To leave Antwerp in the hands of the French would impose on us the necessity of a perpetual state of war."² At the outbreak of the Franco-German War of 1870, Mr. Disraeli, one of England's greatest statesmen, said in the House of Commons: "It is of the highest importance to this country that the whole coast from Ostend to the North Sea should be in the possession of free and flourishing communities from whose ambition the liberty and independence of England nor of any other country can be menaced."³

¹ Quoted by R. Dollot, *Les Origines de la Neutralité de la Belgique et le Système de la Barrière*, Paris, 1902.

² Quoted by R. Dollot.

³ Hansard's Parliamentary Debates, 3d ser. 203, page 1703.

And in our own times, Lord Kitchener is credited with the following significant words: "The British Empire's frontier in Europe is not the Channel, but the Meuse line."¹

A short historical review of the Anglo-Belgian relations will show how skillfully England has pursued what may be called her Continental bulwark policy.

Towards the end of the XVth century, Belgium, as a part of the Lowlands, became, by right of marriage and inheritance, a crown-dominion of the house of Hapsburg, which then ruled not only over Austria but, shortly afterwards, succeeded to the throne of Spain.

The northern parts of the Lowlands, consisting of seven provinces, gained their independence in 1648, after a terrible war lasting for eighty years, and formed the Dutch Republic, under the hereditary "stadtholders" of the house of Orange-Nassau.

The southern provinces, commonly called the "Catholic Netherlands," consisting of most of modern Belgium and the northern districts of present-day France, remained for nearly three hundred years under the rule of the house of Hapsburg, and formed part of the Holy German Empire, the col-

¹ Quoted from F. Delaisi *La guerre qui vient*, Paris (1911), page 25. ("La frontière de l'Empire britannique en Europe, ce n'est pas le Pas de Calais, c'est la ligne de la Meuse.")

ors of which, as a reminder of former times, Belgium flies to this day as her national flag.

After 1556, there were two branches of the house of Hapsburg, the older one occupying the throne of Spain, whilst the rulers of the younger branch reigned over Austria and were, at the same time, German Emperors. The Catholic Netherlands belonged at first to the Spanish branch, but, after its extinction in 1700, passed over to the Austrian line. In both cases they formed outlying possessions of their rulers, far apart from the latter's principal dominions, which fact largely accounts for the peculiar rôle they played in the European history of the XVIIth and XVIIIth century, with England as the decisive factor.

England's Continental policy during earlier times had rested on the possession of a "bridge-head" on the Continental shores of the Channel. This bridge-head, the citadel of Calais, England had been forced to evacuate in 1558. A century later, Oliver Cromwell, Lord Protector of the Commonwealth, tried to revive the old scheme when France's ever latent desires of annexing the Catholic Netherlands assumed, under her Prime Minister Cardinal Mazarin, such a threatening character that England's safety seemed in jeopardy. Cromwell showed great diplomatic ability. Both England and France being in a state of war with Spain, the Lord Protector made

an agreement with Mazarin for concerted action in the Spanish Netherlands. In 1658, the combined Anglo-French forces captured Dunkirk, which then belonged to the Netherlands. King Louis XIV of France was allowed to make his solemn entrance into the city. But he and his Prime Minister found themselves outwitted by the English, who, upon Cromwell's orders, with superior forces, erected almost at once a powerful citadel in that place, which action was sufficient to make the French give up the campaign.

Thereupon Louis XIV tried to obtain Belgium by other means. He made his peace with King Philip IV, and married his eldest daughter, the Infanta Maria Theresia. Altho she had to renounce all rights of succession to the lands of the Spanish crown, Louis claimed for her, upon her father's death, in 1665, the succession in the Belgian provinces, in preference to her half-brother, King Charles II of Spain, basing her claims on a certain Belgian traditional right of "devolution," according to which a daughter of first marriage has the right of inheritance before sons of subsequent marriages. The three "Wars of Conquest" were the consequence. In the first of them, France occupied the Flanders and the Hainault, but was obliged to relinquish nearly all of the occupied territory, by the Peace of Aix la Chapelle, in 1668, as England,

which had been in a state of war with Holland since 1664, speedily ended her feud against the Dutch, to save Antwerp from falling permanently into French hands.

Four years later, Louis XIV renewed his endeavors to annex Belgium, having this time previously concluded a treaty of alliance with the weak King Charles II of England, who had, carelessly, sold him Dunkirk, for five million livres. But the English people vigorously opposed this un-British policy of its king, forced the "Cabal Ministry" to resign, made peace with Holland, and, by the Peace of Nijmegen (1678) forced the King of France to give up all the Belgian provinces conquered by him.

The same thing happened after the third War of Conquest. Again the French, having beaten the Dutch in three big battles, held all Belgium in their possession; but William III of Orange, Stadtholder and King of England in one person, simply forced his great antagonist, by the Peace of Ryswijk (1697), to renounce the conquered Belgian territory, or to go on fighting.

It is significant that, at each of these three occasions, England allowed a few inland towns, like Lille, Tournai, Valenciennes and Cambrai, then forming part of the Netherlands, to remain in the hands of the French while she took good care to

keep the French away from the coast districts north of Dunkirk.

In the European war which, in 1701, upon the death of Charles II of Spain, ensued for the succession to the Spanish throne, England's attitude was primarily, if not exclusively, determined by considerations with regard to her Continental bulwark. King Charles II had, by a formal act, appointed Philip of Anjou, grandson of the reigning King of France, as his successor; however, Austria, as the younger branch of the house of Hapsburg, claimed the Spanish throne for Archduke Charles. As the Belgian provinces were then practically a Spanish crown-dominion, England was afraid that they would get under French control if the lawful French heir was allowed to succeed to the Spanish throne. Consequently, England took up arms in favor of the Austrian candidate, and sent her famous General Marlborough to the Netherlands, where he waged a most successful war against the French. But subsequently the situation changed. Archduke Charles' elder brother, Emperor Joseph I, having died without issue during the progress of the war, Charles became himself German Emperor, whereby the danger arose that, if the Hapsburg claims to the Spanish throne should meet with success, that monarch would unite in his hands the Spanish realms as well as the German Empire.

Since that was not in the interests of England, she ended her struggle with France, consenting, by the Peace of Utrecht (1713), to the Bourbon succession in Spain, whilst France agreed that the Belgian provinces should be handed over to Austria, and, moreover, specially acknowledged the so-called Barrier Treaty, concluded between England and Holland at the Hague in 1709, whereby the latter had been entrusted with the right of permanently garrisoning the Belgian frontier forts erected against France.

This treaty, which may justly be called a masterpiece of English diplomacy, was confirmed by the Treaty of Rastatt (1714), by which Emperor Charles VI acknowledged the Bourbon succession in Spain, and by the Convention of Antwerp of 1715, concluded between Austria and Holland, according to which eight Barrier-Forts on the Franco-Belgian border were to be permanently occupied by Dutch troops, for the safety of England, against an annual payment of half a million thalers by Austria.

The Barrier Treaty rendered wonderful services to England, especially during the Anglo-French war of 1755-1763, and was to a large extent instrumental in gaining for England gradually the position of the first colonial and naval Power of the world, since, during all that time, the Belgian bulwark, well protected, guarded the British Isles

against Continental invasions and gave England the opportunity to use all her resources for her operations over sea.

The treaty came to an end in 1780, when Holland, having taken part in the so-called Armed Neutrality, was attacked by England. Because at that time the latter's influence naturally no longer supported the Dutch Republic, Joseph II of Austria did not hesitate to abrogate the Convention of Antwerp—which fact is sufficient proof that it had only been England which, for so many years, had made that singular arrangement possible whereby, mainly for her own ends, a Continental state had been obliged to garrison the buffer-country Belgium, which belonged to a third Power.

The consequences of the abrogation of the Barrier Treaty very soon became visible. In 1792, Dumouriez, General of the French National Convention, occupied Belgium without difficulty, and the country was three years later incorporated in the Batavian Republic. In 1803, William Pitt demanded that the French troops should evacuate Belgium, but to no avail, since the French knew only too well that this was England's danger spot. Belgium was made part of the Kingdom of Holland which Napoleon created in favor of his brother Louis, and became the headquarters from which the famous "Continental Blockade" was directed

against the British Isles. This measure, which caused the greatest crisis known to English foreign politics until the present war, was, however, so ruinous for Holland that Louis renounced his throne in 1810, whereupon Belgium, with the rest of the Kingdom of Holland, was incorporated into the French Empire.

Signs are not lacking that the Belgian people were rather well contented with their annexation by France which, among other things, restored a measure of prosperity to the national harbor, Antwerp. To England, however, the control of the Belgian provinces by France was, doubtless, the most formidable part of the Napoleonic danger. Belgium's liberation from the French "yoke" became therefore one of the chief concerns of British statesmen.

The first decisive blows against Napoleon were scarcely dealt by the Continental Allies, in October, 1813, when England's Premier, Lord Castlereagh, opened negotiations in St. Petersburg concerning the future fate of Belgium. In February of the following year, he succeeded in obtaining the promise from Russia that the Belgian provinces, together with Holland, should be handed over as an independent kingdom to Prince William of Orange-Nassau-Diez, son of the last Dutch "stadtholder," who, during the French revolution, had

died in English exile. Soon afterwards, also, the consent of the other Allies, Prussia and Austria, was secured to this scheme, which, significantly enough, included the dismantling of the fortress of Antwerp.

At the conclusion of the Treaty of Paris of May 30, 1814, which ended the great War of Liberation, excluded Napoleon from the French throne, and restored France, in her former limits, to the Bourbon dynasty, the English proposal concerning a permanent union between Belgium and Holland was, at Lord Castlereagh's insistence, formally sanctioned by certain "Additional, Separate and Secret Articles" to the Treaty of Paris, of May 30, 1814, one of which reads:

ARTICLE III

The establishment of a just Balance of Power in Europe requiring that Holland should be so constituted as to be enabled to support her Independence through her own resources, the Countries comprised between the Sea, the Frontiers of France, such as they are defined by the present Treaty, and the Meuse, shall be given up forever to Holland.

The Frontier upon the right bank of the Meuse shall be regulated according to the

military conveniences of Holland and her neighbours.

The European "balance of power"—wherever this watchword of British diplomacy occurs, it always indicates a successful shifting of that balance in England's favor!—hardly required anything of the kind indicated in that secret agreement. But England's interest demanded that the defense of her Continental bulwark should be trusted to reliable hands again. For this reason, and none other, the Belgian provinces had to be handed over, much against their will, to the Dutch, serving, incidentally, as a small compensation to Holland for all the vast and valuable colonies which England had been able to take from that country during the Napoleonic era, colonies which included Ceylon and the Cape Colony.

On the strength of the above-mentioned secret arrangements, England obtained the definite settlement of the question of the Netherlands at the Congress of Vienna,—that great assembly of practically all prominent statesmen of Europe which, from September 1814 till June 1815, was in session at the Austrian capital and determined anew the frontiers and the status of the majority of the European states.

At the meeting of the plenipotentiaries on Janu-

ary 28, 1815, Lord Castlereagh, the British delegate, presented a memorandum of his government which reminded the representatives of her three former Allies of their countries' promises and made the following significant demands concerning the Netherlands:

That no arrangement should be made with regard to them, except with the full and entire consent of His Britannic Majesty.¹

This demand can leave no doubt as to England's firm determination to prevent, under all circumstances, a recurrence of a French occupation of the Netherlands. Also when, a few weeks later, Napoleon unexpectedly returned from Elba to retake possession of the French throne, England took immediate steps for the defense of Belgium. The Duke of Wellington was despatched there, at the head of one of the strongest military forces ever raised by England, which with the co-operation of the Prussian army under Field-Marshal Blücher defeated Napoleon at Waterloo.

Shortly before that momentous day, on May 31, 1815, four identical treaties were signed at Vienna, by England, Austria, Russia and Prussia, by which the new "United Kingdom of the Netherlands,"

¹ British and Foreign State Papers, 1814-15, No. 2, *Annexe 2* to Protocol of January 28, 1815.

consisting of Holland and Belgium, was officially recognized. On September 27, of the same year, Prince William of Orange-Nassau-Diez, who had also received the Grand-Duchy of Luxemburg at the Vienna Congress, was solemnly crowned King of the United Netherlands at Brussels.

The year before, at the occasion of a visit of the allied monarchs to the Court of London, it had been arranged—and this arrangement speaks volumes!—that the Duke of Wellington should be entrusted with looking after the military safety of the Belgian provinces, which was secured by a rayon of fortresses, including Ypres, Menun, Tournai, Mons, Charleroi, Namur, Philippeville, Marienbourg and Luxemburg.

But even that measure evidently was not considered by the British statesmen as affording absolute security to their Continental bulwark. To gain the backing-up of their Belgian policy by Russia, the only Great Power totally disinterested in Belgian affairs, they did not hesitate to saddle their country with a heavy financial burden. Russia had presented a bill for fifty million florins to the Netherlands for their liberation from the French yoke, and had, at once, raised a loan for the said amount with a banking firm of Amsterdam. On May 19, 1815, the Kings of England and the Netherlands concluded a treaty with the Emperor of Russia by

which the two first named monarchs promised that their respective countries would pay to Russia twenty-five millions of florins each, in annual instalments, with the understanding that these payments would cease in case the "Belgic" provinces should ever be severed from the Netherlands again, making it thereby a matter of importance for Russia that the union of Holland and Belgium be maintained. The true portent of that agreement was only disclosed by the Anglo-Russian Convention relative to the Russian-Dutch Loan, of November 16, 1831,¹ which shows in its preamble that the object of the treaty of May 19, 1815, had been "to afford to Great Britain the guarantee that Russia would, on all questions concerning Belgium, identify her policy with that which the Court of London has deemed the best adapted for the maintenance of a just Balance of Power in Europe."

Thus, it had been English gold which, at the Congress of Vienna, prompted Russia to lend her powerful influence to the carrying out of England's Belgian schemes. And it was the same convincing factor again which induced the Czar's Government to promise to uphold England's policy regarding Belgium when the latter country's affairs were re-arranged, in 1831. The events of 1830, which will

¹ Hertslet, *Map of Europe by Treaty*, Vol. II, page 872.

be discussed in the next chapter, having caused a temporary suspension of the English payments, their resumption was arranged for by the above-mentioned Anglo-Russian Convention of November 16, 1831, against the following promise:

ARTICLE II

In virtue of the said consideration His Majesty the Emperor of All the Russias engages that if (which God forbid!) the arrangements agreed upon for the Independence and the Neutrality of Belgium, and to the maintenance of which the two High Powers are equally bound, should be endangered by the course of events, he will not contract any other engagement without a previous agreement with His Britannic Majesty and his formal assent.

It is a strange coincidence that, according to a financial statement quoted by Hertslet,¹ England had to make annual payments into her sinking fund for Russia's promise regarding Belgian neutrality until the year 1915! This alone would show the high value which England has always attached to her Continental bulwark policy.

Surely, there can be no question that England's policy regarding Belgium, logically pursued through

¹ Map of Europe by Treaty, Vol. II, page 874.

three centuries, suits her purposes admirably and is perfectly legitimate. But it is equally certain that the interests of Belgium were never in the least allowed to influence the decisions of the British statesmen who decided the fate of the little country. In all of England's political arrangements, then and now—in the following chapter it will be shown that this applies particularly to the settlement of the Belgian Question during the years 1831 to 1839—there was and is simply no room for any consideration of Belgium's welfare. If ever it happened that any part of England's political program happily coincided with the wishes of the Belgian people, it can be safely asserted that that was merely incidental and by no means a moving factor in England's decisions.

CHAPTER II

THE LONDON CONFERENCE AND THE QUINTUPLE TREATY

The artificial union between Belgium and Holland, proclaimed at the Congress of Vienna by the will of England, broke down by force of circumstances.

The Dutch, of low-German descent, mostly Protestants, a commercial and seafaring people, on the one part, and the Belgians, mostly Walloons, fervent Roman Catholics, more given to industry than to commerce, on the other part, could never form one nation of common ideals and interests. For centuries the Belgians had cordially hated the Dutch; the Congress of Vienna appointed King William, a Dutch prince, as their "legitimate" ruler. The official language was Flemish, while the Belgians spoke French or a French "patois." The Dutch officialdom treated the Belgian provinces not much better than the territory of a conquered nation.

A general unrest was the unavoidable consequence. It merely required one spark from without to bring the powder magazine of discontent in Belgium to explosion.

This spark came from Paris, where, in July, 1830, a revolution broke out against the reactionary King Charles X, which ended with the overthrow of the Bourbons, reinstated as the "legitimate" Kings of France after Napoleon's downfall, and with a considerable curtailment of the prerogatives of the crown, which, by way of election, passed to the "bourgeois-king" Louis-Philippe of Orleans. The significance of that revolution was not so much the forced abdication of an incapable ruler as that the principle of "legitimacy," particularly emphasized at the Congress of Vienna, received a severe shock.

When, therefore, the success of the "July Revolution" became known in Belgium, the country went into open rebellion against its appointed ruler and forced Prince Frederic, King William's son, together with the Dutch garrison of Brussels, to evacuate the Belgian capital. On October 4th, the Belgians declared their independence from the Netherlands and, subsequently, constituted a Provisionary Government at Brussels.

The Great Powers, which had considered the question of the Netherlands settled for all time at the Congress of Vienna, were much upset by Bel-

gium's total disregard of their schemes. A few years earlier, King William's appeal to them to bring his rebel subjects back under his control would, doubtless, have caused an armed intervention of the Powers in Belgium, on behalf of Holland. Such, however, were the general conditions in Europe, in consequence of the July Revolution, that, for fear of a European war, neither England nor the Central Powers, Prussia and Austria, dared to intervene. The British Government, in particular, realized that a stern opposition to Belgium's declaration of independence would only drive that country into France's arms, which would mean a death-blow to British policy of a Continental bulwark. The new French ruler, on the other hand, was more inclined to carry out the popular demand for Belgium's annexation by peaceful means than to risk for it his newly won throne, in a war against all Europe.

Under those circumstances, a diplomatic conference for common deliberation on the Belgian problem seemed to be equally welcome to all the Great Powers—with the possible exception of Russia, whose ruler would have preferred coercive measures against the rebellious Belgians.

At the suggestion of the Duke of Wellington, the then all-powerful English Premier, it was arranged that the plenipotentiaries of England, France and

LONDON CONFERENCE AND QUINTUPLE TREATY 33

Russia, assembled at London to settle the Greek Question, should also take in hand the affairs of Holland and Belgium, in concert with specially appointed plenipotentiaries of Austria and Prussia.

This conference of the delegates of the five Great Powers at London, commonly called the "London Conference," held its inaugural meeting on November 4, 1830. It is commented upon by the English historian, Boulger, who ranks as an authority on Belgian history, in the following manner:

"The London Conference has been cited as a proof of the concord of Europe; no one who reads its sixty-three Protocols from end to end will find in its record proof of anything but discord,—the latent strife, the keen rivalry, of the five Powers which then constituted Europe. The Conference that nominally dealt with the fate of Belgium was concerned least of all with its interests. It wanted to avert a general war, to maintain the balance of power, to prevent Belgium falling to France, and to save Holland from being too much weakened."¹

It is not without importance to note that the "keen rivalry" between the Great Powers which Boulger considers the dominant note in the negotiations concerning Belgium, existed, in point of fact, only between England and France. The participation of Austria, Russia and Prussia in the London Conference was scarcely more than a formality, for

¹ Boulger, *History of Belgium*, Vol. II, page 271.

the said three Powers, after December, 1830, were, during several months, too much occupied by the great Polish Mutiny for serious attention to the affairs of Belgium, far less important to them. "It is inconceivable," says another English authority, "that the Belgian Question should have been left so entirely in the hands of the two western Powers."¹ But such was the fact: it was England and France which made the bed on which the Belgians were to rest "in perpetuity"; it was Lord Palmerston, one of the ablest Foreign Secretaries England ever had, and the French Ambassador Prince Talleyrand, the most conspicuous figure in European diplomacy of that time, who gave Belgium her status among the European nations—to suit their own countries' purposes.

The first six weeks of the London Conference were principally devoted to the establishment of relations with the Provisory Government at Brussels and attempts to arrange for a formal armistice between Holland and the Belgians. More important, without doubt, were the inofficial *pourparlers* of the delegates outside of the regular meetings for reaching a definite decision whether Belgium's declaration of independence was to be sanctioned by the Great Powers or not.

¹ Brodrick and Fotheringham, *The Political History of England*, Vol. XI, page 387.

Finally, on December 18, 1830, Lord Palmerston made a formal motion, seconded by Prince Talleyrand, to the effect that the separation of Belgium, as an independent state, from the United Kingdom of the Netherlands be acknowledged in principle. This motion was carried in the meeting of December 20th, the minutes of which contain the following neat outline of the program of the Conference:

The Conference will proceed to discuss and concert such new arrangements as may be most proper for combining the future independence of Belgium with the stipulations of Treaties, with the interests and the security of other Powers, and with the preservation of the balance of Europe.¹

Discussing which measures would best secure those aims, the plenipotentiaries, in their meeting of January of the subsequent year, decided on a number of stipulations, embodied in eight articles.

The first four of those articles regulate the question of the future territorial limits of Belgium which, though they do not particularly interest us for the purpose of this study, were, naturally, of pri-

¹ Papers Relative to the Affairs of Belgium, A—presented to both Houses of Parliament by Command of His Majesty, 1833, Protocol No. 10.

mary importance at that time, because they set forth which of his domains the King of the Netherlands was to yield to his rebel Belgian subjects, for a future independent realm. After detailed provisions with regard to those territorial arrangements, the Protocol of the said meeting goes on:

The preceding Articles being agreed upon, the Plenipotentiaries directed their attention to the means of consolidating the work of peace to which the five Powers have devoted their lively solicitude, and of placing in their true light the principles which actuate their common policy.

They were unanimously of the opinion that the five Powers owe to their interest, well understood, to their union, to the tranquility of Europe, and to the accomplishment of the views recorded in their Protocol of the 20th of December, a solemn avowal, and a striking proof of their firm determination not to seek in the arrangements relative to Belgium, under whatever circumstances they may present themselves, any augmentation of territory, any exclusive influence, any isolated advantages; but to give to that country itself, as well as to all the States which adjoin it, the best guarantees of repose and security. It is in pursuance of these maxims, and with these salutary intentions, that the Plenipotentiaries resolved to add to the preceding articles those which follow:

ARTICLE V

Belgium, within those limits that shall be determined and traced, conformably to the arrangements laid down in Articles 1, 2, and 4 of the present Protocol, shall form a perpetually neutral State. The five Powers guarantee it that perpetual neutrality, as well as the integrity and inviolability of its territory, within the above-mentioned limits.

ARTICLE VI

By a just reciprocity, Belgium shall be bound to observe the same neutrality towards all other States, and not to make any attempt against their internal or external tranquility.¹

In the subsequent meeting of the plenipotentiaries of January 27, the financial and other important questions were also arranged and new articles drawn up which, together with those decided upon on January 20, formed the so-called "Bases destined to establish the separation of Belgium from Holland," commonly called the "Eighteen Articles."² In the latter document Articles VI and VII, referring to the perpetual neutrality of Belgium, are practically identical with Articles V and VI of the former Protocol.

¹ Protocol No. 11.

² Protocol No. 12.

The Protocols do not mention which Power was responsible for this proposal of neutralizing in perpetuity the new independent kingdom.

Neutralization as an institution of international law was then nothing entirely new as, in 1815, the Swiss Confederation had been declared a perpetually neutral state. The idea of neutralizing Belgium can, therefore, not be called a thing without a precedent. Nevertheless, the measure was yet so out of the ordinary that it must appear very strange that the Protocols which, otherwise, dwell on every detail of the deliberations, should just on this point keep absolutely silent and mention the decision of the plenipotentiaries that the new kingdom was to be neutralized as though it was the most natural, self-understood thing in the world. Neither do the standard works of history, as far as they have been available to me, throw any light on this subject. Even the "Encyclopedia Britannica" gives no clue, mentioning only that "the Powers recognized the independence of Belgium as a neutral state."

The only detailed information on this subject is, apparently, contained in a special treatise on neutrality by the Belgian Professor Ernest Nys, who is considered one of the foremost authorities in this matter. The distinguished scholar relates:

"Already on November 15, 1830, Count Matuszewic (one of the two Russian plenipotentiaries) had elaborated a

project in which he practically suggested the affirmation of a perpetual neutrality. The five Powers, by a protocol or treaty, were to guarantee in common the existence of the Belgian Kingdom and to declare that none of them could under any circumstances invade or occupy it without the consent of the four others; likewise, they were to guarantee Holland against a Belgian invasion.

"On December 20, Matuszewic and his colleague, Prince Lieven, had consented to the proclamation of the independence of Belgium; but they had made the utmost efforts to have her perpetual neutrality affirmed in order that she might serve as a sort of barrier against the encroachments of France (en quelque sorte de barrière contre les impiètements de la France).

"Is anybody anxious to ascertain the true sentiments of the English statesmen who protected Belgium and assisted in forcing that neutrality on her? Among the arguments which Palmerston, the Secretary of Foreign Affairs, invoked were considerations like the following: "The Belgians have always been a restless and turbulent nation. It seems necessary to condemn it in a way to a peaceful existence and to force it to turn its attention entirely towards commerce and industry, which will render it a great rival to France, every day, and more disposed towards Holland.

"It was Prince Lieven who reported this argument, in a despatch of January 22, 1831."¹

As Russia was politically quite disinterested in the affairs of Belgium, the fact that her plenipoten-

¹"Notes sur la Neutralité" in the *Revue du Droit International*, 2e sér., tome 2 (1900), page 609. The quotations of Prof. Nys are from F. de Martens' *Recueil de Traités et Conventions conclus par la Russie avec les Puissances étrangères*, tome XI, pages 442 and 447.

tiaries should have taken the lead in the neutralization scheme seems most significant, if one remembers that Russia was under great financial obligations towards England.¹ It seems perfectly clear that the scheme was conceived by the British Cabinet with a view to safeguarding the continental bulwark of England, cut loose from the Netherlands, against "French encroachments," and that, for financial considerations, the Russians were used to promote the British scheme at the London Conference.

A French writer, Mr. Raymond Guyot,² gives a slightly different version of the origin of the neutralization scheme. He relates how, in January, 1831, i.e., quite in the beginning of the Conference, there was, for awhile, a complete deadlock in the negotiations of the Conference with Holland and Belgium for an armistice, as neither country wanted to yield to the proposals of the Great Powers. At that critical moment, the writer says:

"Talleyrand conceived of an expedient which would allow them to gain time and stop the conflict—the neutralization of the Belgian territories. The first effect of this solution was to grant the Powers the possibility of making the King of Holland—with military force, if that should be

¹ See page 26 and following.

² *La dernière négociation de Talleyrand* in the *Revue d'histoire moderne et contemporaine*, tome 2 (1901-2), pages 573-594, and tome 3, pages 237-281.

necessary—respect the territory assigned to the Belgians. Besides, it necessarily excluded every idea of an annexation of Belgium by France, which Palmerston always seemed to be afraid of. Finally, it created on our (i. e. the French) frontier, instead of a hostile, powerfully armed Power, as the Kingdom of the Netherlands was, a barrier which was insurmountable to invaders.”

In a letter to Lord Granville, Lord Palmerston reports on Prince Talleyrand’s proposals, which centered around several important “frontier rectifications” in favor of France, and he states that the French plenipotentiary fought for them “like a dragon,” for two days. He adds:

“At last, we brought him to terms by the same means by which juries become unanimous—by starving. Between nine and ten, at night, he agreed to what we proposed, being, I have no doubt, secretly delighted to have got the neutrality of Belgium established.”¹

This remark of the British statesman, not devoid of malicious joy, may possibly be interpreted as implying that Lord Palmerston had so ingeniously handled the situation that his French antagonist had been induced to propose the very scheme of the British Cabinet to the Conference. It is, however, perfectly clear that Prince Talleyrand’s proposal was

¹ Sir Lytton Bulwer’s *Life of Viscount Palmerston*, Vol. II, page 35.

cleverly turned into something quite different from what he had meant it to be.

It is well known that "when the ink with which the arrangements had been signed was hardly dry,"¹ the same Prince Talleyrand came forward with another scheme for the welfare of Belgium, consisting in the partition of this country between France, Holland and Prussia, with Antwerp as a Free Port and City—unless England should claim the place for herself, though Talleyrand was afraid that she might turn it into a "Gibraltar of the North."

This second scheme shows very clearly what the first one was worth: a diplomatic trick, a "hands off!" addressed to the Dutch; an urgency measure, at best. However, Talleyrand's colleagues at the Conference, notably Lord Palmerston, the plenipotentiary of the only other Power deeply interested in the negotiations, made something quite different out of the French diplomat's proposal. As Mr. Raymond Guyot points out, they "seized" upon Prince Talleyrand's proposed emergency measure and turned it into "a solemn avowal, and a striking proof of their firm determination, etc.," as set forth in the Protocol of the 20th of January.²

¹ Sir Lytton Bulwer's speech on Aug. 1, 1870—Hansard's Parliamentary Debates, 3d ser. 203, page 1356.

² See page 36.

To England it was, indeed, of infinitely greater importance to keep the other Powers out of Belgium than to obtain for herself possession of any part of Belgian territory, even of Antwerp, which she has never half as much desired for herself as she has insisted that no other strong Power should put its hands upon.¹ To France, however, the "solemn avowal" contained in the Protocol of January 20th, so skillfully marshaled by Lord Palmerston, was utterly distasteful—which is sufficiently clear from the fact that she delayed her formal adherence to that Protocol till April.

Such was the origin of the Great Powers' decision that Belgium was to be a neutralized country. Henceforward, this stipulation forms a standing number in the various programs, drawn up by the Conference to suit the wishes both of Belgium and Holland, with which countries it continued to negotiate in order to secure their acceptance of the "bases" for their separation.

These negotiations proved particularly difficult with Belgium as long as this country lacked the ruler provided for in the Belgian Constitution.

¹ It may be noted here in passing that, in order to make it quite impossible that a hostile expedition against England could be sent out from Antwerp, England arranged at the Conference that the mouths of the Scheldt were given to Holland, in consequence of which arrangement no belligerent man-of-war can issue from Antwerp without violating Dutch territorial rights.

The election of a sovereign was, of course, the exclusive right of the Belgian people; however, the Great Powers, especially England, were determined not to have any prince on the Belgian throne who might not suit their purposes.

The Belgians having, from the outset, decided that a prince of the house of Orange-Nassau would under no circumstances be acceptable to them, the crown, through French intrigues, was offered to the young Duc de Nemours, second son of King Louis-Philippe of the French. Naturally, if a French prince had occupied the new Belgian throne, French influence would have been so predominant in the new kingdom that its annexation by France could only have been a question of time. Lord Palmerston, therefore, took speedy measures to prevent such a possibility—he put before the plenipotentiaries a proposal according to which no prince of the ruling houses represented at the Conference should be eligible for the Belgian throne—which was accepted by all the plenipotentiaries except Talleyrand.¹ At the same time he brought all his influence to bear on the French monarch, who reluctantly withdrew his son's candidacy as, otherwise, a war with England seemed unavoidable.

After the equally successful elimination of an-

¹ Protocols Nos. 14 and 15 of February 1.

other candidate, likewise undesirable to England, the British Cabinet obtained, on June 4, the election of its own protégé, Prince Leopold of Saxe-Coburg and Gotha, who had been married to the late Princess Charlotte of Great Britain and Ireland and was known to contemplate a second marriage with Louise of Orleans, daughter of the king of the French.¹

With the assistance of the King-Elect, the negotiations of the Conference made quicker progress.

In the meeting of the plenipotentiaries of June 26, 1831, the Eighteen Articles were slightly modified to meet several objections of the Belgians who, among other things, had taken exception to the neutralization scheme, considering it an unwarranted interference in their internal affairs. The articles referring to the perpetual neutrality of Belgium were, therefore, worded as follows:

¹ The French writer, Raymond Guyot, says of Prince Leopold: "He was English by heart and by nationality, tho not by descent, widower of an English Princess, he was the candidate of the British Cabinet. For this reason even Russia did not care for him. France had the same repugnance, and General Sebastiani, French Minister of Foreign Affairs, openly acknowledged these sentiments. He even went so far as to say one day (on January 8, 1831) to Mr. Gendebien, Envoy of the Provisory Government of Brussels: 'If Leopold puts one foot into Belgium, we shall fire cannon balls at him.'" (Cf. *Revue d'histoire moderne et contemporaine*, Paris, 1901, tome 2, page 592.)

King Leopold's marriage with Princess Louise, by which, instead of a son, a daughter of Louis-Philippe ascended the Belgian throne, took place in August, 1832.

ARTICLE IX

Belgium, within the limits such as they shall be traced in conformity with the principles laid down in the present preliminaries, shall form a perpetually neutral state. The five Powers, without wishing to interfere in the internal administration of Belgium, guarantee to it that perpetual neutrality, as well as the integrity and the inviolability of its territory within the limits mentioned in the present Article.

ARTICLE X

By a just reciprocity, Belgium shall be bound to observe the same neutrality towards all other States and not make any attempt against their internal or external tranquility, reserving itself, however, the right of defending itself against all foreign aggression.¹

The modified Eighteen Articles were, indeed, still far from meeting all the wishes of the Belgian people concerning their separation from the Netherlands. But as Prince Leopold gave it clearly to be understood that he would decline the crown unless those Articles were accepted, the Provisory Government at Brussels finally gave in and declared their acceptance. Thereupon, Prince Leopold took the oath on the Constitution, as first King of the Belgians, on July 21, 1831.

¹ Protocol 26.

The Conference, having thus succeeded in imposing their terms on Belgium, tried in vain to persuade Holland to accept them. King William flatly refused to sign those "preliminaries," which, therefore, remained a mere draft of a treaty.

King William did more. He denounced the armistice between the two countries and invaded Belgium. He would not have had any difficulty in reconquering the "rebel-provinces" had not France, on Leopold's request, despatched thither at once a strong army, which kept the Dutch forces in check.

Meanwhile new negotiations and counter-proposals ensued in London, one notable feature being the draft of a separation-treaty proposed by Belgium, in which no mention was made of the perpetual neutrality.

Since, however, also on the basis of this draft, no agreement was reached with Holland, the Conference finally lost its patience and, on October 14, 1831, decided on a new treaty proposal, known as the "Twenty-Four Articles," which it submitted to the two parties with the promise that the Great Powers would guarantee its execution, and with the threat that it contained the "final and irrevocable decision" of the Powers.

The Twenty-Four Articles are a rather lengthy instrument, which contains about all the provisions made necessary by an international act of such im-

portance as the cutting-off of about one-half of an existing kingdom and making a new kingdom of it. They are a sort of liquidation of the United Kingdom of the Netherlands and a charter for the new Kingdom of Belgium, in one act.¹ Their main provisions are, therefore, a definition of that part of the domains of the King of the Netherlands which, henceforward, was to be independent Belgium, and, further, a division of all the rights and duties thus far vested in the United Netherlands among the henceforward separate Kingdoms of the Netherlands (Holland) and Belgium. The protocols and the notes annexed thereon leave no doubt that

¹ In detail, the Twenty-Four Articles which form Annex A of Protocol 49 (page 414) deal with the following subjects: Art. I, composition of Belgian territory; Art. II, limits of Belgian territory in the Grand Duchy of Luxembourg; Art. III, territorial indemnity to Holland in the province of Limbourg; Art. IV, limits of Dutch territory in the province of Limbourg; Art. V, necessity of agreement with Germanic Confederation and Nassau; Art. VI, reciprocal renunciation of territory; Art. VII, Belgium to be an independent and perpetually neutral kingdom; Art. VIII, drainage of waters of the two Flanders; Art. IX, navigation of Scheldt and Meuse; Art. X, reciprocal use of canals; Art. XI, use of commercial roads; Art. XII, new roads or canals in Belgium; Art. XIII, division of public debt; Art. XIV, Antwerp solely port of commerce; Art. XV, works of public utility to belong to state in which they are situated; Art. XVI, sequestrations in Belgium against political offenders removed; Art. XVII, liberty of transfer of residence; Art. XVIII, right of "option"; Art. XIX, "sujets mixtes"; Art. XX, nobody to be molested on account of political conduct, during the revolution; Art. XXI, pensions and allowances; Art. XXII, claims of Belgians against Dutch private establishments; Art. XXIV, evacuation of territories, etc., assigned to the other state.

the question of the definition of the boundaries of Belgium and, next to it, the division of the public debt, were then considered by far the most important points of the proposed settlement.

The only article which is of interest for the purposes of this study is the one determining the future status of Belgium as a perpetually neutral state. It reads:

ARTICLE VII

Belgium, within the limits specified in Articles I, II and IV, shall form an independent and perpetually neutral State. It shall be bound to observe such neutrality toward all other States.

In this considerably modified form, the neutralization clause was destined to form part of the treaties concluded on the basis of the Twenty-Four Articles.

Holland, it is true, did not declare her willingness to be a partner to that proposed treaty for a number of years to come. Belgium, however, guided now by her Anglophile King Leopold, accepted the proposals of the Powers by the following note of her plenipotentiary in London, dated November 14, 1831:

His Majesty, desirous of sparing his people all the miseries which would be entailed by the forced execution of the twenty-four articles and

not wishing to expose Europe to a general war, yields to the imperious law of necessity and accepts the hard and onerous conditions which are imposed upon Belgium by the Conference of London.¹

In consequence, on November 15, 1831, the five Great Powers concluded a treaty of twenty-seven articles with the Belgian plenipotentiary of which the Twenty-Four Articles, including the above-cited Article VII, formed, textually, Articles I-XXIV. This treaty does not contain any specific guarantee with regard to the perpetual neutrality of Belgium, as proposed in the earlier stages of the negotiations. It merely stipulates, in a quite general manner, the following:

ARTICLE XXV

The Courts of Great Britain, Austria, France, Prussia and Russia guarantee to His Majesty the King of the Belgians the execution of all the preceding Articles.

Moreover, Article XXVI announces that there shall be peace and friendship between the rulers and subjects of the Great Powers on one side and of Belgium on the other side—a provision not unnecessary, according to the spirit of the times, since, till the conclusion of that treaty the Belgians were

¹ Annex D to Protocol 52.

considered rebels against their legitimate rulers, the King of the Netherlands—while Article XXVII stipulated that the treaty must be ratified and the ratifications exchanged simultaneously at London within two months.

The last-mentioned condition was not fulfilled, apparently because the different parties still entertained the hope that recalcitrant Holland, without whose consent the treaty remained, necessarily, a half measure, would be persuaded to accept it. On January 11, 1832, therefore, Lord Palmerston proposed an extension of the time limit fixed for the exchange of the ratifications.¹ On January 31st, Great Britain and France exchanged their ratifications with the Belgian plenipotentiary.² On April 18th of the same year, Austria and Prussia ratified the treaty, “under the express reservation of the rights of the Germanick Confederation, relative to the Articles of the Protocol which regard the cession and exchange of a part of the Grand-Duchy of Luxembourg, forming one of the States of the Confederation,”³—which was tantamount to non-ratification as long as the legitimate ruler of Luxembourg, viz., the King of the Netherlands, would not sign the treaty. Some time later Russia also ratified the treaty, but withdrew entirely from the

¹ Protocol No. 54.

² Protocol No. 57.

³ Protocol No. 55.

Conference on October 27th, declaring herself opposed to the coercive measures which, then, Great Britain and France had decided to use against Holland.¹

The merely conditional ratification of the treaty of November 15, 1831, by Austria and Prussia, naturally deprived that instrument of its generally binding force. This is clearly shown by an official note of the Belgian Acting Plenipotentiary to Lord Palmerston, dated June 13, 1832, in which he sets forth that the exchange of the ratifications not having taken place as stipulated, Belgium had to consider the treaty at least as a set of conventions with England and France, both of whom had ratified it, and no subsequent act could have rendered it other than obligatory for those two Powers; wherefore he calls on them to put it into execution.²

However, since, under those circumstances, the said treaty could not offer any guarantee to England that France, which then had a considerable army in Belgium to stop further hostilities by the Dutch, might not ultimately annex Belgium, Lord Palmerston considered it necessary to prevent this contingency by a special convention with France. This convention, concluded on October

¹ Papers relative to the Affairs of Belgium, B, page 151.

² Papers relative to the Affairs of Belgium, B, page 91.

22, 1832, states its object to be "to carry into execution the stipulations of the Treaty relative to the Netherlands, concluded at London on the 15th of November, 1831, the execution whereof, by the terms of Article XXV of the said Treaty, has been jointly guaranteed by their said Majesties" (i.e., the King of England and the King of France) "and by their Majesties the Emperor of Austria, the King of Prussia, and the Emperor of Russia." It expresses regret that the three other Great Powers "are not at present prepared to concur in the active measures which are requisite for the execution of the said Treaty," and stipulates that both France and England would evacuate Belgium as soon as the object of the intervention was attained.¹

As a matter of history, the provisional settlement of the affairs of Belgium, arrived at in the treaty of November 15, 1831, was carried out by English and French arms during the subsequent months. The King of the Netherlands was soon obliged to give in, and concluded a convention with Great Britain and France on May 21, 1833, by which he promised to desist from all further hostilities against the Belgians, whilst the two Great Powers declared their former friendly relations with Holland re-established and promised to invite Austria, Prussia and

¹ Hertslet, Map of Europe by Treaties.

Russia "to assist in settling a definite treaty."¹ Belgium acceded to the said convention by an official note to the plenipotentiaries, dated June 10, 1833.²

The final settlement of the Belgian Question did not take place till six years later, when again the plenipotentiaries of the five Great Powers, together with those of Belgium and Holland, assembled at London for that purpose. They signed the so-called Quintuple Treaty on April 19, 1839.

The Quintuple Treaty is, in reality, a set of three treaties, concluded between the Great Powers and Holland, between Holland and Belgium, and between the Great Powers and Belgium, supplemented by an act of accession on the part of the Germanic Confederation to some of the arrangements of the main treaties.

The three treaties, the text of which, as put before the British Parliament in 1839, will be found in the Appendix,³ contain the uniform provision that the articles annexed to each of them (which are, in each case, the identical Twenty-Four Articles agreed upon by the London Conference on October 14, 1831) have to be considered "as having the same force and validity as if they were textually inserted in the present act" (i. e., the main

¹ Hertslet, Vol. II, page 921.

² Ibid., page 924.

³ See pages 199-206.

treaties), "and that they are thus placed under the guarantee of their said Majesties" (i.e., the rulers of the five Great Powers and of Belgium and Holland).

Of the annexed Articles the one referring to the neutralization of Belgium reads as follows:

ARTICLE VII

Belgium, within the limits specified in Articles I, II and IV, shall form an independent and perpetually neutral State. It shall be bound to observe such neutrality towards all other States.

The neutralization Clause is, thus, identical with that of the treaty between the Great Powers and King Leopold, of November 15, 1831, which was formally declared as no longer binding.

The 24 articles that were annexed to the three treaties did not only settle the affairs of Belgium and Holland, but also vitally affected the territory of Luxembourg. The latter country, which, by the Congress of Vienna, had been raised to the rank of a Grand-Duchy to be governed, through personal union, by the King of the Netherlands, was violently claimed by the Belgians, to be included in their new kingdom, a measure repudiated with equal violence by King William of Holland. The London Conference effected a compromise by reducing the

Grand-Duchy to about half its original size and ceding the remainder to Belgium, wherefore there exists, since then, an independent Grand-Duchy and a Belgium province of the same name. However, Luxembourg had, since times immemorial, formed part of the Holy German Empire and was, consequently, included in the "Germanic Confederation," newly established at the Congress of Vienna. For this reason, the plenipotentiaries, to avoid further trouble, had to arrange that the Germanic Confederation formally agreed to the cession of a part of one of her states to a foreign sovereign. This was done by the Act of Accession, the text of which is likewise reproduced in the Appendix.¹

The Quintuple Treaty does not contain any clause with regard to the time at which its provisions should come into operation. Evidently this was not considered necessary by the compilers, as, at the time of its conclusion, the separation of Belgium from the Netherlands had long been carried out *de facto*, and the territories assigned to both countries were in the actual possession of the two respective governments. The treaties, therefore, can be said to have in the main only sanctioned the state of affairs which existed in 1839, as a consequence of the Belgian revolution and of the intervention of

¹ See pages 207-209.

the Great Powers by negotiations and by armed force.

A few words may be added concerning the attitude of the Belgian people towards the neutralization of their country.

There seems to be an idea prevalent, especially in the United States, that the German Powers in deciding on that neutralization had conferred a special beneficence on Belgium.

It would even seem as tho some among the leaders of the Pacifist Movement had considered the status of neutralization of a country as one of the most promising solutions of the great problem of establishing eternal peace among the nations, and, therefore, look askance at Germany for having disregarded it in the case of Belgium. Professor A. G. de Lapradelle, the present exponent of French law at Columbia University, plainly gives voice to this way of reasoning, in a recent essay.¹

It is beyond the scope of this study to discuss whether the status of neutralization, which another prominent French lawyer, Mr. Emile Bourgeois, calls "that attempt at sovereignty called neutralization" (*cette atteinte à la souveraineté qu'on appelle une neutralité*),² is in any way compatible with the

¹ The Neutrality of Belgium, in the *North American Review* for December, 1914.

² In the preface to book of Dr. Dollot, quoted from on page 14.

tasks and the dignity of a great sovereign country. I merely want to emphasize that, in the case of Belgium, neutralization was not granted by the Great Powers as a beneficial privilege to the new country, nor was it considered as such by the Belgian people.

The fact is that the Belgians received the decisions of the Great Powers, which included the first intimation of the neutralization scheme, with an outcry of rage. Dealing with this subject, a *note verbale* of the Provisory Government at Brussels, annexed to the Protocols of the London Conference, says very plainly:

In this respect, the Committee cannot but recall here to the terms of the Note remitted to Lord Ponsonby and Mr. Bresson. The Belgian Government did not intend to bind itself toward the Powers by an engagement from which no circumstance can unbind it; it has, especially, not resigned the right belonging to every nation to maintain itself by force of arms the justice of its cause, if the laws of justice should be violated or misinterpreted against it.

However, the Great Powers very coolly overruled such objections and laid down, once for all, that the perpetual neutrality was an absolute *conditio sine qua non* for Belgium's separation from the Netherlands. The Belgians accepted it only after

several months of decided resistance. They accepted it in the spirit of sacrificing a valuable part of their country's sovereignty for the supreme purpose of obtaining thereby Belgium's recognition as an independent state by the Great Powers.

The Belgian barrister, Mr. Pierre Graux, remarks in this respect:

"The five great Powers were to use their right of recognition only with the utmost rigor. The Belgian revolution threatened to ruin the edifice so painfully established by the diplomacy of 1814 and 1815, for the maintenance of European peace. The Kingdom of the Netherlands, on which so many hopes had been placed, was no longer in existence, and Belgium, with unsuspected ardor, had just awakened apprehensions which had been thought removed for a long time. Thus, it has been possible that the five Courts represented at the London Conference, in their desire to assign to Belgium, which they had to recognize, an 'inoffensive' place in European politics, have imposed on her, in their own interest and not in order to grant a favor to the new state, despite her resistance, the perpetual neutrality, as a condition of their recognition."¹

In a similar way, Professor de Lapradelle writes:

"Belgium did not, like Switzerland, of her own accord ask for this neutrality; she was obliged to resign herself to accepting (it) against her will; it was for her the price of her independence—the ransom of her liberty."

¹ *Revue de droit international et de législation comparée*, 2e série, tome VII, pages 33-52.

The London Times, in its issue of October 12, 1914, had the following to say on this subject:

"The last and greatest difficulty was the neutrality imposed upon Belgium against her will. A more fatal gift was never presented to any state. It prevented her from combining with the Netherlands for the defense of their common, inseparable interests; and, worse than that, it made it impracticable for Belgium to enter into any conversation or arrangement, military or other, which would insure to her the rapid and effective support of her English friends."

What the London Times calls a "most fatal gift," presented to Belgium, has certainly been realized as such by the Belgians, not only of 1831 but even more so in recent times. During the years which preceded the outbreak of the present war, quite a number of Belgian voices were heard which, in a very outspoken way, discussed the advisability of doing away with the perpetual neutrality. They claimed the right of pursuing a policy dictated exclusively by the exigencies of their country and repudiated their obligation under the doctrine of International Law according to which a perpetually neutralized state is bound to fight the first invader, and, in consequence, has to embrace the cause of the invader's opponents who enter the conflict with a material disadvantage.

Of special interest among the literary contributions in this line is a pamphlet, published in 1912,

under the title, "Situation de la Belgique en cas de conflit franco-germain (Belgium's Position in case of a Franco-German Conflict), by a well-known Belgian General who wrote under the pen-name O. Dax.

"Our neutrality," this writer says, "is not in keeping any longer with the requirements of the present times"; and he urges his government "to demand, without delay, from the Powers who signed the treaty of 1831, to arrange a diplomatic conference for the complete suppression of that neutrality which has become aimless (*devenue sans objet*)."

Aimless for Belgium, he ought to have stated, not aimless for England, which country, naturally, never would have agreed to the abrogation *before the world*, of what she evidently counted an important asset in the defense of her Continental bulwark.

CHAPTER III

THE TREATIES OF 1870

The profound and particular interest in Belgium as her Continental bulwark which, as outlined in the foregoing chapters, England has manifested ever since the days of Cromwell, is again evidenced by her attitude at the time of the Franco-German conflict of 1870.

It will be remembered that, immediately after the French declaration of war, Prince Bismarck sprung on the world the text of a memorandum which had been handed to him by the French Ambassador, Count Benedetti, in 1866. The said document contained an offer of Emperor Napoleon III to promote Prussian aggrandizement within Germany, in recognition of a number of conditions, one of which was to the effect that Prussia should assist France in the annexation of Belgium and Luxembourg, an offer flatly declined by Prussia.

The publication of this document created an enormous stir in England. British statesmen re-

alized that their supposed best friend, France, had made a very serious attempt at what the British considered their Continental bulwark, and might easily carry out her dangerous designs if luck should favor her in the struggle against Prussia. British sentiment was turned against France—which was, of course, the very object of Bismarck's diplomacy. And whilst of the other signatory Powers of the Quintuple Treaty neither Austria nor Russia thought it expedient to act, the British Cabinet decided at once to take precautionary measures against any possible change in the status of Belgium.

Evidently Mr. Gladstone, the then Prime-Minister, had not much faith in the binding force of the treaties of 1839. He shared the opinion of his distinguished predecessor, Lord Palmerston, who, speaking before the Commons, on June 8, 1855, said: "I know that obligatory treaties have guaranteed the neutrality of Belgium, but am hardly disposed to attach great importance to declarations of this kind."

Besides, fresh in the memory of Mr. Gladstone and of every European diplomat were the derogatory statements of two prominent English statesmen, Lord Derby and Lord Stanley, with regard to the futility of collective guarantees, made immediately after the establishment of the neutralization

of Luxembourg, in 1867;¹ it seemed, therefore, all the more important for England to reaffirm before the world that to her the integrity of Belgium was of vital importance.

In consequence, the British Foreign Secretary, Lord Granville, approached at once the Cabinets of Berlin and Paris with the request that they state their attitude towards the neutrality of Belgium, and received from both sides the almost identical reply that they would respect it under the condition that it was observed by the other. It might seem as if these assurances should have appeared satisfactory enough to England—inasmuch as she had considered an identical conditional declaration on the part of France perfectly satisfactory in 1914. But not so in 1870. Then the British Cabinet held that those mutual conditional declarations of Prussia and France seemed “to indicate an opinion on their part that the declaration of each is not complete.”² Therefore, Mr. Gladstone did a very straightforward thing to safeguard British interests: he asked both Prussia and France to conclude separate but identical treaties with England by the terms of which England bound herself to take up arms against either belligerent Power which might first violate Belgium’s neutrality.

¹ See page 125 and following.

² British Accounts and Papers, Vol. LXX, Franco-Prussian War, Further Correspondence, III, No. 63.

During the short negotiations which preceded the conclusion of these treaties, the French Ambassador, Marquis de Lavalette, pointed out to Lord Granville that it might be considered that this second instrument (i.e., the then negotiated treaty) might tend to the conclusion that the engagements which it was to confirm were no longer valid and equally binding on all parties concerned.¹

Similar objections against the conclusion of a special treaty were raised in both Houses of Parliament.² However, Mr. Gladstone knew exactly what he wanted and did not waver in the course decided upon to safeguard British interests.

With the greatest possible speed, both treaties were concluded at London, the one between Prussia and England on August 9, 1870, and the other between France and England on the 11th of the same month. Also the ratifications concerning both treaties were duly exchanged at London on August 26th of the same year.

Their texts, as presented to both Houses of the British Parliament, may be found in the Appendix.³

The main provision of these treaties which, in a way, are a repetition of the Anglo-French Conven-

¹ British Accounts and Papers, No. 90.

² See page 151 and following.

³ See pages 210-217.

tion of 1832, when, just as in 1870, England did not consider the general guarantee with regard to the execution of the Twenty-Four Articles strong enough to exclude French ambitions¹—consists in England's promise to uphold Belgium's neutrality by force of arms, if necessary. They were the strongest possible notification to either belligerent that he would find England's entire forces joined to those of his opponent if he should enter Belgian territory.

It is important to note that, despite the fact that the war was waged between France and the North German Confederation (comprising Prussia and a number of smaller independent states of Northern Germany), in alliance with the independent Kingdoms of Bavaria and Wuerttemberg and the Grand-Duchy of Baden, England concluded that treaty exclusively with Prussia—not with the North German Confederation, although the addition of the clause "in the name of the North German Confederation" to the words "the King of Prussia" might easily have extended the validity of the treaty in that respect, the King of Prussia being, by the Constitution of 1867, head of that union of German states. On the other hand, in the Anglo-French treaty, it is expressly stipulated that England would co-operate with France if "the armies of the North

¹ See page 52 and following.

German Confederation and its Allies" should violate Belgium's neutrality.

Even more noteworthy it is that again it was not Belgium but England which showed such a profound concern in Belgium's neutrality. It is not on record that Belgium was even consulted in this matter. It is sure that she was not admitted to the signature of the two treaties of which she was, in a way, the party most concerned.

The objection of the French Ambassador, mentioned above, that those new treaties might be considered as releasing the guarantors of the "Twenty-Four Articles" from their obligations under the Quintuple Treaty, was met by an insertion of the clause that, at the expiration of the treaties of 1870,

the independence and neutrality of Belgium will, so far as the High Contracting Parties are respectively concerned, continue to rest as heretofore on Article I of the Quintuple Treaty of the 19th of April, 1839.

This clause can merely be interpreted as stipulating that, concerning Belgium's independence and neutrality, after the expiration of the treaties of 1870, everything should remain "as heretofore"—a point which will be more fully discussed in a later chapter.¹

¹ See page 146 and following.

Regarding the term of validity of the two treaties, it was uniformly agreed that they should be binding during the war then in progress and one more calendar year after the ratification of a treaty of peace between the belligerents. In consequence, as the war was concluded by the Peace of Frankfort of May 10, 1871, the two treaties expired in 1872.

It is a matter of history that they fully attained England's object to keep the armies of both France and Germany out of Belgium. For the French army of General MacMahon, hard pressed against the Franco-Belgian frontier in September, 1870, the entrance into Belgium would probably have meant an appreciable relief. However, since, by the terms of the treaties in question, such a move of the French General would automatically have called England into the field as another formidable enemy of France, MacMahon preferred to surrender with his army at Sedan.

The treaties of 1870 having thus rendered great service to the parties interested in the maintenance of Belgium's neutrality, it has been asked, not unnaturally, by England's critics why she failed to propose at once to France and Germany a similar arrangement at the outbreak of the present war.

CHAPTER IV
BREAK-DOWN OF BELGIUM'S
NEUTRALITY

The twenty years of Belgian history following the Franco-German War can be passed over without comment.

In 1891, Belgium entered into a new phase of her development. King Leopold II, the very energetic son and successor of the first King of the Belgians, a man of great ambition and pronounced commercial ability, found a field for territorial expansion in becoming the head of the International Association of the Congo, which had been formed for the exploitation of the vast and rich Central African countries around the Congo River and its tributaries, with an estimated area of 900,000 square miles. By the General Act of the International Congo Conference of Berlin, held in 1885, the said association was transformed into the Congo Free State, an independent and perpetually neutral country, with King Leopold of the Belgians as its sover-

eign, who thus, through personal union, was ruler of two entirely separate neutralized countries.

Five years later, King Leopold took the unusual step of bequeathing all his sovereign rights in the Congo Free State to his other country, viz., to Belgium, which, by a special convention, was granted the right of annexing that state within a period of ten years, expiring in 1901. Naturally, the Powers who were signatories of the International Congo Conference were much aroused by this very high-handed act of King Leopold's, which was, in more than one respect, in direct defiance to international law. No European Cabinet could be persuaded to give its consent to the proposed annexation, which thus dragged on through a number of years as one of the most important questions of colonial politics. It was then frequently commented upon and many prominent lawyers expressed the opinion that the annexation of the Congo State was quite incompatible with Belgium's status as a perpetually neutral country which absolutely depended on the limits clearly defined by the treaties based upon the Twenty-Four Articles, and pointed out that, if the said scheme really should be carried out, it would be tantamount to a de-facto abrogation of Belgium's perpetual neutrality.¹

¹ To quote here only a few expert opinions on the subject: P. Fauchille wrote: "The annexation of the Congo is essentially

When the said convention expired in 1901, a bill was passed by the Brussels Parliament reaffirming Belgium's right of annexing the Congo State and suspending the payment of interest on the Belgian loans granted to it until its ultimate annexation. This open defiance by Belgium aroused a widespread resentment in Europe, which was nowhere stronger than in England. King Leopold's scheme considerably upset one of the most cherished ambitions of Cecil Rhodes and his followers, to build a continuous line of railways from the Cape to Cairo, as, if the Congo State passed into Belgium's hands, that project could be carried out only with Belgian connivance. An organized press campaign was therefore started in England to prevent the proposed annexation, a prominent feature of which was a widely circulated book by Mr. Conan Doyle about Congo "atrocities." The British Government, though repeatedly approached, refused most persistently to give its consent to the annexation, though it did not feel bound to resort to any coercive measures to force Belgium to abide by the provisions of the Quintuple Treaty. The vexed question be-

incompatible with the neutrality of Belgium" (*Revue de droit international public*, 1895). Despagnet declared: "The annexation of the Congo would be of such nature as to compromise the neutrality of Belgium" (*Revue bleue* of June 23, 1894). Other non-German statements expressing the same opinion may be found in the *Revue de droit international et de législation comparée*, serie 2, vol. 7, page 33, footnote.

came an increasingly serious problem for King Leopold, who, owing to his advanced age, wished to see it definitely settled as soon as possible.

Under those conditions, it created considerable astonishment in Europe when, in 1907,¹ it was announced that Great Britain had finally consented to the absorption of the Congo State by Belgium, a step which was entirely against British interests; and it was generally rumored that doubtless the unexpected settlement of this affair was a bargain between the two merchant-kings on European thrones—Edward VII and Leopold II—a bargain likely to be profitable to both sides.

There is hardly any doubt now that at that time Belgium, through her king, bargained away her status as a perpetually neutral country by entering into a military compact with England.

The increasing tension in European politics, caused by the late King Edward's "encircling" policy, had given England a new concern for her safety, wherefore she was constantly busy to strengthen her foothold on the Continent. It was England, therefore, which caused Belgium to embark upon a course of very costly army reorganization, crowned by the law of May 28, 1914, by which that country practically adopted universal compulsory

¹ The treaty of cession was adopted by the Belgium Parliament by an act of legislation of October 18, 1908.

service and raised the war strength of her army to nearly half a million men, the necessary funds for this undertaking being provided by a loan in London. And it was England which forced "neutral" Belgium to become her secret ally, in the event of an European conflagration.

In this era of international compacts, open alliances or secret conventions, it seems at first sight not unnatural that Belgium, situated between three powerful rival neighbors, should resort to the means of a military convention to increase thereby her capacity of defending her territory against hostile invasion. However, whilst any really sovereign state has perfect liberty in this matter, the established doctrine of International Law absolutely forbids such a course of action to a neutralized country. The French Professor de Lapradelle writes:

"The perpetually neutral State renounces the right to make war, and, in consequence, the right to contract alliances, even purely defensive ones, because they would drag it into a war to succor an ally or would place it in a situation of political dependence toward such an ally if the neutral State's ally should promise it succor without exacting reciprocity."¹

Thus Belgium's status as a neutralized country made it, to use the words of The Times, "impracticable to enter into any conversation or arrangement,

¹ The Neutrality of Belgium, in the North American Review for December, 1914.

military or other, which would insure her the rapid and effective support of her English friends.”¹

This, however, was precisely what Belgium did in defiance to the established rules of international law. A number of secret documents, found in the official archives at Brussels where the Belgian authorities had carelessly left them, in their hasty retreat from the capital, in August, 1914, furnish complete and irrefutable evidence to that effect.

In an official *communiqué* to the North German Gazette of October 13, 1914, the German Government has made public the contents of the said documents, including verbatim passages from a most significant despatch of the former Belgian envoy at Berlin, Baron Greindl, criticising his government's dangerous un-neutral policy. At a later date, in a special supplement of the same semi-official organ of November 25, 1914, the German Government published fac-similes of some of the incriminating documents which are reproduced in the Appendix.²

It may be mentioned here in passing that neither the Belgian nor the British Government has attempted to challenge the authenticity of those documents, though both have tried to make the world

¹ See page 60.

² See page 200 and following.

believe that their contents were more or less innocent.¹

The first of those documents, published in facsimile in the Appendix, is the draft of a report of the Chief of the Belgian Army Staff, Major-General Ducarne, to the Belgian Minister of War, completed in September, 1906, concerning a number of confidential conferences which he had had with the Military Attaché of the British Legation in Brussels, Lieutenant-Colonel Barnardiston, with regard to the despatch of an English expeditionary force to Belgium, in case of an European conflict. It reads, in English translation, as follows:

"CONFIDENTIAL

"LETTER TO THE MINISTER

"CONCERNING THE CONFIDENTIAL CONVERSATIONS

"BRUSSELS, April 10, 1906.

"MR. MINISTER:

"I have the honor to report to you briefly about the conversations which I had with Lieutenant-Colonel Barnardiston and which have already been the subject of my oral communications.

"The first visit took place in the middle of January. Mr. Barnardiston referred to the anxieties of the General Staff of his country with regard to the general political situation, and because of the possibility that war may soon

¹ See pages 167-173.

break out. In case Belgium should be attacked, the sending of about 100,000 troops was provided for.

"The Lieutenant-Colonel asked me how such a measure would be regarded by us. I answered him, that from a military point of view it could not be but favorable, but that this question of intervention was just as much a matter for the political authorities, and that, therefore, it was my duty to inform the Minister of War about it.

"Mr. Barnardiston answered that his Minister in Brussels would speak about it with our Minister of Foreign Affairs.

"He proceeded in the following sense: The landing of the English troops would take place at the French coast in the vicinity of Dunkirk and Calais, so as to hasten their movements as much as possible. (The entry of the English into Belgium would take place only after the violation of our neutrality by Germany.) The landing in Antwerp would take much more time, because larger transports would be needed, and because on the other hand the safety would be less complete.

"This admitted, there would be several other points to consider, such as railway transportation, the question of requisitions which the English army could make, the question concerning the chief command of the allied forces.

"He inquired whether our preparations were sufficient to secure the defense of the country during the crossing and the transportation of the English troops—which he estimated to last about ten days.

"I answered him that the places Namur and Liège were protected from a "coup de main" and that our field army of 100,000 men would be capable of intervention within four days.

"After having expressed his full satisfaction with my explanations, my visitor laid emphasis on the following facts: (1) that our conversation was entirely confiden-

tial; (2) that it was not binding on his government; (3) that his Minister, the English General Staff, he and I were, up to the present, the only ones informed about the matter; (4) that he did not know whether the opinion of his Sovereign had been consulted.

* * *

"In a following discussion Lieutenant-Colonel Barnardiston assured me that he had never received confidential reports of the other military attachés about our army. He then gave the exact numerical data of the English forces; we could depend on it, that in 12 or 13 days two army corps, 4 cavalry brigades and 2 brigades of horse infantry would be landed.

"He asked me to study the question of the transport of these forces to that part of the country where they would be useful, and he promised to give me for this purpose details about the composition of the landing army.

"He reverted to the question concerning the effective strength of our field army, and he emphasized that no detachments should be sent from this army to Namur and Liège, because these places were provided with garrisons of sufficient strength.

"He asked me to direct my attention to the necessity of granting the English army the advantages which the regulations concerning the military requisitions provided for. Finally he insisted upon the question of the chief command.

"I answered him that I could say nothing with reference to this last point and promised him that I would study the other questions carefully.

* * *

"Later on the English Military Attaché confirmed his former calculations: 12 days would at least be necessary to carry out the landing at the French coast. It would

take a considerably longer time (1 to 2½ months) to land 100,000 men in Antwerp.

"Upon my objection that it would be unnecessary to await the end of the landing in order to begin with the railway transportations, and that it would be better to proceed with these, as when the troops arrived at the coast, Lieutenant-Colonel Barnardiston promised to give me exact data as to the number of troops that could be landed daily.

"As regards the military requisitions, I told my visitor that this question could be easily regulated.

* * *

"The further the plans of the English General Staff progressed, the clearer became the details of the problem. The Colonel assured me that one-half of the English army could be landed within eight days; the rest at the conclusion of the 12th or 13th day, with the exception of the Horse Infantry, which could not be counted upon until later.

"In spite of this I thought I had to insist again upon the necessity of knowing the exact number of the daily shipments, in order to regulate the railway transportation for every day.

"The English Military Attaché conversed with me about several other questions, namely:

"(1) The necessity of keeping the operations secret and of demanding strict secrecy from the Press;

"(2) The advantages, which would accrue from giving one Belgian officer to each English General Staff, one interpreter to each commanding officer, and gendarmes to each unit of troops, in order to assist the British police troops.

* * *

"In the course of another interview Lieutenant-Colonel

Barnardiston and I studied the combined operations to take place in the event of a German offensive with Antwerp as its object and under the hypothesis of the German troops marching through our country in order to reach the French Ardennes.

"In this question, the Colonel said he quite agreed with the plan which I had submitted to him, and he assured me also of the approval of General Grierson, Chief of the English General Staff.

"Other secondary questions which were likewise settled, had particular reference to intermediary officers, interpreters, gendarmes, maps, photographs of the uniforms, special copies, translated into English, of some Belgian regulations, the regulations concerning the import duties on English provisions, to the accommodation of the wounded of the allied armies, etc. Nothing was resolved on as regards the activity which the Government or the military authorities might exert on the Press.

* * *

"During the final meetings which I had with the British Attaché, he informed me about the numbers of troops which would be daily disembarked at Boulogne, Calais and Cherbourg. The distance of the last place, which is necessary for technical considerations, will involve a certain delay. The first corps would be disembarked on the 10th day, and the second on the 15th day. Our railways would carry out the transportation so that the arrival of the first Corps, either in the direction of Brussels-Louvain or of Namur-Dinant, would be assured on the 11th day, and that of the second on the 16th day.

"I again, for a last time, and as emphatically as I could, insisted on the necessity of hastening the sea-transports so that the English troops could be with us between the 11th and 12th day. The happiest and most favorable

results can be reached by a convergent and simultaneous action of the allied forces. But if that co-operation should not take place, the failure would be most serious. Colonel Barnardiston assured me that everything serving to this end would be done.

* * *

"In the course of our conversations, I had occasion to convince the British Military Attaché that we were willing, so far as possible, to thwart the movements of the enemy and not to take refuge in Antwerp from the beginning.

"Lieutenant-Colonel Barnardiston on his part told me that, at the time, he had little hope for any support or intervention on the part of Holland. At the same time he informed me that his Government intended to transfer the basis of the British commissariat from the French coast to Antwerp as soon as all German ships were swept off the North Sea.

* * *

"In all our conversations the Colonel regularly informed me about the secret news which he had concerning the military circumstances and the situation of our Eastern neighbors, etc. At the same time he emphasized that Belgium was under the imperative necessity to keep herself constantly informed of the happenings in the adjoining Rhinelands. I had to admit that with us the surveillance-service abroad was, in times of peace, not directly in the hands of the General Staff, as our Legations had no Military Attachés. But I was careful not to admit that I did not know whether the espionage service which is prescribed in our regulations, was in working order or not. But I consider it my duty to point out this position which places us in a state of evident inferiority to our neighbors, our presumable enemies.

"MAJOR-GENERAL, CHIEF OF THE GENERAL STAFF.
(Initials of Gen. Ducarne.)

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Note.—When I met General Grierson at Compiègne, during the Manœuvres of 1906, he assured me the result of the re-organization of the English army would be that the landing of 150,000 would be assured and, that, moreover, they would stand ready for action in a shorter time than has been assumed above.

“Completed September, 1906.”

(Initials of General Ducarne.)

It is not claimed, of course, that this document itself is anything like a formal treaty between the two respective governments. It is not within the domain of Military Attachés to conclude engagements of a political character. At his first meeting with Col. Barnardiston, General Ducarne made a hint in that direction; however, the British officer replied that his Minister Plenipotentiary at Brussels would take up the matter with the Belgian Government. The fact that the conferences between the two officers went on, beyond that first meeting, is proof sufficient that the British diplomatic representative—doubtless not without instructions from London—duly settled the political side of that question with King Leopold's Government, the latter failing to repudiate the British overtures with reference to its duties as the executive of a neutralized state.

In consequence, the conference between the two officers assumed a more and more intimate character, both sides mutually revealing military secrets

which, in this day and generation, are only exchanged between the representatives of "allied armies," under which description, indeed, the combined military forces of both countries—probably including those of France—were referred to during the later conversations.

There can be no doubt that, by April, 1906, the plans of the General Army Staffs of Great Britain (under whose orders Col. Barnardiston acted) and of Belgium, with regard to a complete military co-operation in case of war, had fully matured. This co-operation was to take place only in the event of Germany's violation of Belgium's neutrality, as mentioned in General Ducarne's report and emphatically asserted by both the Belgian and the British Government after the publication of this document. The fact, however, that, in drawing up that report, General Ducarne seems to have so entirely forgotten about that essential point that he had to add a marginal note to that effect,¹ is perhaps indicative that also in the course of his conversations with Colonel Barnardiston that essential point had gradually been lost sight of.

The British Government has attempted to minimize the importance of the Ducarne-Barnardiston

¹ That marginal note, clearly visible as such in the fac-simile reproduction of the document (plate after page 220), is inserted in parenthesis, in the above translation, page 76.

conversations by giving out that they were of a merely "academical" character. However, even if those conversations had only taken place in view of a particular political crisis and were afterwards abandoned, they would, according to the correct opinion of *The Times*,¹ already constitute a serious violation of Belgium's duties as a neutralized country. But, in reality, they were by no means confined to a certain critical period of the year 1906. They went on for years, and were most certainly followed up and confirmed by a political agreement between Belgium and Great Britain, possibly an unwritten "gentlemen's agreement" as in the case of the Anglo-French military convention—very likely in connection with the settlement of the Congo annexation question.

This is fully borne out by the official despatch of the former Belgian Minister Plenipotentiary at Berlin, Baron Greindl, to the Belgian Minister of Foreign Affairs, dated December 23, 1911, which likewise has been published by the German Government. More than *five years* had then elapsed since the Ducarne-Barnardiston conferences, referred to in the first document. If they had been merely "academic," and had not grown into something more substantial, Baron Greindl would not have had the slightest reason to comment on this matter ; it would

¹ See page 60.

not have come to his knowledge at all. The experienced diplomat criticises the military arrangements between Belgium and England, which evidently had been submitted to him for comment, as one-sided, because they contemplate only the possibility of a violation of Belgium's neutrality by Germany. The possibility of a French attack on Germany through Belgium had, however, in his opinion, just as much probability in itself. The despatch then goes on in the following manner:

"From the French side danger threatens not only in the south of Luxembourg, it threatens us on our entire joint frontier. We are not reduced to conjectures for this assertion. We have positive evidence of it.

"Evidently the project of an outflanking movement from the north forms part of the scheme of the 'Entente Cordiale.' If that were not the case, then the plan of fortifying Flushing would not have called forth such an outburst in Paris and London. The reason why they wished that the Scheldt should remain unfortified was hardly concealed by them. Their aim was to be able to transport an English garrison, unhindered, to Antwerp, which means to establish in our country a basis of operation for an offensive in the direction of the Lower Rhine and Westphalia, and then to make us throw our lot in with them, which would not be difficult, for, after the surrender of our national center of refuge, we would, through our own fault, renounce every possibility of opposing the demands of our doubtful protectors after having been so unwise as to permit their entrance into our country. Colonel Barnardiston's announcements at the time of the conclusion of the 'Entente Cordiale,'

which were just as perfidious as they were naive, have shown us plainly the true meaning of things. When it became evident that we would not allow ourselves to be frightened by the pretended danger of the closing of the Scheldt, the plan was not entirely abandoned, but modified in so far as the British army was not to land on the Belgian coast, but at the nearest French harbors.

"The revelations of Captain Faber, which were denied as little as the newspaper reports by which they were confirmed or completed in several respects, also testify to this. This British army, at Calais and Dunkirk, would by no means march along our frontier to Longwy in order to reach Germany. It would directly invade Belgium from the northwest. That would give it the advantage of being able to begin operations immediately, to encounter the Belgian army in a region where we could not depend on any fortress, in case we wanted to risk a battle. Moreover, that would make it possible for us to occupy provinces rich in all kinds of resources and, at any rate, to prevent our mobilization or only to permit it after we had formally pledged ourselves to carry on our mobilization to the exclusive advantage of England and her allies.

"It is therefore of necessity to prepare a plan of battle for the Belgian army also for that possibility. This is necessary in the interest of our military defense as well as for the sake of the direction of our foreign policy, in case of war between Germany and France."

These words of warning against King Albert's Government following in the same dangerous path which King Leopold's Government had been persuaded by Great Britain to choose, are of the greatest significance. Baron Greindl reminds his gov-

ernment as outspokenly as even an official in his exalted position may allow himself to do, that it violated the duties of Belgium as a neutralized state, by secretly entering into one-sided obligations with the Entente Powers. He speaks of the "doubtful protectors" of Belgium whose plans would "at any rate, prevent our mobilization, or only permit it after we had formally pledged ourselves to carry on our mobilization to the exclusive advantage of England and her allies," i.e., of France.

However, the Belgian Government was already too deeply committed and entangled in the English schemes to be able to lend an ear to Baron Greindl's warnings. The conversations between the Belgian General Army Staff and the British General Army Staff went on, being now conducted between the successor to Col. Barnardiston, Col. Bridges, and General Ducarne's successor in office, General Jungbluth. This is shown by the third document, published in fac-simile, being the minutes of a meeting of the two officers, which, according to certain indications, must have taken place in 1912. It reads, in English translation:

"Confidential

"The British Military Attaché asked to see General Jungbluth. The two gentlemen met on April 23rd.

"Lieutenant-Colonel Bridges told the General that England had at her disposal an army which could be sent to

the Continent, composed of six divisions of infantry and eight brigades of cavalry—together 160,000 troops. She has also everything which is necessary for her to defend her insular territory. Everything is ready.

“At the time of the recent events, the British Government would have immediately effected a disembarkment in Belgium (*chez nous*), even if we had not asked for assistance.

“The General objected that for that our consent was necessary.

“The Military Attaché answered that he knew this, but that—since we were not able to prevent the Germans from passing through our country—England would have landed her troops in Belgium under all circumstances (*en tout état de cause*).

“As for the place of landing, the Military Attaché did not make a precise statement; he said that the coast was rather long, but the General knows that Mr. Bridges, during Easter, has paid daily visits to Zeebrugge from Ostende.

“The General added that we were, besides, perfectly able to prevent the Germans from passing through.”

This document, which was found in the Department of Foreign Affairs in Brussels and is marked “*Confidentielle*” in the handwriting of Count van der Straten, a councillor of the said department, proves that in 1912 the same topics were discussed between the Chief of the Belgian General Army Staff and the British Military Attaché as by their predecessors in 1906 and, very likely, during the intervening years. Only England had, in the meantime, become a great deal more explicit as to her

intentions. Whilst in 1906 it had been pointed out that the landing of the English forces would take place only after a hypothetical German violation of Belgium's neutrality, in 1912 the Briton does not hesitate to declare, in the coolest possible manner: during the recent political crisis—probably the Morocco Crisis of 1911—England would have despatched troops to Belgium at once, *even if Belgium had not asked for English assistance*. England would have done so under all circumstances, "since we" (i.e., the Belgians) "were not able to prevent the Germans from passing through our country."

It is thus evident that the British Government intended to enter Belgium immediately on the outbreak of a Franco-German war, that is to say, Great Britain intended to disregard Belgium's neutrality and to do the very same thing which, when Germany, in her position of legitimate defense, got ahead of her in doing, she took as a pretext to declare war upon Germany.

The bold assertion of Colonel Bridges that England would have sent an expeditionary force to Belgium under all circumstances shows, by the way, in its true light a much remarked utterance of Lord Roberts. In August, 1913, the old Field-Marshal said: "I do not think the nation realizes how near it was to war as lately as August, 1911. Our navy

is not manned by panic mongers, yet for many autumn nights our Home Fleet lay in Cromarty Firth with torpedo nettings down. . . . Our expeditionary force was held in equal readiness instantly to embark for Flanders to do its share in maintaining the balance of power in Europe.”¹

When these words were uttered, the world had to suppose that such an undertaking of the English army would have met with the resistance of the Belgian forces. At present it is sufficiently clear that Belgium, instead of resisting the invasion of English troops, was ready to grant them every facility to reach the German frontier as speedily as possible.

How far the illicit intimacy between the British and the Belgian military authorities went is evident from certain secret military handbooks for the use of commanders of British troops within Belgium, found on captive English officers. Those books are proof of a very careful preparation, extending over several years, for the proposed Belgian campaign, on the part of the British headquarters. They contain such detailed information that, without the very far-going assistance on the part of the Belgian military authorities, it would have been impossible to compile them. A press-*communiqué* of the German Government, dealing

¹ The British Review, Vol. III, No. 2.

with this point, appeared in the North German Gazette of December 2, 1914, and is given in the Appendix, in English translation.¹

Another official *communiqué*, published by the same organ on the 15th of the same month and also reproduced in the Appendix,² deals with certain important papers found in the possession of a British secretary of legation, named Grant-Watson, who was arrested in Brussels—papers which furnish additional proof of the Anglo-Belgian complicity, if that be needed. They contain the most detailed information about the Belgian plans for general mobilization and for the defense of Antwerp, during the last two years.

Moreover, among them, a note was discovered which states that France started her measures for a general mobilization as early as July 27th, and that the British Legation at Brussels was promptly informed of that fact through the Belgian authorities.

Of such intimacy was Belgium's co-operation with England and France, before the outbreak of the war! "Neutral" Belgium had in reality become an active member of the coalition concluded against Germany.

¹ See pages 221-224.

² See pages 225-227.

CHAPTER V
THE EVENTS OF 1914

The substance of the facts referred to in the foregoing chapter was tolerably well known to the German Government before the present war, through certain unofficial channels which need not be specified; though the documentary evidence of Belgium's pact with England was not in its hands, and was only placed there by chance after the capture of the Belgian capital.

If Germany refrained from making public use of that information, her reasons were, doubtless, the same which impose silence upon the shrewd business man who receives reports on a doubtful deal of a good customer. A public announcement of the information which Germany had with regard to Belgium's deal with England would have been liable to cause an international crisis which Germany was a great deal more anxious to avoid than the world gives her credit for.

Even if there had been no danger of such a crisis

it would have been contrary to the dictates of political wisdom for Germany to make use of her information, not yet borne out by documentary proof, as long as her relations with Belgium were outwardly in a perfectly normal state.

These relations changed very rapidly, by force of circumstances.

Being compelled, by the unwarranted general mobilization of Russia, to take measures of safety at its Eastern frontier, the German Government considered it its duty to make sure of the attitude of France, Russia's declared ally, by addressing an ultimatum to that Power. The reply of the French Government could leave no doubt as to its determination of joining the war against Germany, which thus had to face an attack from two sides. The German General Staff, however, held in its possession the latest plans for France's war mobilization, drawn up by the French headquarters, according to which that country's military forces were to form five Armies of campaign, to be concentrated at the following points: First Army, consisting of the I, II, III and X army-corps, at Maubeuge; Second Army, consisting of the IX, XI, IV and VI army-corps, at Verdun; Third Army, consisting of the XX, V and VIII army-corps, at Toul; Fourth Army, consisting of the XIII, XII, XVII and XVIII army-corps, at Epinal; and Fifth Army,

consisting of the VII, XIV, XV and XVI army-corps, at Belfort.

A most significant passage of those plans reads: "The First Army unites with the English and Belgian Armies, and, after passing through Belgium, occupies Cologne and Coblenz, and opposes the German forces advancing from Northern Germany."

Thus, the French plan of campaign contemplated, as though it were a matter of course (which, indeed, it was for the French headquarters), a concerted action of the Maubeuge Army with the Belgian forces and an English expeditionary army. However, concerning this proposed co-operation of an English force with the French Maubeuge Army, there was corroborating evidence in the hands of the German General Staff, the Anglo-French designs having been allowed to leak out on various occasions.¹ Moreover, the attitude of the British

¹ The name "Maubeuge" in particular recalls the following startling revelations of the widely circulated French newspaper, *Gil Blas*, in its issue of February 25, 1913:

"A contemporary of Eastern France contains most remarkable disclosures. In Eastern military circles, it is discussed that the fortress of Maubeuge, situated near the northeastern frontier of France, close to the railway line Paris-Cologne, receives, since several weeks, great quantities of *English* ammunition. Maubeuge is of the greatest military importance. In the plan of campaign of the French General Staff, it is the point of concentration of the allied Anglo-French troops, which, in case of war, will be commanded by the English General French, under the French Generalissimo Joffre. It is known that the English cannons do not use the same kind of projectiles as the

Government toward Germany's proposals, during the critical days preceding the outbreak of hostilities, left no doubt that England had fully made up her mind effectively to support the French attack against the German frontier, by way of Belgium.

If this French plan of campaign, the correctness of which has since been confirmed,¹ was allowed to be carried out, Germany would have had to face an attack at her most vulnerable spot—the entirely unprotected Prusso-Belgian frontier, where a hostile invasion of the indicated enormous strength would have delivered to the enemy at least more than half of the Prussian Rhine Province, including Germany's most valuable coal and iron mines as well as a number of important centers of industry. It would have been a most dangerous, perhaps a disastrous, attack against the German flank—and a later stage of the war (the operations of the Kluck Army) has clearly shown what such flank attacks mean, in modern strategy.

Under these grave circumstances, the German headquarters had to act without delay. It was their imperative duty to strike at the French Maubeuge Army as soon as possible, in order to prevent it

French cannons. Therefore, both governments have agreed to lay in store, already in peace time, on French territory, such quantities of ammunition as will be necessary for the English artillery."

¹ The official *press-communiqué* in the North German Gazette of September 30, 1914, reproduced in the Appendix, page 217.

from carrying out the task allotted to it in the French plan of campaign. To this end, however, it was unavoidably necessary to pass through Belgian territory. The German Government, therefore, requested the Belgian Government to grant the German troops an unobstructed passage to France through Belgium.

The legal aspect of this demand will be discussed in a later chapter. Here, I confine myself to the form in which those demands were made.

By instructions from the German Chancellor, the Imperial Minister Plenipotentiary at Brussels addressed the following note to the Belgian Government, under date of August 2, 1914:

The Imperial Government is in possession of trustworthy information as to the intended concentration (Aufmarsch) of French forces along the Meuse section Givet-Nemur. It permits of no doubt as to France's intention of marching upon Germany through Belgian territory. The German Government cannot rid itself of the apprehension that Belgium, despite the best intentions, will not be in a position, without assistance, to repulse a French advance with such prospects of success that therein a sufficient guarantee against the threatening of Germany could be found.

It is Germany's imperative duty of self-preservation to forestall the attack of the enemy.

The German Government would greatly regret if Belgium should regard it as an act of hostility, directed against herself, that the steps taken by Germany's adversaries force her, for the sake of her defense, to enter in turn Belgian territory.

"In order to preclude any misinterpretation, the Imperial Government declares the following:

1. Germany purposes no hostilities whatsoever against Belgium. If Belgium is willing to adopt an attitude of friendly neutrality towards Germany, in the impending war, the German Government pledges itself to guarantee the integrity and independence of the Kingdom to their fullest extent, when peace will be concluded;

2. Under the conditions set forth above, Germany pledges herself to evacuate the territory of the Kingdom as soon as peace is concluded;

3. In the event of a friendly attitude of Belgium, Germany is ready, in concurrence with the Royal Belgian authorities, to purchase against cash-payment all necessities of her troops and to make good any damage which might be caused by German troops.

However, should Belgium behave in a hostile manner toward German troops, and, more especially, should she raise difficulties against their advance, by the resistance of the fortifications along the Meuse or by destruction of

railways, roads, tunnels or other engineering works, then Germany will, to her regret, be compelled to consider the Kingdom as an enemy. In this case, Germany would be unable to give the Kingdom any pledges whatsoever, but would be obliged to leave to the decision of arms the eventual settlement of the relations between the two States.¹

When the above note was despatched to the Belgian Government, the German authorities were fully advised that French army aeroplanes, which committed hostile acts in Germany, had passed over Belgian territory and, especially, that considerable detachments of the active French army were operating on Belgian soil.

The German Government brought those facts to the knowledge of the Belgian Government, in an informal manner, through the Imperial Minister at Brussels, about six hours after the aforesaid note had been delivered.²

¹ *Aktenstuecke zum Kriegausbruch*, compiled by the German Foreign Office, part 3, No. 27.

² Belgian Gray Book, No. 21, which is, evidently, a somewhat "edited" protocol concerning the oral complaint of the German Minister to the Belgian Foreign Department. The objection of the Belgian official quoted therein, viz.: that, since the French hostile acts complained of had been committed on German soil, they did not concern Belgium, is quite irrelevant because it does not meet Germany's complaint that those hostile French acts had been committed under violation of Belgium's neutrality.

Sworn testimonials to the effect that large bodies of French troops were actually operating on Belgian territory before the German army invaded Belgium have, subsequently, been pub-

There can be no doubt that those violations of Belgium's neutrality by France, not opposed by the Belgian authorities, would have fully justified Germany in making a formal categorical demand at Brussels that the Belgian Government take speedy and effective measures for maintaining its neutrality. More than that—she might have publicly denounced Belgium as a breaker of her international obligations for her palpable connivance with the French military operations, and, on that ground, taken immediate action against Belgium.

However, everything goes to show that Germany was very averse to such a course, which would have left the Belgian Government no choice in the matter. The attitude of the German Government during those critical days can leave no doubt that it tried its best to spare Belgium, a country with which Germany had no quarrel, from being drawn into the impending conflict, if that should be possible. Therefore she offered Belgium terms, under the same plea under which, according to the British Military Attaché's communication to General Jungbluth, England was ready to send her forces to Belgium in 1911—that is to say, that Belgium was not in a position to repulse a hostile invasion.

lished by the Imperial Government. Three affidavits of French prisoners of war, containing detailed information to that effect, are included in the Appendix, pages 230-235.

Had Belgium accepted those terms, the bulk of her people would probably never have learnt the horrors of war, and Brussels, Louvain and Antwerp would not have seen a German soldier; for the German army, passing only through the districts south of the Meuse and the Sambre, would have been able to carry out its imperative measures against the French Maubeuge Army entirely, or almost entirely, on French soil.

To make the acceptance of those terms possible, the German note carefully avoided not only every reference to Belgium's connivance toward French military operations on her soil, but also every allusion as to the complicity of the Belgian Government in the British complot of which, as mentioned above, the Imperial Government had then already sufficient knowledge without holding in its hands documentary evidence to that effect.¹

However, the Belgian Government was too deeply entangled in the meshes of England's mischievous policy to be able to withdraw in the eleventh hour and keep out of the conflict.

The German demands were flatly refused by Belgium's note of reply, dated August 3d. Pretending

¹ The following passage in the Chancellor's speech of December 2, 1914: "Even then the guilt of the Belgian Government was apparent from many a sign, although I had not yet any positive documentary proofs at my disposal." (Appendix, page 227).

always to have been faithful to her international obligations, she emphasized that the King of Prussia was one of the guarantors of her status as a neutralized country; protested against the threatened attempt against her independence (which, obviously, was not threatened in the least); and declared herself in honor bound to repulse any attack upon her rights.¹

Even at that advanced stage of the crisis Belgium might still have been kept out of the impending conflict if England had either granted her full freedom of action or had renewed Mr. Gladstone's undertaking of 1870 toward Germany and France, without delay. The latter measure, a diplomatic measure at any rate, was doubtless in the mind of the King of the Belgians when, in the afternoon of the same day, he addressed a telegraphic appeal to the King of England, asking for the British Government's "diplomatic intervention to safeguard the integrity of Belgium."² In reply to this request for *diplomatic intervention*, however, the Belgian Government received from London, very significantly, precise orders for *armed resistance* against the threatening German invasion, together with an unsolicited promise of *military support*.³

¹ Belgian Gray Book, No. 22.

² *Ibid.*, No. 25.

³ British White Papers, No. 155.

For the reasons briefly stated above and more fully to be discussed in a later chapter, Germany was unable to consider Belgium's protest.

Early on August 4th, a second German note was delivered at Brussels, stating that the Imperial Government was,

to its deepest regret, compelled to carry out—by force of arms, if necessary—the measures of security which have been set forth as indispensable in view of the French menace.¹

On the same day, the German Chancellor, Dr. von Bethmann Hollweg, made his famous speech in the Reichstag, declaring that, in her state of legitimate defense, Germany was compelled to invade the territory of two friendly neighbor countries, which act was "contrary to the provisions of international law," and putting it on record that the "wrong" which Germany thereby committed she would try to make good as soon as her military aim should be attained.²

These words of the Imperial Chancellor, which are constantly cited by Germany's critics as an unqualified official admission of Germany's unqualified guilt toward Belgium, can be fully understood and appreciated only if due consideration is given to the

¹ Belgian Gray Book, No. 27.

² See Appendix, page 219.

circumstances under which they were uttered and to the exceptional personality of the speaker. Not much known in America, Dr. von Bethmann Hollweg may be said to enjoy a European reputation for honesty and straightforwardness. Both diplomatic trickery *à la Talleyrand*, and political speech-making in pharisean style, as practised in certain other European chanceries, are out of accord with his character. He is the philosopher-statesman. The philosopher Bethmann, however, could only look at the invasion of Luxembourg and Belgium—two countries which had no direct part in the imbroglio—as constituting, in itself, a regrettable wrong and a breach of international law, notwithstanding the perfectly valid legal excuses, emphatically invoked by himself (i.e. the right of self-preservation) which justified such action. To the statesman Bethmann other considerations presented themselves at the same time. It must not be forgotten that it was he who had drafted the note to the Belgian Government of August 2d, under the particular circumstances set forth above. In his honest desire to keep Belgium out of the struggle, he had tried to make that note as acceptable as possible to the Belgian Government; doubtless, when he spoke in the Reichstag, he still hoped that the Belgian people might yet be persuaded to submit to Germany's unavoidable demands, and wished to give a public

pledge that the temporary wrongs imposed upon them would be righted as soon as possible. That such was, indeed, the Chancellor's hope is quite clear from his speech at the Reichstag on December 2d, when he made the following statement:

When, on August 4th, I referred to the wrong which we were doing in marching through Belgium it was not yet known for certain whether the Brussels Government in the hour of affliction would not decide after all to spare the country and to retire to Antwerp under protest. . . . On August 4th, for military considerations, the possibility of such a development had to be kept open under all circumstances.¹

At a later hour of the same fateful day, German troops passed the Belgian frontier, near the little town Gemmingen, whereupon Belgium instantly severed her diplomatic relations with the German Empire.² Simultaneously, she made an appeal to Great Britain, France and Russia—not to Austria, by the way—asking these countries “to co-operate as guarantors in the defense of her territory,”³ which Powers immediately gave full assurance to that effect.⁴

¹ See Appendix, page 228.

² Belgian Gray Book, Nos. 31-34.

³ *Ibid.*, No. 40.

⁴ *Ibid.*, Nos. 48, 49, and 52.

During the four preceding days, England, unsolicited, had already undertaken three diplomatic *démarches* concerning Belgium. First, on July 31st, she formally asked France and Germany whether, "in view of existing treaties," they were "prepared to engage to respect the neutrality of Belgium so long as no other Power violates it,"¹—a demand not unlike that addressed to the same countries by England in 1870, with this striking difference, however, that Mr. Gladstone, by the well-known identical treaties, assured both sides of England's non-intervention as long as Belgium's neutrality would be respected, whilst in 1914 Sir Edward Grey absolutely refused to make any promise whatsoever as to England's course of action if Germany promised to respect Belgium's neutrality.² It may be added here, in passing, that France gave the desired promise on July 31st (See British White Papers, No. 125), altho, as the affidavits reprinted in the Appendix show (page 230 and following), considerable cavalry detachments of the French army were then already on Belgian soil. Second, on the same day, England informed Belgium of her *démarche* in Paris and Berlin, and expressed the expectation "that the Belgian Govern-

¹ British White Papers, No. 114.

² *Ibid.*, No. 123.

ment will maintain to the utmost of her power her neutrality.”¹ Third, after Germany’s demand to Belgium for an unobstructed passage through her territory, England—on August 4th—formally protested in Berlin “against this violation of a treaty to which Germany is a party in common with themselves,” and requested “an assurance that the demand made upon Belgium will not be proceeded with.”²

As mentioned above, the invasion of German troops in Belgium was then already an accomplished fact. As to the reasons for and the aims of that invasion, the German Government took pains to inform not only the Belgian but likewise the British Government.

With characteristic honesty and frankness, Dr. von Bethmann-Hollweg had outlined to the British Ambassador Germany’s attitude toward Belgium in case of a conflict with France, as early as July 29th, in the following manner :

It depended upon the action of France what operations Germany might be forced to enter

¹ Belgian Gray Book, No. 11, where the Belgian Minister for Foreign Affairs remarks very mysteriously that, on July 31, Sir F. Villiers transmitted to him that communication from Sir Edward Grey “which he was desirous of being in a position to place before me *since several days*” (*qu’il souhaitait être à même de m’exposer depuis plusieurs jours*).

² British White Papers, No. 153.

upon in Belgium, but when the war was over, Belgian integrity would be respected if she had not sided against Germany.¹

The war with France having become an accomplished fact in the meantime, the Imperial Government, on August 4th, instructed the German Ambassador in London to declare to the British Government that

the German army could not be exposed to French attack across Belgium, which was planned according to unimpeachable information; Germany had consequently to disregard Belgian neutrality, it being for her a question of life or death to prevent French advance;

and to repeat, at the same time most positively the formal assurance that

even in the case of armed conflict with Belgium, Germany will, under no pretence whatever, annex Belgian territory.²

England, however, did not accept that assurance, but on the same day addressed an ultimatum to Berlin, to the effect that the German Government give a satisfactory reply to the British request, made the same morning, namely, that Germany give

¹ British White Papers, No. 85.

² *Ibid.*, No. 157.

an assurance that the demand made upon Belgium will not be proceeded with and that her neutrality will be respected by Germany.¹

This ultimatum concluded the following passage which may be considered as Great Britain's official announcement of her reasons for going to war with Germany:

His Majesty's Government feel bound to take all steps in their power to uphold the neutrality of Belgium and the observance of a treaty to which Germany is as much a party as ourselves.²

The time-limit having expired at midnight of August 4th (corresponding to 11 p. m. of the same day, according to London time), without any answer forthcoming from the German Government, Germany and Great Britain were at war with each other from that time—ostensibly for the reason that Germany had violated Belgium's neutrality.³

It is beyond the scope of this study to show in detail that England's real reasons for going to war with Germany had nothing to do with Belgium's

¹ British White Papers, No. 159 and No. 153.

² Ibid., No. 159.

³ On August 6, 1914, in the House of Commons, the Prime Minister, Mr. Asquith, declared: "If I am asked what we are fighting for, I reply in two sentences. In the first place, to fulfil a solemn international obligation which, if it had been entered into between private persons, in the ordinary concerns

neutrality. "As a matter of history," says Professor A. Bushnell Hart of Harvard, "it seems now established beyond all cavil that the English practically decided to stand by France (which must infallibly lead to war) on August 2d; and would have continued in that mind even if the Germans had respected Belgium."¹ Besides, quite a number of honest Britishers are on record who, like Mr. Trevelyan, a former member of the Cabinet, George B. Shaw, the noted playwright, and others, have publicly repudiated their Government's official justification of England's participation in the war—emphasizing that Germany's invasion of Belgium had nothing to do with it.² It was, to use a phrase of Mr. Ramsay MacDonald, leader of the English Labor Party, "a pretty little game of hypocrisy"

of life, would have been regarded as an obligation not only of law but of honor which no self-respecting man could possibly have repudiated. I say, secondly, we are fighting to vindicate the principle which in these days when force, material force, sometimes seems to be the dominant influence and factor in the development of mankind,—we are fighting to vindicate the principle that smaller nationalities are not to be crushed in defiance of international good faith, by the arbitrary will of a strong and over-mastering Power." (M. P. Price, *The Diplomatic History of the War*, Appendix, page 101.)

¹ The essay, *The Essential Points of Belgian Neutrality*, in the *New York Times* of December 27, 1914.

² A number of interesting verdicts of this kind are contained in the pamphlet *England on the Witness Stand*, published by *The Fatherland*, New York (1915).

Interesting interviews with several prominent Englishmen, including G. B. Shaw, were published in *Collier's* for June 12, 1915.

when Mr. Asquith and his colleagues tried to make the world believe that England was going to war for the sanctity of treaties and for the protection of "little" Belgium.

The fact is that England did not draw the sword for Belgium, but that Belgium is fighting for England—fighting England's time-honored bulwark game. "The frontier of the British Empire in Europe is the Meuse line"; the Belgians are the frontier guardsmen.

When, in the critical hour, the King of the Belgians, realizing the tremendous task imposed upon his country and, obviously, making a supreme effort for a peaceful solution, asked England for *diplomatic* support, London sent him a categorical command to charge the enemy, depriving thereby Belgium of the chance of avoiding a clash with Germany which had no designs on Belgium and offered liberal terms.

The same was, evidently, the case when, on August 7th, Germany renewed her offer to Belgium. Liège having fallen into the hands of the invading army after a sharp encounter with the Belgian troops, the German Government made its last effort for a peaceful settlement, addressing through the good offices of the Foreign Minister of the Hague, a third note to the Belgian Government which reads as follows:

The fortress of Liège has been taken by assault, after a courageous defense. The German Government regrets very deeply that, in consequence of the Belgian Government's attitude against Germany, sanguinary encounters have taken place. Germany is not coming into Belgium as an enemy. Only, under the pressure of circumstances, in view of the military measures of France, she had to take the grave decision of invading Belgium and occupying Liège as a point of support for her future military operations. | Now, after the Belgian army, by its heroic resistance against greatly superior forces, has maintained the honor of its arms in the most conspicuous manner, the German Government requests His Majesty, the King, and the Belgian Government to spare Belgium the further horrors of war. The German Government is ready to make any kind of an agreement with Belgium that is feasible with the consideration of its conflict with France. |

Once more, Germany gives the solemn assurance that she has not been guided by any intention of appropriating Belgian territory and that such an intention is far from her thoughts. Germany is still prepared to evacuate the Belgian Kingdom without delay, as soon as the military situation will permit it.¹

Unfortunately for Belgium, her Government re-

¹ Belgian Gray Book, No. 60.

fused this last offer for a peaceful settlement. After having submitted the draft of her proposed reply to the diplomatic representatives of Great Britain, France and Russia¹—a step which permits of more than one interpretation—she was duly authorized by Great Britain and France² to despatch it to Germany, which she did, via the Hague, on August 12th.³

The frequent notes of moral indignation, the constant references to the national honor and the reiterated assurances that Belgium had always lived up to her international obligations, displayed in those official documents, fall flat now, after the world has learned something about the Belgian Government's illicit ante-bellum relations. It is obvious that its course of action could not have been determined by any considerations of Belgium's national honor, but merely by the obligations which, contrary to international law, it had assumed toward England and France.

Nevertheless, the question arises: what did the Belgian Government, in carrying out those obligations, expect? Could it reasonably hope and did it really expect successfully to stop the advance

¹ Belgian Gray Book, No. 65. Austria was again not consulted, although that country declared war against Belgium only on August 28.

² Ibid., Nos. 68 and 69.

³ Ibid., No. 71.

of the German army, with the aid of its secret allies, and come out uppermost in the impending struggle?

An answer to this question may possibly be found in a pamphlet of a well-known French military writer, Colonel Arthur Boucher, which appeared early in 1913 under the title "La Belgique à jamais indépendante" (Belgium for ever independent.)¹ The object of the pamphlet was to vigorously endorse the bill for the Belgian army-increase, then before the Brussels parliament, which, as mentioned above, was passed in May of the same year. Forecasting what would happen if, after the increase of the Belgian forces, Germany should invade Belgium, which step would immediately call France to Belgium's side, the French writer makes the following significant prediction:

"But, at that moment, the French and Belgian armies will not be the only ones which the North German contingent will have to face.

"May one not suppose that Holland, despite her declaration of neutrality, will sufficiently foresee the fate awaiting herself, if Belgium should be beaten, to judge it expedient to intervene by cutting the German lines of communication through Limburg?

"Above all, can one not be certain that England, already fully aware of the consequences which success of the Germans would have for her, will forestall the appeal of Bel-

¹ *Berger-Levrault Editeurs, Paris, 1913.*

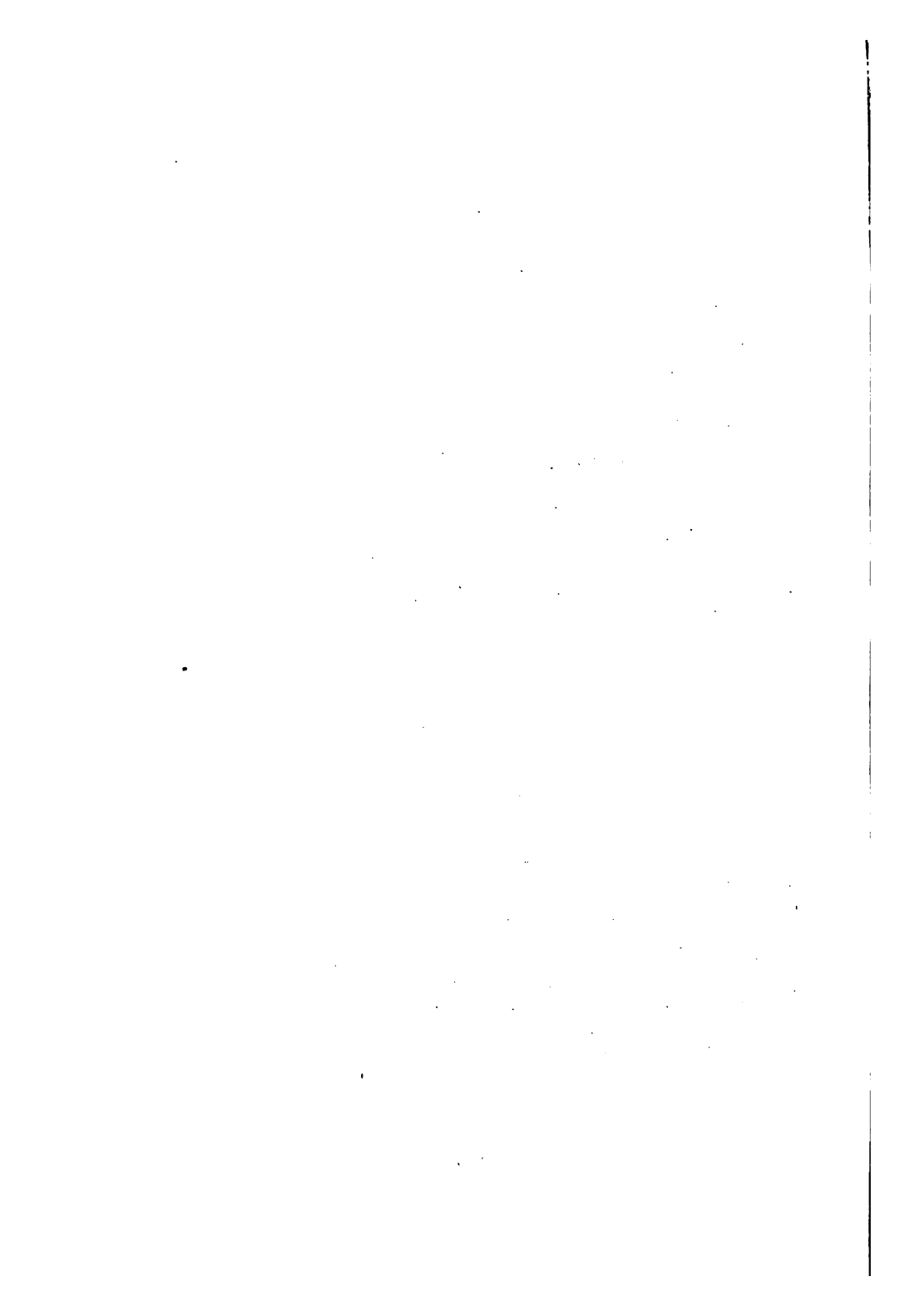
gium, and that she, in possession of the liberty of the Sea and, probably, in a position to enter the mouth of the Scheldt, will come and land her troops on the very quays of Antwerp?¹

"How critical will then be the situation of all German troops engaged in Belgium! Would not Germany just then, when she counted on a sure victory on that point, be exposed to suffer a disaster?

"Besides, we must not forget that, thus forecasting the situation of our adversaries, we have, on purpose, put all the trumps in the hands of the Germans. However, do not the latter, after the trip of Mr. Poincaré to St. Petersburg, cradle themselves in an illusion which may cost them dear, in believing that, up to the thirtieth day, they will need but one single active army corps at their eastern frontier? However, all the units which, by the circumstances, will be required at the Polish front, will be so many less at our own front and, most probably, at the front of Belgium."

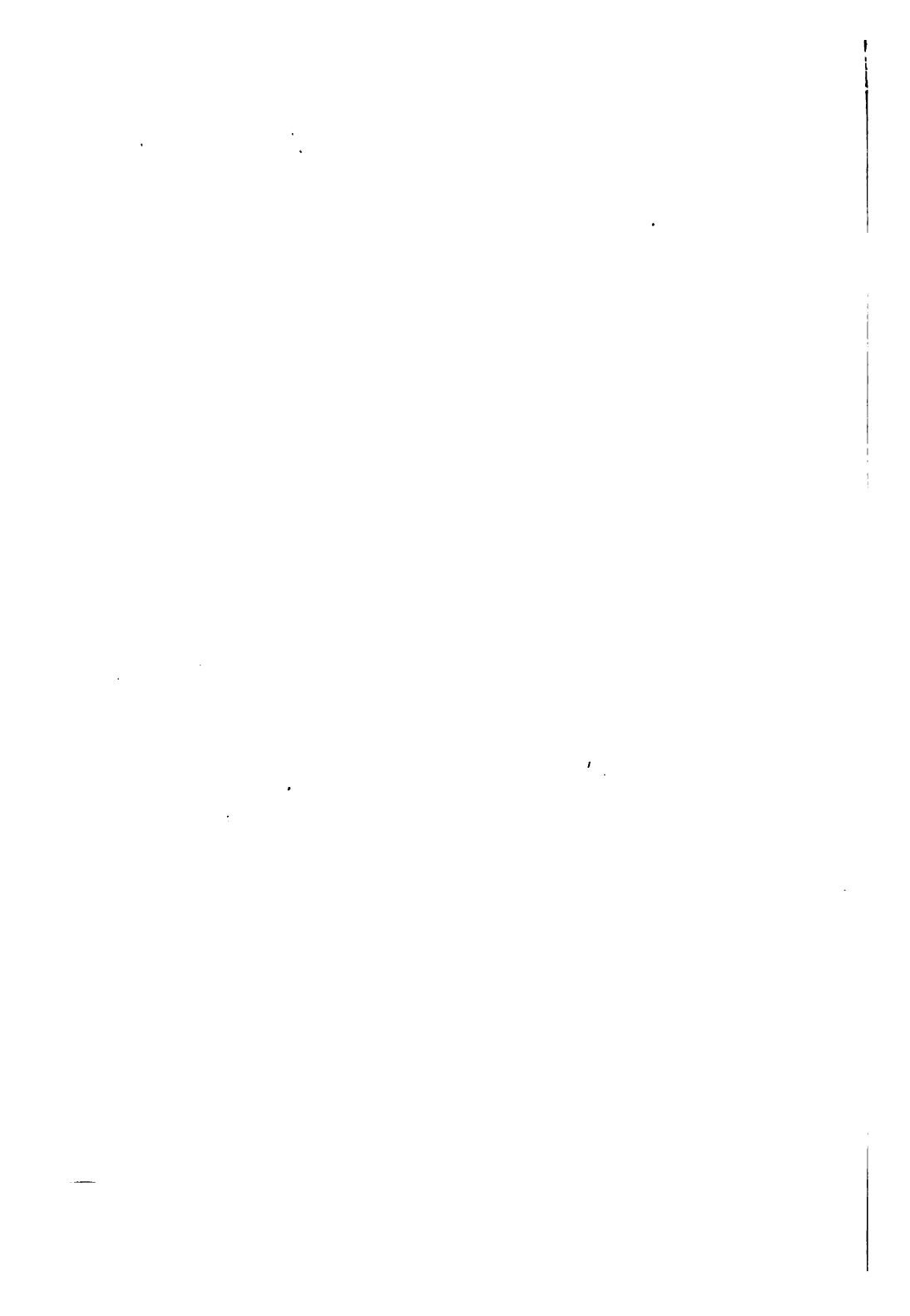
The firm expectation that Belgium and the Triple Entente had all the chances of success on their side which this kind of Triple Entente "Bernhardi" literature voiced so convincingly, is the only psychological explanation for the fatal course of action pursued by the Belgian Government since 1906.

¹ This forecast that England would "forestall a Belgian appeal for assistance" (*ira au devant de l'appel de la Belgique*) is, possibly, something more than a strange coincidence in thought with the bold assertion of Col. Bridges that England would have sent her troops to Belgium, even if the latter country should not have asked for them (page 87).



PART II

The Legal Aspect of Belgium's Neutrality



INTRODUCTORY REMARKS

Since the events of August, 1914, the status of Belgium as a perpetually neutral country has been constantly discussed in public in such a manner as though, from the point of view of international law, it rested on absolutely solid ground.

In reality, that status has been, for more than half a century, one of rather uncertain *legal* foundation.

It is sufficient to point out that, in 1870, Mr. Gladstone formally asked the Cabinets of Paris and Berlin whether they considered the treaties which, originally, guaranteed Belgium's neutrality, as "still binding," and that twice within the last four years the Belgian Government has itself felt so uncertain in this matter that it proceeded to ask two of its neighbor governments for assurances as to their attitude toward Belgium's neutrality.

The legal uncertainty as to Belgium's neutrality is well illustrated by the fact that the numerous authors who have written on this subject of late

refer quite indiscriminately to the treaty of 1831 and to those of 1839, whilst the Belgian Delegation which, in autumn 1914, visited the United States, in its semi-official pamphlet¹ even brings in a "Treaty of 18 Articles" which, in reality, does not exist.²

The British Government which announced to the world that England had gone to war "to fulfil a solemn treaty obligation,"³ studiously avoided in its negotiations with Germany to name that treaty "to which Germany is a party in common with themselves."⁴ In an official despatch to the Japanese Government, Great Britain made the extraordinary assertion that Belgium's neutrality was "guaranteed by the Triple Alliance and by an understanding between the Great Powers."⁵

Belgium's official claim concerning her perpetual

¹ The Case of Belgium in the Present War, published for the Belgian Delegates to the United States by the MacMillan Co., 1914, page 3.

² See page 47, where it is clearly set forth that the Eighteen Articles which style themselves "preliminaries" were nothing but a draft of a separation treaty between Belgium and Holland which was flatly repudiated by the latter country. The reason why the Belgian Delegation has seen fit to give this out as a "treaty" is obviously this, that those "preliminaries" contained a specific guarantee of the Powers with regard to Belgium's neutrality, while the treaties of 1839 contain merely a general collective guarantee concerning the provisions of the Twenty-Four Articles.

³ See page 107, footnote 3.

⁴ See page 107.

⁵ See page vii.

neutrality is that it rests on "the treaties of 1839, confirmed by the treaties of 1870," and that this neutrality is "under the guarantee of the Powers and notably of the Government of His Majesty the King of Prussia."¹

The second part of the present study will examine whether, *according to the accepted rules of international law*, the treaties referred to—as far as they are on record and do not rest on fiction like the alleged guarantee of the Triple Alliance—imposed obligations regarding Belgium's neutrality on the Powers concerned in 1914, and whether, if Germany was under such obligations, she had legally valid reasons for disregarding them.

¹ Belgian Gray Book, No. 22.

CHAPTER VI

OBLIGATIONS OF THE GUARANTORS OF THE QUINTUPLE TREATY

When on August 3, 1914, Sir Edward Grey reported to the House of Commons on the traditional attitude of Great Britain toward the obligations of the guarantors of the Quintuple Treaty, he quoted part of a long speech of Mr. Gladstone, made in the same hall, on the same subject, forty-four years before, and expressly declared that England could not take a more narrow or less serious view of those obligations than that taken by Mr. Gladstone's Government. The quotation begins with the following words:

"There is, I admit, the obligation of the Treaty. It is not necessary, nor would time permit me, to enter into the complicated question of the nature of the obligations of that treaty. . . ."¹

These words show very plainly that, as far back

¹ M. P. Price, *Diplomatic History of the War*, Appendix, page 93.

as 1870, the British Government did by no means consider the obligations on the guarantors of the Quintuple Treaty so self-evident and beyond any doubt that one might be allowed to style them "sacred," but, on the contrary, of a rather "complicated" nature.

In what then consisted those obligations, according to the text of the original instruments and according to the British state doctrine, before Mr. Gladstone's time?

The guarantee of the five Great Powers in Art. XXV of their treaty with Belgium of November 15, 1831, was assumed with regard to "the execution of all the preceding Articles."¹

In the Quintuple Treaty, the guarantee clause is contained in the treaty of the Great Powers with Holland (Art. II) as well as in their treaty with Belgium (Art. I) and states, in either case, that the Twenty-Four Articles of October 14, 1831, are "placed under the guarantee of their said Majesties," i.e. of the rulers of Austria, France, Great Britain, Prussia and Russia.²

There is, thus, a marked difference between the wording of the guarantee clause in the treaty of 1831 and of that in the Quintuple Treaty. The guarantee given in the former called for "execu-

¹ See page 50.

² See page 55.

tion" and, as stated above,¹ was in fact invoked by Belgium to oblige England and France—the two Powers which had unconditionally ratified it—to materialize the provisions of the treaty. The fact that the guarantee clause was worded differently in 1839 indicates very plainly that the Great Powers did not want that guarantee any longer to oblige them to draw the sword in order to have the stipulations of the Twenty-Four Articles respected. Otherwise there would not have been the slightest reason for formally abrogating the treaty of November 15, 1831, and replacing it by a new one the text of which was absolutely identical with that of the former instrument, except for the guarantee clause.²

The guarantee given toward the upholding of the provisions of the Twenty-Four Articles by the Great Powers in 1839 can not, therefore, be considered as putting any of the Great Powers under the individual obligation to use coercive measures in case of a violation of the said provisions. It was, evidently, *nothing more than an affirmation before the world that the then existing state of affairs, based*

¹ See page 52.

² The only other exception is that the mutual assurances for peace and friendship (Art. XXVI of the treaty of November 15, 1831) were not repeated, which is quite consistent with the international custom to make such assurances only in the first treaty with a new Power.

on the Twenty-Four Articles, was in conformity with the wishes of the Great Powers and that they would resent a change in that state of affairs.

As has been stated above, the guarantee of the Powers, in the treaty of November 15, 1831, as well as in the Quintuple Treaty, did not in any particular way concern the perpetual neutrality of Belgium, but a great many other things at the same time which, then, were of much greater importance to the contracting parties. As for the establishment of that neutrality in particular, the aims and intentions of the framers of the Quintuple Treaty are quite evident from the various ways in which, in the course of the negotiations, the article in question has been worded—first stage (Protocols of January 20 and 27, 1831): the very positive and specific guarantee “the five Powers guarantee it” (i.e. Belgium) “that perpetual neutrality”; second stage (Protocol of June 26, 1831): the clause is inserted “without wishing to interfere in the internal affairs of Belgium”; third stage (treaty of November 15, 1831): no specific guarantee with regard to the neutrality, but merely a general collective guarantee of the Great Powers for the “execution” of all the Twenty-Four Articles of which the neutralization of the new kingdom formed only one small item; and fourth stage (treaties of April 19, 1839): no specific guarantee and—as shown above—a still

more modified general collective guarantee with regard to the same Twenty-Four Articles, without any promise of "execution."

A close examination of the wording of the Protocols of January 20 and June 26, 1831, with the text of the treaties of 1831 and 1839, reveals still another striking point of difference. In the former documents the Powers expressed their willingness to guarantee Belgium "that perpetual neutrality as well as the integrity and the inviolability of its territory,"¹ whilst in the treaties of 1831 and 1839 their general guarantee only referred to Belgium as "an independent and perpetually neutral State."² From this divergence the conclusion has been drawn that the integrity and inviolability were purposely not guaranteed by the Great Powers—an opinion which is upheld by none less than Professor Ernest Nys, one of the leading Belgian jurists and a Member of the International Tribunal of the Hague.³

According to this authority it would seem that whoever considers the Quintuple guarantee as still in force in 1914 would have to admit that, since it did not cover the inviolability of Belgium's frontiers, the German invasion was no violation of Belgium's guaranteed rights.

¹ See pages 37 and 46.

² See pages 49 and 55.

³ *Le droit international, les principes, les théories, les faits*, Bruxelles (1912), Vol. I, page 424.

Regardless, however, of which Belgian state rights were covered by the Quintuple guarantee, the above juxtaposition of the wording of the guarantee clause during the different stages of the proceedings leaves no doubt that the Quintuple guarantee was a general collective guarantee with regard to the arrangements of the Twenty-Four Articles, without any promise of execution.

What such collective guarantees mean to Great Britain has been authoritatively defined by her responsible Ministers, in 1867, in the sense that a collective guarantee involved no specific obligation on the part of any of the single guarantors. This doctrine was particularly emphasized "ex cathedra" by Lord Stanley, on June 14, 1867, when he was asked, in the House of Commons, why, by the signature of the treaty guaranteeing perpetual neutrality to Luxembourg, signed five weeks before that debate, he had assumed burdensome obligations for England. He replied to that question:

"The guarantee now given is collective only. This is an important distinction. It means this, that in the event of a violation of neutrality, all the Powers who have signed the treaty may be called upon for their collective action. No one of those Powers is liable to be called upon to act singly or separately. It is a case, so to speak, of 'limited liability.' We are bound in honor—you cannot place a legal construction upon it—to see in concert with others that these arrangements are maintained. But if the other

Powers join us, it is certain that there will be no violation of neutrality. If they, situated exactly as we are, decline to join, we are not bound single-handed to make up the deficiencies of the rest. Such a guarantee has, obviously, rather the character of a moral sanction to the arrangements which it defends than that of a contingent liability to make war. It would no doubt give a right to make war, but it would not necessarily impose the obligation.

"Take an instance from what we have done already. We have guaranteed Switzerland; but if all Europe combined against Switzerland, although we might regret it, we should hardly feel bound to go to war with all the world for the protection of Switzerland. We were parties to the arrangements which were made about Poland; they were broken, but we did not go to war. I only name those cases as showing that it does not necessarily and inevitably follow that you are bound to maintain the guarantee under all circumstances by force of arms."¹

In the House of Lords, the Earl of Derby defined the British Government's views in the following manner:

"A several guarantee binds each of the parties to do its utmost individually to enforce the observance of the guarantee. A collective guarantee is one which is binding on all the parties collectively; but which, if any difference of opinion should arise, no one of them can be called upon to take upon itself the task of vindication by force of arms. The guarantee is collective and depends upon the union of all the parties signing it; and no one of those

¹ Hansard's Parliamentary Debates, 3 series, Vol. 187, page 1922.

parties is bound to take upon itself the duty of enforcing the fulfillment of the guarantee." ¹

Lord Derby, it is true, tried to make it appear as though the guarantee of the Powers with regard to the neutrality of Luxembourg were of another nature than that with regard to the neutrality of Belgium, and it seems that Sir Edward Grey who, on August 2, 1914, specially referred to Lord Derby,² still held the same opinion. It is, however, perfectly obvious that, though politically the neutrality of Belgium may be of greater importance to Great Britain, *legally* the guarantee assumed by the Powers in 1839 with regard to Belgium is the very same collective guarantee as that assumed with regard to Luxembourg in 1867. Lord Derby, moreover, himself admitted this by quoting from the Protocols concerning the Luxembourg Treaty the stipulation that the intention of the contracting parties had been that "Luxembourg should enjoy the same guarantee of her neutrality as Belgium."³

Besides, on a previous occasion, the same British statesman had expressly stated, in Parliament, that "the former guarantee" (i. e. the guarantee assumed under the Quintuple Treaty), "which was under the collective guarantee of all the Powers of Europe, declared that Lux-

¹ Hansard, Vol. 188, page 968.

² British White Papers, No. 148.

³ Hansard, Vol. 188, page 969.

embourg should continue to form a part of the possessions of the King of Holland, whereas the present guarantee" (i. e. the guarantee assumed under the Luxembourg Neutralization Treaty) "which is *also* under the guarantee of the collective Powers, declares that that territory shall be neutralized."¹

Thus, the *legal* significance of the collective guarantee logically, in the case of Belgium, could not be different from that laid down with regard to Luxembourg, in the words of Lord Stanley, that such a guarantee would no doubt give a right to make war, but it would not necessarily impose that obligation.

In other words: England might find it expedient to go to war on account of a violation of Belgium's neutrality, as for any other pretext—but she does not consider herself under any "sacred" obligation to do so.

When, therefore, on August 6, 1914, Mr. Asquith, in the House of Commons, attempted to justify England's intervention in the present war by asserting that she was by law and honor bound "to fulfil a solemn international obligation," the British Prime-Minister found himself at complete variance with the previously established state doctrine of his country concerning its obligations resulting from collective guarantees.

¹ Hansard, Vol. 187, page 79.

Even if the Quintuple guarantee could still be considered as binding in 1914—which, as the subsequent chapters will show, was not the case—England was, according to the statements of earlier British statesmen, not *legally* bound to take action when Belgium was invaded by German troops.

She was, of course, at liberty to take that step for political reasons, in connection with Belgium or otherwise. But the attempt of her responsible statesmen to justify their cause before their country and the neutral world by pointing at alleged solemn treaty obligations was, to repeat Mr. Ramsay MacDonald's criticism, nothing but "a pretty little game of hypocrisy."

It is gratifying to note that one English newspaper at least, the Labour Leader, has had the moral courage of showing up this political hypocrisy of the Asquith Cabinet by pointing at England's attitude toward a threatening invasion of Belgium in 1887. At that time, the so-called "Schnaebele incident" brought Europe to the verge of a repetition of the Franco-German War of 1870, and the possibility of a Belgian invasion by either Germany or France was widely discussed in England. Then, however, as the Labour Leader shows, in the two articles reproduced in the Appendix,¹ neither the Conservative nor the Liberal party held the opin-

¹ See pages 236-248.

ion that such a contingency would impose on England the obligation of going to war in defense of Belgium's neutrality. The Pall Mall Gazette, the leading Liberal newspaper, proved at some length that no such obligation existed. The Standard, leading organ of the Conservatives, then in power, pointed out that there was "all the difference in the world" between a permanent occupation of neutral Belgium by another state and the "momentary use of the right of way" through that country by either prospective belligerent in order to reach the other's territory. The paper asserted that the former might be a serious question for England; but with reference to the latter, said "it would be madness for us to incur or to assume responsibilities unnecessary when to do so would manifestly involve our participation in a tremendous war."

These utterances of the Conservative party organ in 1887 seem to prove conclusively that Germany's demands on Belgium for the right of way, in connection with a most explicit guarantee of her integrity and independence after the restoration of peace, as expressed in the German note of August 2, 1914, would not have failed to fully satisfy Lord Salisbury's government, twenty-seven years ago, and would have effectively secured England's neutrality.

Is it to be surmised that, with regard to the ful-

filment of "a solemn international obligation" on the part of Great Britain, the sense of honor of the Right Honorable Lord Salisbury was less alive than that of the Right Honorable H. H. Asquith?

CHAPTER VII

EFFECT OF "CHANGED CONDITIONS" ON THE QUINTUPLE GUARANTEE

The foregoing chapter having discussed the nature of the Quintuple guarantee, the next step will be to examine the question of the duration of its validity.

In due consideration of the fluctuating character of international relations, state treaties which not merely sanction an existing state of affairs but look into the future are in modern times as a rule concluded for specified periods, at the expiration of which they cease to be binding automatically. In earlier days, however, treaties between two or more states were frequently concluded without the stipulation of any time limit, concerning their validity; and an example of this category of international contracts presents itself in the Quintuple Treaty.

The question is: does international law consider such treaties as *eternally* binding the contractants?—or do the established rules permit the contracting

parties to expressly or tacitly abrogate those treaties, in the course of time?

The general doctrine, concerning this question, is appropriately expressed in the following words of Wharton, a high American authority on international law:

"In most of the old treaties were inserted the '*clausula rebus sic stantibus*,' by which the treaty might be construed as abrogated when material circumstances on which it rested changed. To work this effect it is not necessary that the facts alleged to have changed should be material conditions. It is enough if they were strong inducements to the party asking abrogation.

"The maxim *Conventio omnis intellegitur rebus sic stantibus* is held to apply to all cases in which the reason for a treaty has failed, or there has been such a change of circumstances as to make its performance impracticable except at an unreasonable sacrifice."¹

The foregoing principle is, evidently, in perfect accord with the views on this subject of Sir Edward Grey who, on August 3, 1914, in the House of Commons, expressed his opinion on the binding force of international guarantees, by quoting the following words of Gladstone:

"I am not able to subscribe to the doctrine of those who have held in this House what plainly amounts to an assertion that the simple fact of the existence of a guarantee is binding on every party to it, irrespective altogether

¹ Quoted in J. B. Moore's *Digest of International Law*, Vol. V, page 319.

of the particular position in which it may find itself when the occasion for acting under the guarantee arises. The great authorities upon foreign policy to whom I have been accustomed to listen, such as Lord Aberdeen and Lord Palmerston, never to my knowledge took that rigid and, if I may venture to say so, that impracticable view of the guarantee." ¹

Mr. Gladstone's view, with which the present British Foreign Secretary has identified himself, is upheld by a number of the highest authorities on international law, as the following quotations may prove.

Hannis Taylor, a prominent American exponent of international law, says that the conditions of international existence are so unstable, and to enforce a contract between states, after the state of facts upon which it was founded has substantially changed, is so difficult, that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory as soon as the conditions under which they were contracted are essentially altered. He cites the case of Russia which, in 1870, determined to repudiate some of the vital provisions of the Treaty of Paris by which she had been fettered at the close of the Crimean War and which her subsequent development had rendered unbearable. Russia, then, rested her case

¹ M. P. Price, *Diplomatic History of the War*, Appendix, page 93.

upon the ground of "altered conditions," asserting that

"The treaty of 1856 had not escaped the modifications to which most European transactions had been exposed and in the face of which it would be difficult to maintain that the written law . . . retains the moral validity which it may have possessed at other times."¹

J. N. Pomeroy, another high American authority on international law, points out that, since nothing is perpetual in mundane affairs except change, such a thing as a perpetual treaty does not really exist. The dead cannot be allowed indefinitely to control the destinies of the living, nor to fetter the wings of progress or development. He says:

"It should be remembered that the nature of treaties between nations discloses to us features which ought to distinguish these treaties from compacts between individuals. In fact, nations have an indefinite existence. All the generations to come, without having consented in person, find themselves bound by the act of a generation which concluded the convention; the stipulations of the treaty, by the lapse of years or by subsequent changes, may become so opposed to the manners, to the situation of the respective Powers, to the state of their industry, of their commerce, of their forces of every kind, that, justly, these stipulations should not longer be maintained."²

The above quotation from Pomeroy is almost identical with the opinion of the great French law-

¹ A Treatise on International Public Law, Sects. 394 and 395.

² Lectures on International Law, page 352.

yer Theodore Ortolan on the same subject, expressed in the famous work *Règles Internationales et Diplomatie de la Mer*.

The same opinion with regard to the influence of "altered conditions" on international treaties is expressed by the great Russian authority on international law, G. F. de Martens, in his "*Précis du Droit des Gens Moderne de l'Europe*." He quotes the following sentence from the French publicist Sylvestre Pinheiro-Ferreira:

"I speak of those treaties which Governments sometimes make with a clause that they shall remain binding *forever*, or, at least, until both the contracting parties agree to rescind or to modify them. Such conventions never have been, nor should they be, taken literally, for it would be absurd to suppose that the present generation could have the right to bind future generations by conventions good or bad at the time of their inception, that the posterity of one contracting party ought to be sacrificed to the posterity of the other. Treaties bind nations only so long as the principle upon which their validity rests continues to exist."

The doctrine that, owing to essential changes of the circumstances under which they were concluded, international treaties sink into oblivion, and are no longer binding, not only is a part of international law, but also the most prominent philosophers and statesmen fully recognize and defend this principle as a matter of absolute ethical justice.

There is no authority more respected than John

Stuart Mill, who expresses his opinion on this subject in an essay on "Treaty Obligations,"¹ in the following manner:

"In 1814 and 1815, a set of treaties were made by a general congress of the states of Europe, which affected to regulate the external, and some of the internal, concerns of the European nations, for a time altogether unlimited. These treaties, having been concluded at the termination of a long war, which had ended in the signal discomfiture of one side, were imposed by some of the contracting parties, and reluctantly submitted to by others. Their terms were regulated by the interests and relative strength at the time of the victors and vanquished, and were observed as long as those interests and that relative strength remained the same. But as fast as any alteration took place in these elements, the powers, one after another, without asking leave, threw off, and were allowed with impunity to throw off, such of the obligations of the treaties as were distasteful to them, and not sufficiently important to the others to be worth a fight. The general opinion sustained some of those violations as being perfectly right; and even those which were disapproved were not regarded as justifying a resort to war. Europe did not interpose when Russia annihilated Poland; when Prussia, Austria and Russia extinguished the Republic of Cracow; or when a second Bonaparte mounted the throne of France. . . .

"Did any impartial person blame Prussia or Austria because, in 1813, they violated the treaties which bound them to the first Napoleon, and not only did not fight in his ranks, as their engagements required, but brought their whole military force into the field against him, and pursued him to his destruction? Ought they, instead of cancelling

¹ In *Fortnightly Review*, N. S. (1870), page 715.

the treaties, to have opened a negotiation with Napoleon, and entreated him to grant them a voluntary release from their obligations, and if he did not comply with their request to be allowed to desert him, ought they to have faithfully fought in his defense? Yet it was as true of those treaties as it is of the treaty of 1856, that, disadvantageous and dishonorable as they might be, they had been submitted to as the purchase-money of peace, when the prolongation of war would have been most disastrous; for, had the terms been refused, Napoleon could with ease have conquered the whole of Prussia, and, at least, the German dominions of Austria, which is considerably more, I presume, than England and France could have done to Russia, after the fall of Sebastopol. . . .

“What means, then, are there of reconciling, in the greatest practicable degree, the inviolability of treaties and the sanctity of national faith, with the undoubted fact that treaties are not always fit to be kept, while yet those who have imposed them upon others weaker than themselves are not likely, if they retain confidence in their own strength, to grant a release from them? To effect this reconciliation, so far as is capable of being effected, nations should be willing to abide by two rules. They should abstain from imposing conditions which, on any just and reasonable view of human affairs, can not be expected to be kept. And they should conclude their treaties as commercial treaties are usually concluded, only for a term of years.

“If these principles are sound it remains to be considered how they are to be applied to past treaties, which, though containing stipulations which, to be legitimate, must be temporary, have been concluded without such limitation, and are afterwards violated, or as by Russia at present, repudiated, on the assumption of a right superior to the faith of engagements.

"It is the misfortune of such stipulations, even if as temporary arrangements they might have been justifiable, that if concluded for permanency they are seldom to be got rid of without some lawless act on the part of the nation bound by them. If a lawless act, then, has been committed in the present instance, it does not entitle those who imposed the conditions to consider the lawlessness only, and to dismiss the more important consideration whether, even if it was wrong to throw off the obligation, it would not be still more wrong to persist in enforcing it. If, though not fit to be perpetual, it has never been imposed in perpetuity, the question when it becomes right to throw it off is but a question of time. No time having been fixed, Russia fixed her own time, and naturally chose the most convenient. She had no reason to believe that the release she sought would be voluntarily granted on any conditions which she would accept; and she chose an opportunity which, if not seized, might have been long before it occurred again, when the other contracting parties were in a more than usually advantageous position for going to war."

Prince Bismarck, one of the greatest statesmen of all times, expresses his views on the influence of "changed conditions" on existing treaties in the following words: ¹

"Such a guarantee [as an organic connection between the German Empire and Austria-Hungary, which should not be published like ordinary treaties, but should be incorporated in the legislation of both empires and require

¹ Bismarck, *His Reflections and Reminiscences*, London (1898), Vol. II, page 270.

for its dissolution a new legislative act on the part of one of them] has a tranquilizing effect on the mind; but whether it would stand the actual strain of events may reasonably be doubted when it is remembered that the Constitution of the Holy Roman Empire, which in theory had much more effective sanctions, yet failed to assure the cohesion of the German nation, and that we should never be able to embody our relation with Austria in any more binding treaty-form than the earlier confederation treaties, which in theory excluded the possibility of the battle of Königgrätz. All contracts between great states cease to be unconditionally binding as soon as they are tested by 'the struggle for existence.' No great nation will ever be induced to sacrifice its existence on the altar of fidelity to contract when it is compelled to choose between the two. The maxim '*ultra posse nemo obligatur*' holds good in spite of all treaty formulas whatsoever, nor can any treaty guarantee the degree of zeal and the amount of force that will be devoted to the discharge of obligations when the private interest of those who lie under them no longer reinforces the text and its earliest interpretation. If, then, changes were to occur in the political situation of Europe of such a kind as to make an anti-German policy appear *salus publica* for Austria-Hungary, public 'faith could no more be expected to induce her to make an act of self-sacrifice than we saw gratitude do during the Crimean war, though the obligation was perhaps stronger than any (that) can be established by the wax and parchment of a treaty."

The foregoing passages from Mill and Bismarck are cited in full in J. B. Moore's Digest of International Law (vol. V, page 338 and f.) as authorities governing the case. Another passage in Bis-

marck's "Reflections and Reminiscences" on the same subject puts the matter into a nutshell:

"International policy is a fluid element which under certain conditions will solidify, but, on a change of atmosphere, reverts to its original diffuse conditions. The clause '*rebus sic stantibus*' is tacitly understood in all treaties that involve performance."¹

So far the opinions of lawyers and statesmen regarding the influence of "changed conditions" on the validity of existing treaties—opinions which, often enough, have found concrete expression in practical politics, especially in England, the British Government having repeatedly declared that it considered old treaties "dead letters."²

To what extent, in the case of Belgium, conditions have actually changed, since the days of the London Conference and the conclusion of the treaties of 1839, needs hardly any detailed exposition.

¹ Edition Tauchnitz, Vol. III, page 203.

² To cite here only one example: When, in 1870, there was raised in the House of Commons the question concerning the validity of the Treaty of Paris of 1814, by which the House of Bonaparte had been *perpetually* excluded from the French throne, the British Under-Secretary for Foreign Affairs replied that that treaty had to be considered "a dead letter" (see Hansard, 3d ser., 203, p. 152). Though that treaty had not been formally abrogated, neither England nor any other signatory Power considered it binding and enforceable when Napoleon III made himself Emperor of the French, because those conditions which prevailed when the Treaty of Paris was concluded had changed.

At the London Conference, the neutralization of Belgium was decided upon as a political measure, principally British, to safeguard the newly created, weak little kingdom against the danger of French encroachments.¹ Ernest Nys, one of Belgium's authorities on International Law, says in this respect: "The idea which inspired the declaration of the permanent neutrality of Belgium was an idea of hostility against France";² and the Belgian historian F. de Lannoy says, even more explicitly: "The neutrality of Belgium was, thus, a measure of guarantee against France, and had no other significance."³

— However, on the one hand, the days of danger of French encroachments against Belgium have long since gone by. On the other hand, the rebellious Belgian Provinces of 1830 and the insignificant kingdom of 1839 have grown, in the course of seventy-five years, into a most prominent State, which, after the Great Powers, holds the first place in Europe!

With a population of close to eight millions, Belgium surpassed in 1914 not only her neighbor Holland by at least one million and a half, but also every

¹ See page 39.

² *Etudes de droit international et de droit politique, 2e série*, page 133.

³ F. de Lannoy, *Les origines diplomatiques de l'Indépendance belge*.—Louvain, 1903.

one of the Scandinavian and the Balkan States. With an estimated wealth of nine thousand millions of dollars, she holds the eighth place among the nations of the world.¹ In 1913, her state revenue amounted to 146 million dollars, against the 84 millions of Holland's. Belgium's total foreign trade (imports, exports and transits taken together) showed, in 1912, a value of 11,346 million francs (2,155 million dollars) and compared favorably with that of the greatest commercial nation (according to value of commerce per capita of population), i.e., Holland, whose foreign trade amounted to 6,662 florins (2,665 million dollars). The foreign trade of Antwerp alone was, in 1911, worth 1,120 million dollars, this city thus holding the fifth place among the ports of the world.

But, above all, Belgium has, in the meantime, by the annexation of the Congo Free State, become one of the foremost colonial empires. To the "Belgium within the limits specified in Articles I, II and IV" of the treaties of 1831 and 1839—measuring 11,373 square miles—an enormous area of 802,000 square miles has been added, with a population of nearly fifteen millions.

It is plainly evident that this Belgium, with such vast resources, which, since her recent military re-

¹ Statistics are taken from the World Almanac for 1914, and Whitacker's Almanack for 1915.

organization, can put an army of about half a million soldiers into the field, is an absolutely different country from that the affairs of which were under consideration at the London Conference.

As for the conditions in the political aspect of Europe space fails me to give even a brief outline of the changes which have come over them.

In 1831, Europe was dominated by the five Great Powers, Austria, France, Great Britain, Prussia and Russia, among whom England and France were very pronounced rivals. Austria and Prussia belonged to a union of altogether thirty-nine German sovereigns and Free Cities, the Germanic Confederation, of which also the King of England in his capacity as King of Hanover, the King of the Netherlands as Grand-Duke of Luxembourg, and the King of Denmark as Duke of Holstein and Lauenburg, were participants. Even the most primitive abstract of history will show what fundamental changes have been wrought in those conditions, during the last eighty years! France has changed into a republic, then into an empire, and, subsequently, into a republic again. Hanover has become part of Prussia. The Germanic Confederation went to pieces. An entirely new union of exclusively North German States came into existence in 1867, which, subsequently, by a close alliance with the South-German States, was enlarged and con-

solidated into the German Empire. Italy and Spain were received as Great Powers into the European Concert.

But, above all, the relations *between* the Powers whose representatives deliberated over the affairs of Belgium at the London Conference have undergone the most drastic changes. In the Crimean War, France and England fought Russia. In 1859, France and Savoy made war against Austria. In 1866, Prussia fought against Austria and the Germanic Confederation. In 1870, the North German Confederation went to war with France.

All those events, however, had so thoroughly changed the conditions under which the Quintuple Treaty was concluded that, notwithstanding its continuing effect as the basic statute for the separation of Belgium from Holland, the *guarantee* assumed under it by the then Great Powers could not possibly be considered, in 1870, as binding any of the original guarantors, and was, obviously, not considered so by Mr. Gladstone's Government.

In an infinitely lesser degree, taking into consideration the fundamental political changes wrought by the events since 1870, could it be held to be valid at the outbreak of the present war.

CHAPTER VIII

EFFECT OF THE TREATIES OF 1870 ON THE QUINTUPLE GUARANTEE

The abrogating effect of "changed conditions" on the Quintuple guarantee has received no more formal recognition than by the fact of the conclusion of the two treaties of 1870.

It is a matter of history that, at that time, the Quintuple Treaty had but recently been exhumed, in connection with the Luxembourg Question. In the debate on the Luxembourg Neutralization Treaty, on June 14, 1867, in the House of Commons, Mr. Goschen was able to make the significant statement that the Quintuple Treaty

"had been so entirely forgotten by English statesmen that even the noble Lord [Lord Stanley, Secretary of State for Foreign Affairs] himself said he had been unaware of its existence."¹

No doubt Belgium, at the time of the Luxembourg Question, was a neutralized country, this

¹ Hansard's Parliamentary Debates, 3d ser., 187, page 1924.

status being professed by her and generally recognized by the countries of Europe. But there is a great difference—and I wish to specially emphasize this difference!—between the *actual condition* of Belgium's perpetual neutrality and a *guarantee* of such a condition by the Great Powers. As for the guarantee assumed in this respect under the Quintuple Treaty, the above quotation makes it perfectly clear that, before the Luxembourg Crisis of 1867, it was to the British Government, to all intents and purposes, a dead letter—otherwise the British Secretary of State for Foreign Affairs could not have been “unaware of its existence.” The events of 1867 brought the rusty Quintuple guarantee again into the lime-light of European politics, England finding it greatly to her advantage to give that guarantee a sort of renaissance. Nevertheless, when shortly afterwards, in 1870, the neutrality of Belgium was in actual danger, Mr. Gladstone's Government fully realized that it could not rely on that guarantee, and therefore secured the observance of Belgium's neutrality by two new and separate treaties with France and with Prussia.

The Belgian Government contends that Belgium's neutrality, resting on the treaties of 1839, had been “confirmed” by the treaties of 1870, implying that, thereby, also the Quintuple guarantee had been revived.

The treaties of 1870 are so worded that this contention seems at first sight not illogical. In their preambles it is stated that "without impairing or invalidating the conditions of the said Quintuple Treaty, (they) shall be subsidiary and accessory to it." Moreover, in the second parts of Articles III, it is expressly stipulated that, upon the time of their expiration, "the independence and neutrality of Belgium will, so far as the High Contracting Parties are respectively concerned, continue to rest as heretofore on Article I of the Quintuple Treaty of the 19th of April 1839." The treaties of 1870 thus give the impression that they were only an *intermezzo sinfonico* in an otherwise quite assured state of treaty conditions.

The question is, however, whether, from the viewpoint of international law, such an arrangement of Great Britain with France, on the one side, and with Prussia, on the other side, was of any legal consequence. Although the governments of those three countries were doubtless at liberty to agree upon what they liked, they had not necessarily the power to make their agreement binding as far as it concerned the validity of a treaty concluded between different parties.

It was an essential feature of the Quintuple Treaty that its provisions were placed under the guarantee not of any two or three, but of *all* the

then Great Powers. This is fully borne out by the events of 1833, when Holland was forced to conclude a provisory treaty with England and France which was acceded to by Belgium. Holland, then, was ready to sign the stipulations of the Twenty-Four Articles concerning the severance of Belgium from the Netherlands, which the five Great Powers had already agreed upon among themselves in October, 1831, and which Belgium had signed in the subsequent month. Thus there was no obvious reason why the definite settlement between Holland and Belgium should not take place immediately, under the auspices of England and France. Yet these two countries considered it absolutely essential that the other Great Powers, Austria, Prussia and Russia, should co-operate in the final treaty, and made special promises to that effect to Holland.¹ In the light of the considerations prevailing at that time, it seems perfectly evident that the common guarantee which the five Great Powers assumed in the Quintuple Treaty was by each of the contracting parties only assumed under the condition that all the four others should, likewise, assume it. Wherefore the common guarantee became, necessarily, non-existent upon the withdrawal or exclusion of one of the five contracting guarantors.

To my mind, the conclusion of the treaties of

¹ See page 53.

1870 is in itself the strongest possible affirmation that England did not then consider the treaties of 1839 as binding their signatories to uphold the Belgian neutrality. But, even if she should have considered the guarantee established by those treaties as still formally valid, by the conclusion of the treaties of 1870, despite the declarations to the contrary, the original guarantee became necessarily extinct, because the five-fold treaty-bond of 1839 on which it rested was destroyed and replaced by two separate and entirely new treaty-bonds. Concerning the guarantee of the Quintuple Treaty, the contracting parties of the treaties of 1870 had not the authority to stipulate anything. Only the joint declaration of *all* the original signatories could have re-established that guarantee, upon the expiration of the treaties of 1870!

There are no signs lacking that the British Government was fully conscious of this, wherefore it made an attempt to save the situation. It was doubtless for this reason that it did not conclude the new treaty with the North German Confederation, which, in connection with the South-German Allies, waged the war against France, but with Prussia, as one of the original signatories of the Quintuple Treaty. And it was for the same reason that it addressed an invitation to Austria and Russia to join in the negotiations of the treaties with

France and Prussia, which, according to Mr. Gladstone's statement in Parliament, was "favorably" received by the Cabinets of Vienna and St. Petersburg,¹ but not acted upon. In those two quarters, England got the mitten!

In Parliament, the British Government was severely criticised for the conclusion of the new treaties. A few pertinent criticisms which not only indicate the attitude of prominent British parliamentarians toward the new treaties but at the same time reveal striking ideas held in England forty-five years ago with regard to the obligations of the guarantors of the now canonized Quintuple Treaty, may not be out of place.

In the House of Lords, the Duke of Cleveland commented on the negotiations for the conclusion of the new treaties in the following manner:

"I thought with others it was desirable that the Government should make it known that it was their express determination to maintain the Treaty of 1839, which is still binding on this and other countries. But in my opinion it is desirable to have some instrument defining our obligations with more distinctness than the Treaty of 1839, *as doubts have more than once been entertained as to the precise nature of these obligations*, and we shall be thrown back upon that treaty when the term of the present treaty expires. Some doubt may in future arise as to the mode in which the treaty is really operative, and I should have preferred some instrument of a permanent character, re-

¹ Hansard's Parliamentary Debates, 3d ser., 203, page, 1701.

specting which no doubt could arise—a treaty entered into by the same Powers, including the belligerents.”¹

Viscount Stratford de Redcliffe strongly blamed the Government for concluding the new treaties,² and Lord Cairns, in reference to this transaction, said prophetically:

“I will not say more than that I greatly fear there are at this part of the case seeds of difficulty which possibly may lead other Powers to take a different view of the obligations of 1839 than they would otherwise have done.”³

In the House of Commons, Mr. Osborne called the new treaties (which, by the way, were always spoken of as one treaty, concluded with two different parties), “*the most extraordinary instrument in the whole history of diplomacy.*”

With striking logic he said: “*This treaty is entirely superfluous if the Treaty of 1839 is worth anything at all,*” and most significantly pointed out: “*In the eyes of Austria and Russia, that Treaty of 1839 is entirely superseded by this.*”⁴

Mr. Rylands called it, very outspokenly, “*a foolish treaty,*” and regretted that “in the secret recesses of the Foreign Office, treaties should be hatched by which the Government bound not only

¹ Hansard, 3d ser., 203, page 1762.

² Ibid., page 1760.

³ Ibid., page 1753.

⁴ Ibid., page 1777.

this but future generations under circumstances which, he feared, might at a future date, result in some great and terrible disaster." ¹

Sir Wilfrid Lawson made the following comment: "It was true we entered into a treaty in 1839; *but there were a variety of opinions as to the extent to which we were bound by it; and that we were only bound collectively, and not separately, to interfere in the affairs of Belgium.*" ²

It is very significant that the Prime-Minister, Mr. Gladstone, though dwelling at considerable length on the necessity of concluding the treaties with France and Prussia from the standpoint of British interest, had not one word to say in reply to the contention that they would irrevocably destroy the obligations of the powers under the Quintuple Treaty!

As I have stated above, the fact that England considered the conclusion of the treaties of 1870 necessary is, to my mind, the strongest possible proof that she did not consider the treaties of 1839, though possibly valid in theory, as binding in practical politics. Under no circumstances can they be considered as having reinstated and revived the Quintuple guarantee. What in that respect has been agreed upon between England and France, as

¹ Hansard, 3d ser., 203, page 1743.

² Ibid., page 1753.

well as between England and Prussia, can at best be considered as two common Declarations that, after the expiration of the treaties of 1870, the status of the Belgian neutrality should be considered between them, as "heretofore!"

CHAPTER IX

INTERNATIONAL OBLIGATIONS OF NEUTRALIZED BELGIUM

Belgium has come into existence as a perpetually neutral state under the guarantee of the five Great Powers. She has continued to be a neutralized state even though the Quintuple guarantee gradually became a dead letter.

This historical fact is contrary to the notions diligently spread by certain apologists of Belgium who assert that the legal status of perpetual neutrality presupposes, and is unthinkable without, a treaty of guarantee. Such notions, however, have no foundation in international law. Mr. Descamps, one of the highest authorities on questions of this kind, has well established that there are three kinds of perpetual neutrality, namely: either *imposed* upon a state, without its free consent, by outside influences; or *voluntarily adopted* by a country, and pronounced as its *state-maxim*; or, finally, *conventional*. Thus only one of the three kinds of

perpetual neutrality rests on convention; and only part of this rests on guarantee, the same authority subdividing conventional perpetual neutrality into *recognized* neutrality and *guaranteed* neutrality.¹

Applying the above terminology to Belgium's neutrality, it may be said that when the Quintuple guarantee ceased to be of binding force, the original status of *guaranteed* neutrality was changed into a status of *recognized* neutrality.

At all events, not only has Belgium never ceased to profess her perpetual neutrality, but also the Governments of Europe, either expressly or tacitly, have recognized that status, without any renewal of the original guarantee on the part of the Great Powers having taken place.

As mentioned before, in recent years, especially since the annexation of the Congo Free State, the status of Belgium's neutrality grew increasingly doubtful and caused a measure of uneasiness to its own government. It decided therefore to ask the Cabinets of London and Berlin, in an unofficial manner, for assurances regarding Belgium's neutrality.

If, at that time, Germany and Great Britain could have been seriously considered guarantors of Belgium's neutrality, such a request would have been

¹ Descamps, *La neutralité de la Belgique*, quoted by the Norwegian statesman, F. Hagerup, in his essay *La neutralité permanente* (*Revue générale de droit international publique*, Vol. XII, pages 577-602). The original was not accessible to me.

short of impertinence. But, according to the reports on those *démarches*, it was not looked at in that light, either in Brussels, or in London, or in Berlin.

As far as the *démarche* in London is concerned, it does not seem to call for serious consideration. Sir Edward Grey's alleged answer to the effect that England would surely never be the first to violate Belgium's neutrality, may safely be discounted, after the documentary evidence regarding the declaration of Colonel Bridges that England "would have landed under all circumstances."¹

Concerning the identical *démarche* in Berlin, the Belgian Gray Book contains two documents which are adduced for the contention that Germany had reaffirmed her obligations as a guarantor of Belgium's neutrality in recent years. In the former, the Belgian Minister for Foreign Affairs states that, upon his request, the German Chancellor had, in 1911, sent him word through the Imperial Envoy at Brussels to the effect that "Germany had no intention of violating our (i.e., Belgium's) neutrality."²

The latter document reports on the contents of an article published in the semi-official North German Gazette concerning a non-public debate of the

¹ See page 87.

² Belgian Gray Book, No. 12.

Budget Committee of the German Reichstag in 1913, in the course of which the German Secretary of State is credited with the statement: "The neutrality of Belgium is determined by international conventions, and Germany is resolved to respect these conventions"; whilst the Prussian Minister of War is reported to have declared: "Germany will not lose sight of the fact that Belgium neutrality is guaranteed by international treaties." ¹

Supposing that the statements of the three high German functionaries are really authentic, it would yet be difficult, even for the most searching eye, to detect in them any declaration or admission to the effect that the German Empire considered herself a *guarantor* of Belgium's neutrality. No claim whatsoever was made that Germany was under any obligation in *that* respect! Those statements might have emanated just as well from the representatives of any other government—of the Dutch, for instance, which never was a guarantor of Belgium's neutrality either. They amounted merely to an official assertion of Germany's being aware that, as a consequence of certain international conventions, Belgium was a neutralized country, which she had never ceased to profess to be; and that the German Government was just as much "resolved to respect those conventions," as it expected Belgium to

¹ Belgian Gray Book, Enclosure to No. 12.

live up to her particular international obligations.

The only one of those three statements of diplomatic consequence was the message of the Imperial Chancellor to the Belgian Minister for Foreign Affairs. It is devoid of any acknowledgment, of any reference even, as to specific treaty obligations incumbent on Germany with regard to Belgium's neutrality. If there could have been any question of Germany's being a guarantor of Belgium's neutrality, in 1911, Dr. von Bethmann-Hollweg's message, being totally silent on that point, would probably have been made the subject of an official demand for an explanation, instead of causing the Belgian Minister that high degree of satisfaction which he specially mentions in his report.

Belgium's status as a neutralized country resulting originally from the Quintuple Treaty, her international obligations have to be derived from that instrument.

As for the obligations of Belgium under the Quintuple Treaty, they were, as repeatedly mentioned, not confined to the perpetual neutrality, but included a great many other duties. One important stipulation is contained in Art. XIV. of the "annexed" Articles which reads:

ARTICLE XIV

The Port of Antwerp, in conformity with the stipulation of the 15th Article of the Treaty

of Paris of the 30th of May, 1814, shall continue to be solely a port of commerce.

The world knows how *this* "sacred" treaty obligation has been kept,—extensively fortified since 1859, Antwerp was in 1914 one of the first strongholds of the world, a true "Gibraltar of the North," to use a phrase of Prince Talleyrand.

As for the perpetual neutrality of Belgium, it has been sufficiently shown what singular stress the framers of the treaties laid on the words "within her limits," contained in the neutralization article. It is quite clear that the guarantee of Belgium's perpetual neutrality was only assumed with the strict understanding that no change would be effected with regard to those limits carefully defined in the Twenty-Four Articles. Those limits, however, have been repeatedly altered without the consent of the guarantors. Twice, by the Belgian-Dutch Treaty of November 5, 1842, and by the Convention of Maestricht of August 8, 1843, the boundaries of Belgium underwent various changes which, although not of great practical consequence, were yet contrary to the stipulations referred to. Of much greater importance was the extension of the boundaries of Belgium by the absorption of the Congo Free State which, as already stated, was generally considered incompatible with Belgium's

status as a neutralized country, and as a de-facto abrogation of her perpetual neutrality.¹

There can be no doubt that any one of those infractions of the Twenty-Four Articles annexed to the Quintuple Treaty would have fully entitled any of the guarantors to consider the Quintuple guarantee void and extinct. For, as G. B. Davis says: "Any change in the guaranteed treaty, without the consent of the guarantor, annuls the obligation."²

Besides, any other country, for that matter, might have taken the stand that Belgium was no longer a perpetually neutral state. Signs are not lacking that Belgium was fully conscious of this herself. Just for that reason, doubtless, she asked the German Government for a reassuring declaration that it still regarded her as a neutral country.

However, the perpetual neutrality originally imposed on Belgium by the treaties of 1831 and 1839 and continually professed by her till the outbreak of the present war, has been violated by her not only by the above stated open transgressions, but, in an even graver manner, by under-handed dealings, making the legal institution of perpetual neutrality a mere mockery!

To realize fully the lawlessness of Belgium's course of action with regard to the military "con-

¹ See page 70.

² Elements of International Law (1908), page 243.

versations," discussed in Chapter IV, it is necessary to take into account the duties incumbent upon perpetually neutral states.

The Quintuple Treaty, declaring Belgium a perpetually neutral state, had stipulated, in a merely general way, that she should be "bound to observe such neutrality toward all other states." The treaty did not define those obligations in detail; and, whilst there are more or less positive rules with regard to the obligations of countries which, at the outbreak of hostilities between other countries, declare themselves temporarily neutral, there is no international agreement which has established detailed regulations concerning the duties of states which are permanently neutral even in times of peace, i.e., "neutralized." Nor would it, in view of the complexity of the functions of a modern state, even of the neutralized order, be possible to set up codified regulations with regard to what such a state is at liberty to do and what it cannot do without impairing its neutrality. It is, in every case, a question of fact whether an action of such a state is in keeping with its status or otherwise, no matter whether that status is specially guaranteed or not.

One of the most prominent of the relatively few authorities on international law who have laid down the doctrine on those obligations is the Belgian Des-

camps, who shows a natural tendency toward minimizing the duties of neutralized states, to which class his own country belongs. He writes:

“Among the acts to which a state, in virtue of its independence, is free to resort, there is one of the facultative order and of a particularly compromising nature which consists in taking sides, in case of war between other countries, for the one or the other belligerent. Perpetual neutrality positively excludes from the sphere of licit action of the neutral state such an act, no matter whether it presents itself in the form of an alliance or in any other way. In this respect, therefore, it puts a limitation on the sovereignty of that state, within a clearly defined sphere.”¹

The French lawyer V. G. Wampach formulates the general principles guiding these questions in the following way:

“International law knows, in times of peace, neither belligerents nor neutrals. However, perpetual neutrality produces, nevertheless, obligations of a rather negative character—obligations of not doing things (*des obligations de ne pas faire*), the observation of which imposes itself in times of peace. Perpetually neutral states must, in times of peace, abstain from calling into existence or from allowing to come into existence juridical situations which would offer obstacles to the rigorous observation of the duties of neutrality in times of war.

“The perpetually neutral states must, in times of peace, oppose the formation of any conventional bond (*doivent s’opposer à l’établissement de tout lien conventionnel*) as

¹ *L’évolution de la neutralité en droit international*, par M. le Chevalier Descamps, in the *Bulletins de l’Académie Royale de Belgique*, 3e sér., Vol. 35, page 674.

well as of any actual or legal situation (*situation de fait ou de droit*) the consequences of which would be incompatible with the strict observation of their duties of neutrality." ¹

The English authority on international law, Professor Oppenheim of the University of London, remarks:

"The condition of neutralization is that the neutralized state abstains from any hostile action and further from any international engagement which could indirectly drag it into hostilities against any other state." ²

I have already quoted, in connection with this matter, the views of the French Professor de Lapradelle, who states that not only the right of contracting alliances is denied to neutralized countries,³ but even the capacity of concluding international agreements of, politically, such innocent nature as customs unions; and I have also mentioned how the London Times interpreted Belgium's obligations as a neutralized country.⁴

On the strength of these authoritative views on the obligations of a neutral state, there can be no

¹ *La situation internationale des chemins de fer du Grand-Duché de Luxembourg, in the Revue de droit international public*, Vol. XII (1905), page 429.

² Oppenheim, *International Law* (1905), Vol. I, page 142.

³ See page 73.

⁴ See page 60.

doubt that *Belgium*, by allowing her military authorities to enter into the closest confidential relations with the military authorities of Great Britain, committed a grave violation of her professed status as a *perpetually neutral country*, no matter whether those "conversations" were followed up by an actual written treaty of alliance, or not.

As already pointed out above, the Ducarne-Barnardiston and Jungbluth-Bridges "conversations" bear a very marked resemblance to those other "conversations" between the military and naval authorities of Great Britain and France which were carried on for about six years without the knowledge of the British Cabinet. They constituted no formal treaty, duly submitted to Parliament, and yet were, in point of fact, the guiding principle for the disposition of the British and French naval forces as well as for the direction of the European policy of the two countries. It is those Anglo-French "conversations" which Mr. E. D. Morel, a prominent English author, in a letter to the Executive of the Birkenhead Liberal Association, dated October 5, 1914, has characterized in the following manner:

"While negative assurances were given to the House of Commons, positive acts diametrically opposed to these assurances had been concerted by the War Office and the Admiralty with the authority of the Foreign Office. All the obligations of an open alliance had been incurred by the

most dangerous and subtle of methods; incurred in such a way as to leave the Cabinet free to deny the existence of any formal parchment recording them, and free to represent its policy at home and abroad as one of contractual detachment from the rival Continental group.”¹

This criticism of the Anglo-French conversations applies, without any doubt, in an equal degree to the Anglo-Belgian conversations. No formal treaty which would have had to be submitted to the British Parliament and the Belgian Chamber, was drawn up, because such a step would have meant an official repudiation of the principle of Belgium's perpetual neutrality, on the part of the contracting Powers. Yet, in substance, the Anglo-Belgian conversations were such that, in the event of a European war, Belgium was as little a free agent as England was. That at least, one prominent personage of the Belgian War Office has considered the Ducarne-Barnardiston conversations as a formal military convention between Belgium and Britain, is evidenced by the fact that, in the secret archives of Brussels, the original draft of General Ducarne's report of those conversations was found in a cover bearing the significant inscription "*Conventions anglo-belges.*"²

¹ Reprinted in England on the Witness Stand, New York (1915), page 725.

² See Appendix, plate after page 220.

However, no matter whether those conversations constitute in themselves a secret Anglo-Belgian alliance or not, and no matter whether the conversations between the Anglo-Belgian military authorities were followed up by similar secret arrangements between the political departments of the two countries or otherwise, *the contents of the "Brussels Documents" furnish complete proof that Belgium had secretly surrendered most important secrets of her General Army Staff to one foreign Power—an action which was one-sided, i.e., un-neutral, in the highest degree!*

In an official statement without date, entitled, "*Observation de la neutralité belge*,"¹ the Belgian Government has taken exception to the German accusations. In this statement the obvious attempt is made to cause the impression that Belgium had been ready to defend her neutrality against *all* sides, and that this broad question had been the subject of the Ducarne-Barnardiston conversations. General Ducarne, therefore, is represented as having stated that Belgium was ready to defend herself "at Liège against Germany, at Namur against France, and at Antwerp against England."

However, one will search Ducarne's report in vain for such a trivial assertion! What the said

¹ *La Neutralité de la Belgique, Edition officielle du Gouvernement belge*, Paris, Berger-Levrault (1915), page 151.

General, who was in charge of the very intricate plans of mobilization of the Belgian Army, discussed with the British military agent was a detailed secret plan for concerted action of the Belgian and British forces, in a certain contingency! The Belgian Government finds these conversations "very natural," on account of certain "legitimate" apprehensions that Germany might violate Belgium's neutrality—a point which will be discussed later on. Moreover, the Belgian Government affirms that the said conversations were not followed up by a convention or entente, and attempts to prove this by the very fact that the Jungbluth-Bridges conversations of 1912 were, obviously, on the same point where they had been left, six years before. However, this proves nothing of the kind. The latter document was not found at the Belgian War office, with the conversations of 1906, in which case one might be tempted to believe that the two constituted the complete "dossier" on this matter. It was found in the Belgian Foreign Department, which circumstance is in itself a proof that, in 1912, the Belgian political authorities were perfectly familiar with the Anglo-Belgian military conversations.

Moreover, the fact that the German Government has not found—thus far at least, has not made public—any documentary proof with regard to conversations between the competent Belgian and British

authorities referring to the years between 1906 and 1912, is not the slightest evidence that such conversations did not take place. On the contrary, the fact that, in 1912, the British Colonel Bridges, without any preliminaries whatsoever, transmits to the Belgian General Jungbluth the information, not exactly customary between a Chief of the General Staff and a foreign Military Attaché, that his country has in readiness 160,000 troops for a campaign on the Continent, shows a degree of intimacy which plainly indicates that those two officers must have had conversations on the same subject before. Very likely such conversations had taken place every year since 1906, as it is necessary for allied or otherwise co-operating armies to readjust their plans for concerted action after the annual revision of the plans for mobilization of their respective forces. In the statement under discussion, the Belgian Government raises the question: "Was Belgium obliged to give notice of those conversations to the guaranteeing Powers?" It answers this question in the negative, pointing out that those conversations had not the slightest political significance.

In contradiction to this view of the Belgian Government, the King of the Belgians evidently was of the opinion that such notice was necessary. In an interview granted to Mr. Henry N. Hall, cor-

respondent of the New York World, published in that paper's issue of March 22, 1915, King Albert is reported to have stated:

"No one in Belgium ever gave the name of Anglo-Belgian conventions to the letter of General Ducarne to the Minister of War detailing the entirely informal conversations with the British military attaché, but I was so desirous of avoiding even the semblance of anything that might be construed as un-neutral that I had the matters of which it is now sought to make so much communicated to the German military attaché in Brussels."

Strange as it must seem that the King of the Belgians made this most important statement only in March—although the contents of the "Brussels Documents" had been made public in Berlin as early as October 14th and fac-simile reproductions of some of the documents had been given out on November 25th—there can be no doubt, nevertheless, that if the contents of those military conversations had been officially communicated to the German military attaché at Brussels, such line of action would put a totally different aspect upon the said secret arrangements. However, were such communications really made? Nobody will dare to challenge the word of a monarch who is known to be incapable of an untruth. Therefore, it seems beyond doubt that King Albert actually did give orders to that effect, at least some time after he ascended the throne, in December, 1909. But it seems equally

beyond doubt that his orders in this respect were not carried out and, probably for this reason, not even alluded to in the above-mentioned official statement of the Belgian Government. For it is positively asserted by the German Government that no such communications ever reached the German military attaché in Brussels. The North German Gazette of April 22, 1915, published the following official *communiqué*:

“According to newspaper reports, the New York World, on the basis of an alleged utterance of the King of the Belgians, asserts that he had himself caused the German Military Attaché in Brussels to be informed of the conversations which have taken place between General Ducarne and Lieutenant-Colonel Barnardiston in 1906. In view of this assertion of the said paper, we hereby state, on the basis of official investigations, that no such information has been transmitted to any of the German Military Attachés who have been on duty at Brussels, since 1905.”

Also the British Government which, at first, had attempted to minimize the portent of the Anglo-Belgian military conversations by styling them “merely academic,” has subsequently seen fit to refer to this matter in an official statement.

By a *communiqué* to The Times of January 26, 1915, in reply to certain utterances of the German Chancellor, Sir Edward Grey, whilst admitting the fact that those secret relations between England

and Belgium existed, attempted to justify them in the following way:

"If the German Chancellor wishes to know why there were conversations on military subjects between British and Belgian officers, he may find one reason in a fact well known to him—namely, that Germany was establishing an elaborate network of strategical railways, leading from the Rhine to the Belgian frontier, through a barren, thinly-populated tract—railways deliberately constructed to permit of a sudden attack upon Belgium such as was carried out in August last.¹ This fact alone was enough to justify any

¹ Concerning the myth of the "strategical railways" which has been disseminated in neutral countries like so many other myths, I wish to invite the reader to convince himself by a good railway map whether the allegations are in any way warranted. There are, in all, four railway lines crossing the German-Belgian frontier and five more passing from Germany to Belgium via Luxembourg. But there are not less than 22 between France and Belgium!

An American railroad man whose sympathies are, evidently, not with Germany, writes in this respect, in a letter to the Editor of the Evening Sun (published in its issue of February 12, 1915) the following: "Let us be fair about the German railways. These were not originally constructed for strategic purposes, but were built for traffic requirements. The Belgium-Luxembourg wedge dips into Germany in a southeasterly direction. The main tourist travel is between Berlin and Paris. To avoid crossing Luxembourg and Belgium would entail a loss of two hours on express trains. Germany's great iron ore district is near the Duesseldorf-Essen manufacturing district, and Antwerp and Rotterdam are the nearest world ports, hence the direct railways across Belgium and Holland. A railroad man can readily see the advantage of Germany's leasing the small railroad mileage of Luxembourg main lines as an adjunct to the greater German system, enabling the latter to standardize track bridges and signals to conform to its own. . . . The great importance of the German railways as a factor in war, as shown by your editorial, was brought about by a thorough study in the interests of complete industrial development, the means wherewith to pay. That such railways can be used in war by

communications between Belgium and other Powers on the footing that there would be no violation of Belgian neutrality unless it were previously violated by another Power. On no other footing did Belgium ever have such communications."

The British Secretary thus takes the stand of other apologists of Belgium who, studiously suppressing the fact that any sort of secret political dealings with foreign Powers were unlawful for her, try to excuse her relations with England by arguing that she happened to have her suspicions concerning an invasion of her territory only in the direction of Germany, and that subsequent events had fully borne out how well founded her apprehensions had been.

Even if such should really have been the case, however, it would not exculpate in the least the unneutral attitude of the Belgian Government, whose particular position made it, to repeat the words of *The Times*, simply "impracticable"—it would be more correct to say unlawful—"to enter into any conversation or arrangement, military or other, which would insure her the rapid and effective support of her English friends," no matter what her apprehensions were!

Besides, the despatch of Baron Greindl to the

the German Government with such consummate efficiency in detail is to its credit." (Signed) Luis Jackson, Upper Montclair, N. J.

Belgian Foreign Department¹ clearly shows that that high Belgian official, at least, had apprehensions in quite a different direction; and it is not probable that his were isolated views. That statesman, in 1911, plainly indicated the course of action which, if adopted by the Belgian Government, though it could not have blotted out the five intervening years of secret un-neutral dealings with England, would have given Belgium a new claim for being regarded as a neutral country.

Nobody can blame the Belgians that, during the years of ever increasing political tension, preceding the war, they felt increasingly uneasy for the safety of their country, in the event of a European conflict. They knew as well as anybody else that, as far back as 1870, the old Quintuple Guarantee had not been an effective means of safeguarding their neutrality, but that it had required a special measure on the part of England to obtain that purpose. If, in consequence, Belgium, with the official knowledge of her neighbors, had addressed her British protector with the request to renew, in time of peace, for periods of say from five to ten years, those treaties which England had concluded with France and Prussia, in 1870, the situation would have been materially improved. Either Belgium would have obtained a new *working* guarantee of her neutral-

¹ See page 83 and following.

ity, or she would have gained freedom from the fetters of neutrality and, with that, the possibility of an open alliance with whom she chose.

Another course of action open to her would have been to make *openly* the same kind of detailed military arrangements which she made with England, in view of a possible German invasion of her territory, with Germany as well, in the event that either France should invade her soil or England despatch an expeditionary force there—“*en tout état de cause.*” The one-sided course, however, which Belgium chose, no matter whether any concern for her safety prompted her to it or otherwise, was the course which legally she was not allowed to take!

According to the rules of international law, Belgium ceased to be a perpetually neutral country in 1906.

If, as England pretends, her guarantee under the Quintuple Treaty was still valid in 1906, she is guilty of the violation of a “sacred” treaty. If, according to my contention, that guarantee had ceased to exist for her as well as for the other original guarantors, hers is the blame for having instigated the government of a professedly neutral state to abuse the institution of perpetual neutrality, in a plot against another country.

As for the Belgian Government, it has, by its arrangements with England, not only violated the

status of perpetual neutrality of Belgium, but is, besides, guilty of a grave breach of the Belgian Constitution. A clause of that instrument reads:

ARTICLE CXXI

To foreign troops the entrance into the service of the Kingdom or the occupation of or passing through its territory can only be granted by a law.

According to this provision of the fundamental law of the country, the Belgian Government which, since 1906, had been preparing for the entrance and the passage of English (and most likely also of French) troops, was bound to lay an adequate bill, permitting such action, before the Belgian parliament. The fact that it failed to do so adds to its responsibility for its un-neutral policy the guilt of a grave infringement of its constitutional duties.

CHAPTER X

THE RIGHT OF SELF-PRESERVATION

The critics of Germany's invasion of Belgium affirm that, whatever breaches of her perpetual neutrality vows that country might secretly have committed, Germany, being unaware of them, having, at any rate, never formally protested against them, is not free to adduce them as an exculpation of her action in August, 1914.

Without subscribing to the soundness of such reasoning, it must be emphasized that, even if the guarantee under the treaties of 1839 could be considered still as of binding force, and even if all the parties to those treaties had faithfully fulfilled the duties incumbent on them, Germany's action would yet be perfectly justifiable, by the "right of self-preservation," universally recognized in international law.

As a matter of fact, the German Chancellor, in his first official statement on the invasion of Belgium by German troops, has justified this action exclu-

sively by invoking Germany's right of self-preservation. In his speech in the Reichstag, on August 4, 1914, the text of which, as far as it refers to Belgium, will be found in the Appendix,¹ he said nothing about a violation of the Quintuple or any other *guarantee* of Belgium's neutrality. He merely spoke of the neutrality of Luxembourg and Belgium, as he might have spoken of that of Holland and, with the utmost frankness, characterized Germany's invasion of their territories as, in itself, contrary to the rules of international law, though warranted by Germany's right of self-preservation.

It will be seen from the following expressions of most prominent authorities on international law, that the right of self-preservation precedes and underlies every other obligation. All treaties are subordinated and subject to this basic and inherent right. It is implied, and read into, every treaty and contract, anything to the contrary said notwithstanding. This primary right cannot be lost or bargained away; it is unalienable.

Hugo Grotius, whom John Bassett Moore calls "the most illustrious of the great philosophical jurists," and who is universally recognized as the Father of International Law, says:

"Necessity, the great protectress of human infirmity,

¹ See page 219.

breaks through all human laws, and all those made in the spirit of human regulations.”¹

The same authority says with reference to the use of neutral soil by belligerents:

“Hence it may be inferred that, in the prosecution of a just war, any Power has a right to take possession of a neutral soil if there be real grounds, and not imaginary fears, for supposing the enemy intends to make himself master of the same, especially if the enemy’s occupying it would be attended with imminent and irreparable mischief to that same Power.”²

The English jurist Travers Twiss has the following to say on this subject:

“Of the primary or absolute rights of a nation the most essential, and as it were, the cardinal right, upon which all others hinge, is that of self-preservation. This right necessarily involves, as subordinate rights, all other rights which are essential as means to secure this principal end.”³

With regard to the “right of anticipating attack,” the same author says:

“When the safety of the State is at stake, the right of self-preservation may warrant a nation in extending the precautionary measures beyond the limits of its own dominions, and even in trespassing with that object on a neighbor’s territory. As the right of self-preservation is prior and paramount to the right of dominion and prop-

¹ Rights of War and Peace, Vol. II, Chap. 2, Par. 7.

² Ibid., Vol. II, Chap. 2, Par. 10.

³ The Law of Nations in Time of Peace, Oxford Univ. Press (1861), page 144, Section 99.

erty, in the case of individuals, so the right of self-preservation is prior and paramount to the right of territorial inviolability in the case of nations, and if ever these rights conflict, the former is entitled to prevail within the limits of the necessity of the case.”¹

The famous jurist Phillimore says:

“The right of self-preservation is the first law of nations, as it is of individuals. . . . It may happen that the same right may warrant her in extending precautionary measures *without* these limits, and even in transgressing the borders of her neighbor’s territory. For International Law considers the ‘Right of Self-Preservation’ as prior and paramount to that of Territorial Inviolability, and, where they conflict, justifies the maintenance of the former at the expense of the latter right.”²

Another American authority, George B. Davis, writes in the following terms on the right of self-preservation:

“This is called into being whenever the corporate existence of a state is menaced and corresponds to the individual right of self-defense. The danger may be internal, as in case of insurrection or rebellion, or external, as in case of invasion, either real or threatened. The right of self-preservation is the first law of nations, as it is of individuals. A society which is not in condition to repel aggression from without is wanting in its principal duty to its members of which it is composed, and to the chief end of its institution. All means which do not affect the independence of other nations are lawful to this end. No na-

¹ Law of Nations, Section 102, page 149.

² International Law, Chap. 10 (CCXI).

tion has a right to prescribe to another what these means shall be, or to require any account of her conduct in this respect!"¹

Lawrence, one of the leading English authorities, gives the following opinion on the temporary violation of neutral territory:

"Nevertheless all authorities admit that the exigencies of self-defense will justify a temporary violation of neutral territory. But it must be confined within the strictest limits required by the necessity of the case, and the power which is obliged to resort to it should tender a prompt apology. The act is illegal; but if the necessity is sufficiently imperative a wise neutral will condone it on the tender of proper explanations."²

Cyrus French Wicker, a member of the New York bar, gives the following opinion on the question of the justice of an invasion of neutralized territory:

"French enemies would no doubt be justified in invading Savoyard territory, even though neutralized, if it became evident that France were utilizing the resources of the province for military purposes and there were any advantage to be gained from the attack."³

The same subject was very luminously discussed in an article of the Fortnightly Review, for July, 1889, with regard to a possible French attack on

¹ Elements of International Law (1908), page 93.

² Principles of International Law (1805), page 501.

³ Neutralization, Oxford (1911), page 49.

Germany by way of Swiss territory, which article in that English magazine said:

"We may say, then, that from the point of view of strategical vantage—and this is all that is at present under consideration—a French commander would be justified by military necessity in making Switzerland a base for attacking Germany. . . . The moral aspect—if indeed it may so be styled—of the question involved by the violation of Swiss territory for the temporary purpose of war, need not be discussed at any length here. With her existence as a nation at stake it is not likely that France, or for the matter of that, any other country similarly situated, would hesitate on grounds of conventional political morality to take a step which would give her a point of enormous vantage in her struggle for life."¹

A similar view with regard to the obligations of the "guarantors" of a neutralized state toward the latter is evidently held by the prominent Belgian lawyer, Ernest Nys, who writes:

"One must always remember that for the guarantor state the duty of its own preservation precedes every other duty (il convient de se souvenir toujours que pour l'Etat garant le devoir de sa propre conservation prime tout autre devoir."²

The famous English jurist, Edward William Hall, writes as follows:

¹ Quoted from the *New-Yorker Staats-Zeitung* of Dec. 22, 1914.

² *Notes sur la neutralité in the Revue de droit international et de législation comparée*, 2d série, Vol. III, page 39.

"The right of self-preservation in some cases justifies commissions of acts of violence against a friendly or neutral state, when from its position and resources it is capable of being made use of to dangerous effects by an enemy, when there is a known intention on his part so to make use of it, and when, if he is not forestalled, it is almost certain that he will succeed, either through the helplessness of the country or by means of intrigues with a party within it."¹

The above quotations, which could be increased *ad libitum* by concurring opinions of other authorities, show convincingly that a state when it is exposed to a grave, imminent danger, is fully justified in committing any action liable to avert that danger, even if, under normal conditions, such action would constitute a wrong and a violation of international law.

Was Germany in such a position when, in the evening of August 2, 1914, she asked the Belgian Government for an unobstructed passage of her troops to France through Belgian territory?

The situation then presented to the German Government has already been outlined in Chapter V.² Germany was then actually attacked along her entire long-stretched Eastern frontier by Russia, and along a considerable part of her Western frontier by France, whilst England, by her positive refusal

¹ A Treatise on International Law, page 273.

² See page 92 and following.

to formulate conditions under which she would remain neutral,¹ had clearly given it to be understood that she meant to stand firm by the Triple Entente and actively join Germany's declared enemies. The French plan of campaign, which was in the hands of the German General Staff, contemplated, by way of Belgium, an advance of four French army-corps, reinforced by English and Belgian contingents, into the Prussian Rhine Province, which, along the entire Prusso-Belgian border, is absolutely void of natural or artificial points of protection and offers to a defending army no effective stand till the Rhine Valley is reached. Belgium could not resist such an invasion, in defense of her neutrality; it was even then—though documentary proof of her dealings with England and France was not in the hands of the German Government—rather certain that she would not oppose it. If France were allowed to carry out her advance through Belgium whilst England, screened by the French army, would land her expeditionary forces at Ostend, and possibly Antwerp, the invasion of the Rhine Province was a certainty and an English advance toward Germany's North Sea ports, to force her battle-fleet into action, a threatening possibility. Secure against a German invasion by her impregnable

¹ M. P. Price of Trinity College, Cambridge, *The Diplomatic History of the War*, page 77.

Meuse fortresses, France could afford to defer the attack until her mobilization was completed and the transport of the English forces well under way; whilst Germany lost every chance for a counter-stroke if she waited until France had pushed her entire First Army into Belgium.

On the other hand, it was sure that an immediate advance of a German army through Luxembourg and Southern Belgium would reverse the conditions. The French Maubeuge Army, in its incompleated state of mobilization, would be obliged to remain at the Franco-Belgian border district, and England could not risk landing the bulk of her troops on Belgian soil. Thus the invasion of the Rhine Province would be averted, and the German Western Armies brought into a strategically favorable position, before the pressure of the "steam-roller" on the Eastern frontier would make itself seriously felt.

Germany's campaign was as good as lost if she could not succeed in holding her Western enemies at bay before Russia had time to bring her enormous armies into full action. To forestall the threatening French advance through Belgium was a matter of life or death for her!

It was under such conditions that Germany, in legitimate defense and by the right of self-preservation, decided to strike at the French Maubeuge

Army, by way of Belgium, thereby violating that country's (supposed) neutrality.

This action is commented upon in the Introductory Narrative of Events to the British White Papers, compiled and signed by the British Foreign Office under date of September 28, 1914,¹ in the following manner:

"Germany's position must be understood. She had fulfilled her treaty obligations in the past; her action now was not wanton. Belgium was of supreme military importance in a war with France; if such war occurred, it would be one of life and death; Germany feared that, if she did not occupy Belgium, France might do so. . . ."

Here, the German Chancellor has it attested from the very best source (namely, that of Germany's chief enemy) that Germany's breach of the Belgian neutrality was *not wanton* and that it was *a matter of life and death* to her.

This is in keeping with the British preparations for this contingency, but very much at variance with the version which England has so diligently spread!

¹ M. P. Price, *The Diplomatic History of the War*, Appendix, page 8.

NOTE.—How one of the leading British statesmen, Lord Kitchener, regarded the rôle of Belgium in the event of an European war, prior to the outbreak of the present hostili-

ties, is set forth in an interview of Mrs. J. S. Erskine to *The World*, published in that paper's issue of August 30, 1914, which has come to my knowledge only during the process of proof-reading. The following passages are of particular interest:

Mrs. J. S. Erskine, widow of a former captain of the Tenth Royal Hussars, who was for a time attached to the staff of Lord Kitchener, now English War Secretary, has given to *The World* an interview in which she discusses the chief of the English war department at short range.

"It was the habit of the officers and their wives to play 'the game of war' in times of peace. This consisted of taking a map and, after sides had been chosen, sticking flags in the map, showing the advance and retreat of troops. One day a big European war was suggested and Lord Kitchener was enlisted as umpire.

"I played England in a war with Germany," said Mrs. Erskine, "and accidentally planted my flags on Belgium soil. Cries that this was neutral territory were immediately raised, but Lord Kitchener backed me up. 'That's just what she ought to do,' he said. 'If ever there is a war with Germany that is what the English will do unless the Germans do it first.' 'You forget the treaty of London,' some one said. 'No,' he shot back, 'Bismarck was a statesman. He signed to something that would be for the future good of his country. War knows nothing about the future good. It is only the present that appeals to the warrior and any clever commander knows that the best way to get from Germany to France is through Belgium.'

"Then what will happen?" I asked. I meant what would happen should Germany invade Belgium.

"That is in the lap of the gods," was his reply. "But I'll tell you what I think would happen. Germany would win the first round. After that she would be out-maneuvred."

"Picking up one of the little flags he said he thought Ostend would be a good place to land troops, but reconsidered and decided on a point south of Dunkirk."

CHAPTER XI

LEGAL CONSEQUENCES OF THE BREAK-DOWN OF BELGIUM'S NEUTRALITY

As in private life an individual who, under the plea of dire necessity, violates another person's rights, if his action confines itself to the strictly necessary, is free from punishment but, nevertheless, liable to make good any damage caused thereby, so also in international life, if a state unavoidably violates another state's rights, it has to make due reparation. This reparation consists not only in an indemnity for material damage caused by the unavoidable action, but, especially, in an apology to the violated state.

The official note of the German Government addressed to the Belgian Government on August 2, 1914, shows that the former, purposely refraining from manifesting any doubts with regard to Belgium's neutrality, was fully prepared to make ample reparation to Belgium if the latter would grant the German troops the right of way to the Franco-

Belgian frontier. In particularly entreating language, the Imperial Government emphasized that the proposed advance of its troops through Belgium was unavoidable for the clearly stated reasons, and that it was void of any hostile character, as far as Belgium was concerned. Besides, the Imperial Government specially promised to evacuate the temporarily occupied Belgian territory as soon as the military situation would permit it, pledged itself that Belgium's independence and integrity would be maintained at the end of the present war, and offered to pay for all the needs of its troops as well as the damage inadvertently caused by their passage. Moreover, the German Chancellor stated in the Reichstag: "The wrong which we thus commit, we shall try to make good as soon as our military aim is attained."

Unfortunately, Germany's offer was declined by Belgium, and, when it was repeated, after the fall of Liège, it was declined a second time.

Supposing that Belgium's neutrality had not been impaired, what would have been her rights as opposed to the German right of invading Belgian territory, to forestall a threatening French attack, in self-defense?

Doubtless Belgium had not only every right to oppose the German invasion; the rules of perpetual neutrality obliged her even to resist the passage of

German troops through her territory. On the other hand Belgium, just as well as Germany, could have invoked the supreme right of self-preservation and refrained from offering armed resistance. In the face of the considerable odds which the German army represented, Belgium would have been free from blame if she had confined herself to a diplomatic protest against the violation of her neutrality and, otherwise, submitted to the dire necessity, reserving herself freedom of action for the time when peace would be restored. At any rate, after having entered the strongest possible protest by the determined defense of Liège, without impairing her honor or her international obligations, she might have given up further resistance.

Some writers declare it open to doubt whether Germany's invasion of Belgium, with no other object but a passage through her confines in order to reach the northern parts of France, and after formal assurances as to Belgium's independence and integrity had been given, constituted *ipso jure* a breach of Belgium's neutrality.

At all events, the question whether, under those particular circumstances, Belgium should submit to the German invasion or offer a hopeless armed resistance, was not of such a nature that it could be decided only from the viewpoint of national honor without giving the fullest consideration to the

national interests of the Belgian people. For to the statesman who realizes to the fullest his high responsibility toward his people, not the honor but the welfare of the country is, and must be, the guiding principle of his decisions. *Salus publica suprema lex.*

History records a number of cases where neutral countries have submitted to the passage of belligerent troops through their territory without resorting to armed resistance. As one of the best known instances may be adduced the case of Prussia, during the Third War of Coalition against Napoleon, in which she had declared her neutrality. In the course of that war, in the summer of 1805, it happened that a French army under General Bernadotte, on its way from Hanover to the upper Danube, passed through the Prussian territory of Ansbach, without even asking for previous permission to do so. Prussia was, naturally, aroused about France's high-handed action. But her government, wishing to spare its people a war with France, which even then did not seem unavoidable, did not declare war against France, but contented itself with a diplomatic protest. And that was a Great Power with the proud traditions of Frederic the Great, before her defeat by Napoleon.

In a similar manner, King Albert of the Belgians might have acted in 1914, following the example set

by his grandfather, who, in a situation far more painful to Belgian pride, declared to the Powers in 1831 that he "yielded to the imperious law of necessity."¹

An English writer, Mr. C. H. Norman, affirms:

"Had Belgium surrendered to '*force majeure*,' insisting on substantial compensation for the trespass committed by the German troops, no one could have doubted her wisdom, nor suspected her honor."²

Belgium declined the German demands, but also declined to become a belligerent, although the German Note of August 2, 1914, presented with a request for an answer within twelve hours, had to be considered as a conditional declaration of war. In fact, in a note to all the Powers with whom Belgium had then diplomatic relations, dated August 5, 1914, she pointed out that, "by virtue of Article 10 of the Hague Convention of 1907, relating to the rights and duties of neutral Powers and persons in the event of war on land," her resistance against the attack on her neutrality could not be considered a hostile act.³

This contention falls to the ground as the Convention referred to, signed at the Hague by forty-four Powers in 1907, expressly stipulates, in its Art. XX, that its provisions apply only in wars

¹ See page 49.

² In *Britain and the War* (reprinted in England on the Witness Stand, New York (1915), page 39).

³ *Belgian Gray Book*, No. 44.

where all the belligerents are parties to this Convention, which was not the case in the present war, several belligerents, notably England, having failed to ratify it.¹ If, therefore, some doubt may have existed whether Belgium was entitled to invoke the said Convention, on August 4th, England's intervention in the war, at midnight of the same day, made the position of Belgium as a belligerent perfectly clear.

The subsequent discovery, however, that Belgium had secretly renounced her status of perpetual neutrality long before the outbreak of the present war, has further cleared the legal situation in so far as now it is quite obvious that Belgium became a belligerent in the moment when she offered armed resistance to the Germany army—with all the consequences which the status of belligerents entails.

The fact that her perpetual neutrality has failed to afford Belgium an adequate protection in the present world crisis is not necessarily due to any fault of that institution of international law, but to the twofold abuse of it.

Whatever merits her status of perpetual neutrality may have had for Belgium and particularly for the countries surrounding her, at the time when she

¹ J. B. Scott, *Texts of the Peace Conferences at the Hague*, Boston (1908), page 23 and following, and F. P. Myers, *The Record of The Hague*, Boston, 1914.

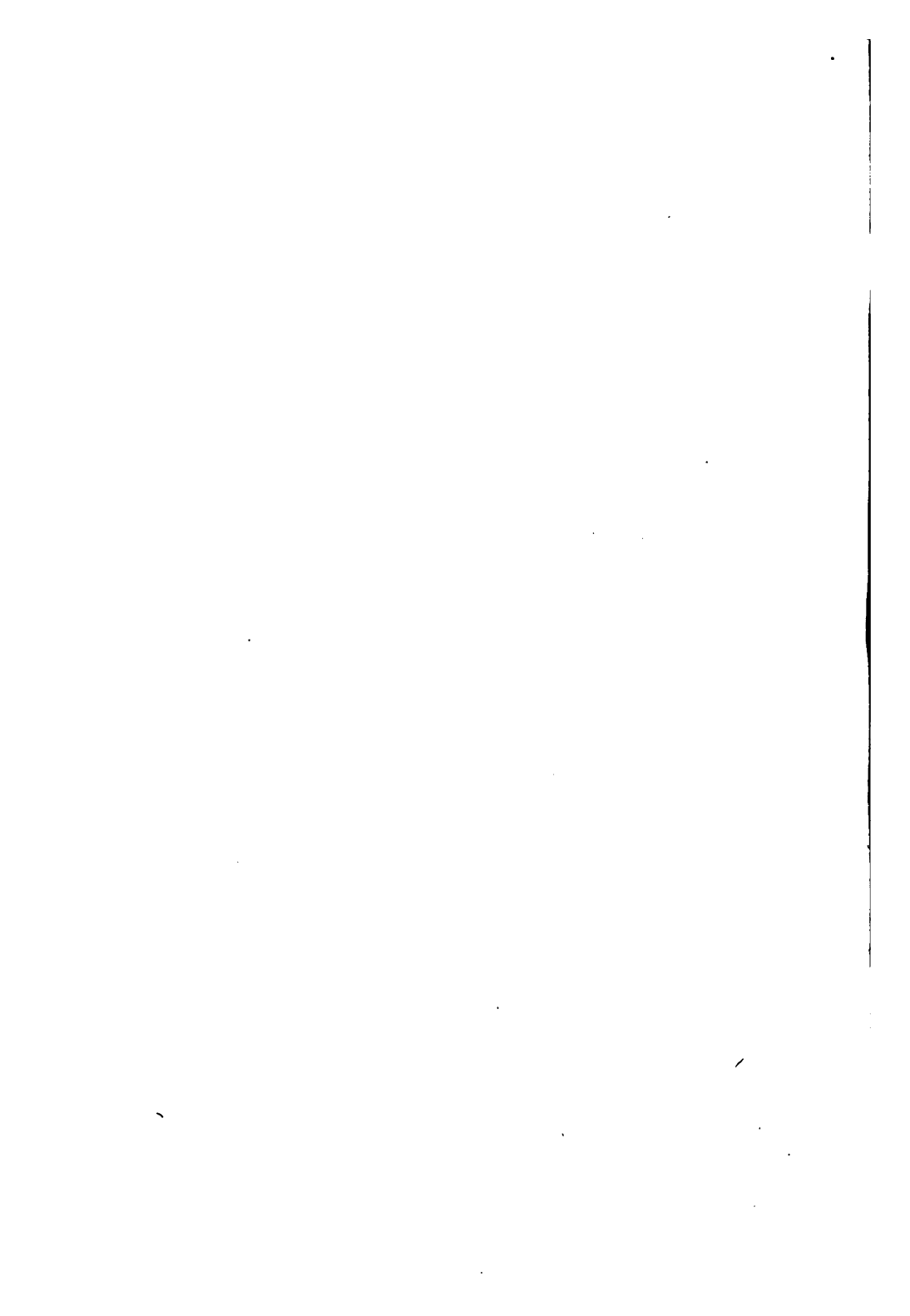
came into existence as an independent state, there can be no doubt that, in our times, she had fully outgrown it. If Belgium had had the freedom of openly determining her foreign policy to suit her own interests, like any other state of her importance, her fate in the present war might have been different. It may, therefore, justly be called an abuse of perpetual neutrality that Belgium, *volens volens*, maintained that status.

However, since she maintained it, it was a very gross abuse that, in concert with England, she used it as a cloak for a plot against a friendly nation.

England's claim that she has taken up arms against Germany to fulfil a "solemn international obligation," in defense of that perpetual neutrality of Belgium, may find favor before the House of Pharisees, but cannot be considered before the Forum of History and International Law.

Future historians will perhaps record it as one of England's most extraordinary achievements in the present war that her statesmen succeeded so far beyond expectation in making a credulous public believe that Old England had gone into this war for high ethical motives, she who by her secret dealings with "neutral" Belgium has added a rather inglorious chapter to the history of British diplomacy.

APPENDIX



APPENDIX

- A. THE QUINTUPLE TREATY OF APRIL 19, 1839.
 - 1. TREATY BETWEEN THE GREAT POWERS AND HOLLAND.
 - 2. TREATY BETWEEN THE GREAT POWERS AND BELGIUM.
 - 3. ACT OF ACCESSION ON THE PART OF THE GERMANIC CONFEDERATION, ETC.
- B. TREATY BETWEEN GREAT BRITAIN AND PRUSSIA OF AUGUST 9, 1870.
- C. TREATY BETWEEN GREAT BRITAIN AND FRANCE OF AUGUST 11, 1870.
- D. THE FRENCH PLAN OF CAMPAIGN.
(From the North German Gazette of September 30.)
- E. EXTRACT FROM THE SPEECH OF THE GERMAN CHANCELLOR, MADE ON AUGUST 4, 1914.

F. FAC-SIMILE REPRODUCTIONS OF THE "BRUSSELS DOCUMENTS."

1. COVER.
2. REPORT OF GENERAL DUCARNE.
3. MINUTES OF THE JUNGBLUTH-BRIDGES CONVERSATIONS.

(From the North German Gazette of November 25, 1914.)

G. REPORT ON ENGLAND'S SECRET MILITARY GUIDE BOOKS OF BELGIUM.

(From the North German Gazette of December 2, 1914.)

H. REPORT ON ANGLO-BELGIAN MILITARY PREPARATIONS FOR THE WAR.

(From the North German Gazette of December 15, 1914.)

I. EXTRACT FROM THE SPEECH OF THE GERMAN CHANCELLOR, MADE ON DECEMBER 2, 1914.

K. AFFIDAVITS REGARDING THE PRESENCE OF FRENCH TROOPS ON BELGIAN SOIL PRIOR TO THE GERMAN INVASION.

L. ENGLAND'S ATTITUDE TOWARDS BELGIUM'S NEUTRALITY IN 1887.

(From the Labour Leader of February 4 and 11, 1915.)

A

TREATIES RELATIVE TO
THE NETHERLANDS AND BELGIUM

signed at London, April 19, 1839.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY
COMMAND OF HER MAJESTY, 1839

- I. *Treaty between Great Britain, Austria, France, Prussia and Russia, on the one part, and the Netherlands, on the other.*

In the Name of the Most Holy and Indivisible
Trinity.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the King of the French, His Majesty the King of Prussia, and His Majesty the Emperor of all the Russias, having taken into consideration their Treaty concluded with His Majesty the King of the Belgians, on the 15th of November 1831; and His Majesty the King of the Netherlands, Grand Duke of Luxembourg, being disposed to conclude a definite arrangement on the basis of the 24 Articles agreed upon by the Plenipotentiaries of

1087

Great Britain, Austria, France, Prussia, and Russia, on the 14th of October, 1831; their said Majesties have named for their Plenipotentiaries, that is to say: * * *

Who, after having communicated to each other their Full Powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

His Majesty the King of the Netherlands, Grand Duke of Luxembourg, engages to cause to be immediately converted into a Treaty with His Majesty the King of the Belgians, the Articles annexed to the present Act, and agreed upon by common consent, under the auspices of the Courts of Great Britain, Austria, France, Prussia and Russia.

ARTICLE II

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the King of the French, His Majesty the King of Prussia, and His Majesty the Emperor of all the Russias declare, that the Articles mentioned in the preceding Article, are considered as having the same force and validity as if they were textually inserted in the present Act, and that they

are thus placed under the guarantee of their said Majesties.

ARTICLE III

The union which has existed between Holland and Belgium, in virtue of the Treaty of Vienna, of the 31st of May, 1815, is acknowledged by His Majesty the King of the Netherlands, Grand Duke of Luxembourg, to be dissolved.

ARTICLE IV

The present Treaty shall be ratified, and the ratifications shall be exchanged at London at the expiration of six weeks, or sooner, if possible. The exchange of these ratifications shall take place at the same time as that of the ratifications of the Treaty between Holland and Belgium.

In witness whereof, the respective Plenipotentiaries have signed the present Treaty, and have affixed thereto the seal of their Arms.

Done at London, the nineteenth day of April, in the year of Our Lord one thousand eight hundred and thirty-nine.

(L. S.) PALMERSTON,
(L. S.) SENFFT,
(L. S.) H. SEBASTIANI,
(L. S.) BÜLOW,
(L. S.) POZZO DI BORGIO,
(L. S.) DEDEL.

Annex to the Treaty signed at London, on the 19th of April, 1839, between Great Britain, Austria, France, Prussia and Russia, on the one part, and the Netherlands, on the other.¹

ARTICLE I

The Belgian territory shall be composed of the provinces:

South Brabant;
Liège;
Namur;
Hainault;
West Flanders;
East Flanders;
Antwerp; and
Limburg;

such as they formed part of the United Kingdom of the Netherlands constituted in 1815, with the exception of those districts of the province of Limburg which are designated in Article IV.

The Belgian territory shall, moreover, comprise that part of the Grand Duchy of Luxembourg which is specified in Article II.

ARTICLE II

In the Grand Duchy of Luxembourg, the limits of the Belgian territory shall be such as will be hereinafter described, viz. . . .

¹ Of the Twenty-Four Articles annexed to the treaty only such parts are reproduced here, as are of particular interest for the present study. A summary of the contents of all the Twenty-Four Articles is given in the footnote of page 48.

ARTICLE IV

In execution of that part of Article I which relates to the province of Limburg, and in consequence of the cessions of His Majesty the King of the Netherlands, Grand Duke of Luxembourg, makes in Article II, his said Majesty shall possess. . . .

ARTICLE VII

Belgium within the limits specified in Articles I, II and IV shall form an independent and perpetually neutral State. It shall be bound to observe such neutrality toward all other States.

* * *

(L. S.) PALMERSTON,
(L. S.) SENFFT,
(L. S.) H. SEBASTIANI,
(L. S.) BÜLOW,
(L. S.) POZZO DI BORGIO,
(L. S.) DEDEL.

(A Treaty between Holland and Belgium comprising the 24 Articles above recited, together with the usual engagement for Peace and Friendship between the Parties, was also signed by the Plenipotentiaries of those two Powers on the 19th of April; and the ratifications were exchanged at the same time and place as those of the preceding Treaty.)

2. Treaty between Great Britain, Austria, France, Prussia and Russia, on the one part, and Belgium, on the other.

In the Name of the Most Holy and Indivisible Trinity.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the King of the French, His Majesty the King of Prussia, and His Majesty the Emperor of All the Russias, taking into consideration, as well as His Majesty the King of the Belgians, their Treaty concluded at London on the 15th of November, 1831, as well as the Treaties signed this day, between their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, King of Hungary and Bohemia, the King of the French, the King of Prussia, and the Emperor of All the Russias, on the one part, and His Majesty the King of the Netherlands, Grand Duke of Luxembourg, on the other part, and between His Majesty the King of the Belgians and His said Majesty the King of the Netherlands, Grand Duke of Luxembourg, their said Majesties have named as their Plenipotentiaries, that is to say: * * *

Who, after having communicated to each other their Full Powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the King of the French, His Majesty the King of Prussia, and His Majesty the Emperor of All the Russias, declare, that the Article hereunto annexed, and forming the tenor of the Treaty concluded this day between His Majesty the King of the Belgians and His Majesty the King of Netherlands, Grand Duke of Luxembourg, are considered as having the same force and validity as if they were textually inserted in the present Act, and that they are thus placed under the Guarantee of their said Majesties.

ARTICLE II

The Treaty of the 15th of November, 1831, between their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, King of Hungary and Bohemia, the King of the French, the King of Prussia, and the Emperor of All the Russias, and His Majesty the King of the Belgians, is declared not to be obligatory upon the High Contracting Parties.

ARTICLE III

The present treaty shall be ratified, and the Ratifications shall be exchanged at London at

the expiration of six weeks, or sooner if possible. This exchange shall take place the same time as that of the Ratifications of the Treaty between Belgium and Holland.

In witness whereof, the respective Plenipotentiaries have signed the present Treaty, and have affixed thereto the Seal of their Arms.

Done at London, the 19th day of April, in the year of Our Lord, 1839.

(L. S.) PALMERSTON,
(L. S.) SENFFT,
(L. S.) H. SEBASTIANI,
(L. S.) BÜLOW,
(L. S.) POZZO DI BORGO,
(L. S.) SYLVAIN VAN DE WEYER.

* * *

Annex to the Treaty signed at London on the 19th of April, 1839, between Great Britain, Austria, France, Prussia and Russia, on the one part, and Belgium, on the other part.

(This annex, signed by the same Plenipotentiaries who signed the preceding Treaty, is word for word the same as the Annex to the Treaty between the Five Powers and the King of the Netherlands.)

3. *Act of accession on the part of the Germanic Confederation to the territorial Arrangements concerning the Grand Duchy of Luxembourg contained in the first seven Articles of the Annex to the two preceding Treaties.*

The Plenipotentiaries of the Courts of Great Britain, Austria, Belgium, France, the Netherlands, Prussia and Russia, having this day signed the Treaties concluded between the five Courts and His Majesty the King of the Netherlands, Grand Duke of Luxembourg, between their Majesties the King of the Belgians and the King of the Netherlands, Grand Duke of Luxembourg, and between the five Courts and His Majesty the King of the Belgians, the Plenipotentiaries have deemed it expedient that the Plenipotentiaries of Austria and Prussia, invested with Full Powers from the Diet of the Germanic Confederation, should be invited to accede in the name of the said Confederation, to the arrangements concerning the Grand Duchy of Luxembourg, which are contained in the Treaties above mentioned.

In consequence, the Plenipotentiaries of Austria and Prussia, representing the Diet in virtue of the said Full Powers, declare that the Germanic Confederation formally accedes to the territorial arrangements concerning the Grand Duchy of Luxembourg, which are contained in Articles I, II, III, IV, V, VI and VII, of the Annex to the Treaties this day concluded between the five Courts and His Majesty the

King of the Netherlands, Grand Duke of Luxembourg, and between the five Courts and His Majesty the King of the Belgians, as well as in the corresponding Articles of the Treaty signed at the same time between His Majesty the King of the Belgians and His Majesty the King of the Netherlands, Grand Duke of Luxembourg. And they take towards the Courts of Great Britain, Austria, Belgium, France, the Netherlands, Prussia and Russia, in the name of the Germanic Confederation, the engagement that the Confederation will entirely conform to the stipulations contained in the said Articles, which are hereinafter inserted word for word, so far as they concern the Germanic Confederation.

[Here follow the first seven Articles of the Annex to the two preceding Treaties.]

The Plenipotentiaries of Great Britain, Belgium, France, the Netherlands, Prussia and Russia, in virtue of their Full Powers, formally accept, in the name of their respective Courts, the said Accession on the part of the Germanic Confederation.

The present Act of Accession shall be ratified by the Courts of Great Britain, Austria, Belgium, France, the Netherlands, Prussia and Russia, and also by the Germanic Confederation, by means of a Decree of the Diet, of which the requisite number of copies shall be prepared. And the respective Acts of Ratification

shall be exchanged at London at the expiration of six weeks from this date, or sooner if possible, and at the same time as the exchange of the Ratifications of the three Treaties above mentioned.

In witness whereof the respective Plenipotentiaries have signed the present Act of Accession, and have affixed thereto the Seal of their Arms.

Done at London, the 19th day of April, in the year of our Lord, 1839.

(L. S.) PALMERSTON,
(L. S.) SENFFT,
(L. S.) SYLVAIN VAN DE WEYER,
(L. S.) H. SEBASTIANI,
(L. S.) DEDEL,
(L. S.) BÜLOW.
(L. S.) POZZO DI BORGIO,
(L. S.) SENFFT,
(L. S.) BÜLOW,

B

TREATY
BETWEEN HER MAJESTY
AND THE KING OF PRUSSIA
RELATIVE TO
THE INDEPENDENCE AND NEUTRALITY
OF BELGIUM

Signed at London, August 9, 1870

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY
COMMAND OF HER MAJESTY, 1871

(Ratifications exchanged at London, August 26, 1870)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Prussia, being desirous at the present time of recording in a solemn Act their fixed determination to maintain the independence and neutrality of Belgium, as provided in Article VII of the Treaty signed at London on the 19th of April, 1839, between Belgium and the Netherlands, which Article was declared by the Quintuple Treaty of 1839 to be considered as having the same force and value as if

textually inserted in the said Quintuple Treaty, their said Majesties have determined to conclude between themselves a separate Treaty, which, without impairing or invalidating the conditions of the said Quintuple Treaty, shall be subsidiary and accessory to it; and they have accordingly named as their Plenipotentiaries for that purpose, that is to say: * * *

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I

His Majesty the King of Prussia having declared that, notwithstanding the hostilities in which the North German Confederation is engaged with France, it is his fixed determination to respect the neutrality of Belgium, so long as the same shall be respected by France, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland on her part declares that, if during the said hostilities the armies of France should violate that neutrality, she will be prepared to co-operate with His Prussian Majesty for the defense of the same in such manner as may be mutually agreed upon, employing for that purpose her naval and military forces to insure its observance, and to maintain, in conjunction with His Prussian

Majesty, then and thereafter, the independence and neutrality of Belgium.

It is clearly understood that Her Majesty the Queen of the United Kingdom of Great Britain and Ireland does not engage herself by this Treaty to take part in any of the general operations of the war now carried on between the North German Confederation and France, beyond the limits of Belgium, as defined in the Treaty between Belgium and the Netherlands of April 19, 1839.

ARTICLE II

His Majesty the King of Prussia agrees on his part, in the event provided for in the foregoing Article, to co-operate with Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, employing his naval and military forces for the purpose aforesaid; and, the case arising, to concert with Her Majesty the measures which shall be taken, separately or in common, to secure the neutrality and independence of Belgium.

ARTICLE III

This Treaty shall be binding on the High Contracting Parties during the continuance of the present war between the North German Confederation and France, and for twelve months after the ratification of any Treaty of

Peace concluded between those Parties; and on the expiration of that time the independence and neutrality of Belgium will, so far as the High Contracting Parties are respectively concerned, continue to rest as heretofore on Article I of the Quintuple Treaty of the 19th of April, 1839.

ARTICLE IV

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at London, the 9th day of August, in the year of our Lord 1870.

(L. S.) GRANVILLE,

(L. S.) BERNSTORFF.

C
TREATY
BETWEEN HER MAJESTY
AND THE EMPEROR OF THE FRENCH
RELATIVE TO
THE INDEPENDENCE AND NEUTRALITY
OF BELGIUM

Signed at London, August 11, 1870

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY
COMMAND OF HER MAJESTY, 1871

(Ratifications exchanged at London, August 26, 1870)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being desirous at the present time of recording in a solemn Act their fixed determination to maintain the independence and neutrality of Belgium, as provided by Article VII of the Treaty signed at London on the 19th of April, 1839, between Belgium and the Netherlands, which Article was declared by the Quintuple Treaty of 1839 to be considered as having the same force and value as if textually in the said Quintuple Treaty,

their said Majesties have determined to conclude between themselves a separate Treaty, which, without impairing or invalidating the conditions of the said Quintuple Treaty, shall be subsidiary and accessory to it; and they have accordingly named as their Plenipotentiaries for the purpose, that is to say: * * *

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I

His Majesty the Emperor of the French having declared that, notwithstanding the hostilities in which France is now engaged with the North German Confederation and its Allies, it is his fixed determination to respect the neutrality of Belgium, so long as the same shall be respected by the North German Confederation and its Allies, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland on her part declares that, if during the said hostilities the armies of the North German Confederation and its Allies should violate that neutrality, she will be prepared to co-operate with His Imperial Majesty for the defense of the same in such manner as may be mutually agreed upon, employing for that purpose her naval and military forces to insure its observance, and to maintain, in conjunction with His

Imperial Majesty, then and thereafter, the independence and neutrality of Belgium.

It is clearly understood that Her Majesty the Queen of the United Kingdom of Great Britain and Ireland does not engage herself by this Treaty to take part in any of the general operations of the war now carried on between France and the North German Confederation and its Allies, beyond the limits of Belgium, as defined in the Treaty between Belgium and the Netherlands of April 19, 1839.

ARTICLE II

His Majesty the Emperor of the French agrees on his part, in the event provided for in the foregoing Article, to co-operate with Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, employing his naval and military forces for the purpose aforesaid; and, the case arising, to concert with Her Majesty the measures which shall be taken, separately or in common, to secure the neutrality and independence of Belgium.

ARTICLE III

This Treaty shall be binding on the High Contracting Parties during the continuance of the present war between France and the North German Confederation and its Allies, and for twelve months after the ratification of any Treaty of Peace concluded between those

Parties; and on the expiration of that time the independence and neutrality of Belgium will, so far as the High Contracting Parties are respectively concerned, continue to rest, as heretofore, on Article I of the Quintuple Treaty of the 19th of April, 1839.

ARTICLE IV

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

In witness whereof the respect[ive] Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at London, the 11th day of August, in the year of our Lord, 1870.

(L. S.) GRANVILLE,
(L. S.) LA VALETTE.

D

THE FRENCH PLAN OF CAMPAIGN

(From the North German Gazette of September 30, 1914)

The plans for the general French advance against the German forces were found among the papers of a French officer, captured near Verdun.

They are as follows:

First Army, consisting of the I, II, III and X army-corps, concentrates at Maubeuge;

Second Army, consisting of the IX, XI, IV and VI army-corps, concentrates at Verdun;

Third Army, consisting of the XX, V and VIII army-corps, concentrates at Toul;

Fourth Army, consisting of the XIII, XII, XVII and XVIII army-corps, concentrates at Epinal;

Fifth Army, consisting of the VII, XIV, XV and XVI army-corps, concentrates at Belfort.

The First Army unites with the English and Belgian forces, and, after marching through Belgium, occupies Cologne and Coblenz, and opposes the German forces advancing from Northern Germany.

The Second Army has to occupy Metz, and, after having accomplished this, turns towards Saarlouis and Coblenz, where it will join with the First Army.

The Third Army penetrates Lorraine, occupies the northern part of the Vosges, and will then take up a position before Strassburg.

The Fourth Army occupies the remainder of the Vosges and afterwards follows the advance of the other Armies as reserve reinforcement.

The Fifth Army will storm Altkirch and Muehlhausen, and then remove towards Strassburg, which is to be taken, after which it joins the Third Army.

After which there will remain only three armies, that is to say:

- Army A in Coblenz,
- Army C in Strassburg,
- Army D in reserve.

E

EXTRACT FROM THE SPEECH OF THE
IMPERIAL CHANCELLOR,
DR. VON BETHMANN HOLLWEG

GIVEN IN THE REICHSTAG, ON AUGUST 4, 1914

(Translated from the Supplement to the North German
Gazette of August 9, 1914)

"Gentlemen: We are, at present, in a state of legitimate defense and necessity knows no law!¹ Our troops have occupied Luxembourg; perhaps they have entered already Belgian territory. Gentlemen, this is contrary to the rules of international law. It is true that the French Government has declared at Brussels that it would respect Belgium's neutrality as long as the adversary would respect it. However, we knew that France was ready for an invasion. France could afford to wait, but we could not! A French invasion at our flank, at the Lower Rhine, could have become fatal to us. Thus, we were forced to disregard the justified protests of the Governments of Luxembourg and Belgium. The wrong—I speak openly—the wrong which thereby we commit, we shall try to make good as soon as our military aim is attained. Whoever is threatened as we are, is not allowed to have any other consideration beyond that how he will hack his way through!"

¹ This translation does not render exactly the German original "*Wir sind jetzt in Notwehr; und Not kennt kein Gebot!*" but the English language hardly suggests any other rendering.

F

FAC-SIMILE REPRODUCTIONS OF THE
"BRUSSELS DOCUMENTS"

- a. The original cover, in which the report of General Ducarne was found.
- b. The report of General Ducarne to the Belgian Minister of War, concerning his military conversations with the British Lieutenant-Colonel Barnardiston.
- c. The Minutes of the military conversations between General Jungbluth and the British Lieutenant-Colonel Bridges.

G

ENGLAND AND BELGIUM

NEW DOCUMENTS CONCERNING ENGLAND'S BREACH OF
NEUTRALITY

(From the North German Gazette of December 2, 1914)

Further proofs have been found that England, in co-operation with Belgium, had prepared the war against Germany already during peace time to the utmost, not only in a diplomatic but also in a military way. Recently, our troops seized some secret military guide-books about Belgium, edited by the British General Army Staff, entitled: "Belgium, Road and River Reports, prepared by the General Staff, War Office."

We are in possession of four volumes of this handbook, of which volume 1 was printed in 1912, volume 2 in 1913, volume 3 (in two parts) and volume 4 in 1914.

They show the following imprint: "*Confidential. This book is the property of the British Government and is to be used for the personal information of, who himself is responsible for the safe keeping of the book. The contents are to be revealed to authorized persons only.*"

The handbook contains evidences of military investigations in the minutest and most exact descriptions of the territory. The introduction reads as follows: "These reports can give only the condition of the roads at the time in which they were investigated. It will always be advis-

able to investigate them again before they are used, in order to make sure that they are not closed on account of repairs, pipe laying," etc.

Thus, for instance, in volume 1, page 130 and following, the great highroad, Nieuport-Dixmude-Ypres-Menin-Tourcoing-Tournai, is described and accompanied by maps, with special regard to quality of the roads, the surrounding country, tactic considerations, observation posts and water conditions. In this discussion all the villages along the highroad are enumerated and described. Thus we find their exact distance from one another, detailed descriptions of the road net, with reference to elevations, bridges, crossings, telephone and telegraph stations, railway stations, including length of platforms and landing places; branch lines, oil tanks, etc. It is always mentioned whether the population speaks partly or altogether French.

As an illustration we may cite the tactical remarks about Dixmude on page 151:

It will be difficult to take Dixmude from the north or from the south. The best position for defense against attacks from the south would be the railway embankment in the west as far as the street, to the east a number of small hills. As far as 1,500 yards west of the street the field is favorable for firing; farther to the east the view is obstructed by trees. Two battalions would be sufficient for occupation. The hostile artillery probably would be situated near Hoogmolen and Vertkant; otherwise there is nothing of tactical importance, nor is there anything which might retard marching. Point of observation, the mill of Reencheek permitting of a free panoramic view; also the Koelberg, seven and one-half miles distant from Ypres, with outlook toward the east and south.

It may be mentioned that the church towers are usually mentioned as good observation points.

In a similar detailed manner the entire course of the Scheldt, with all tributaries, villages, landings, opportunities for crossing, widths and depths, bridges, supply of boats, etc., is described.

Thus the handbooks form an excellent guide for the army leader, the officer of the general staff and for officers second in command. To the book are added:

First—A schedule containing information about communities and villages for purposes of billeting; furthermore, instructions regarding transportation and all other items which may be needed by the local commander.

Second—A number of important hints to aviators for that part of Belgium which is situated south of the line Charleroi-Namur-Liége as well as for the surroundings of Brussels.

This very carefully and comprehensively drawn memorandum is supplemented by a map showing the landing places. It bears the inscription "Secret" and is dated July, 1914.

These military geographical handbooks cannot be supposed to have been written shortly before or during the war. That would, aside from putting them in print, have been impossible. The material for the work has, on the contrary, as may be seen from remarks in the different parts, been collected since 1909. The first volume was printed in 1912.

The manuals therefore prove a minute preparation carried on during the last five years for an English campaign in neutral Belgium. They are nothing else but secret regulations of military service for an English army fighting in Belgium. The English general staff therefore since long time prepared themselves for this event and foresaw the same so surely that they undertook the painstaking work of compiling these military handbooks.

Without ready and far-reaching assistance on the part of

the Belgian government and military authorities such a work would not have been possible. Those strategical and tactical reports, going into the minutest details, as mentioned above, or such exact data concerning railroads and transportation service, rolling stock, locks and bridges, could not have been obtained in any other way. The schedules about the billeting capacity, which deal with Belgium as if it were English territory, could only be derived from the Belgian government. Without doubt official Belgium material has been used. It is made suitable for English purposes or at many places simply translated into English!

Very extensively, indeed, England and Belgium had prepared themselves together during times of peace for military co-operation. Belgium in political as well as in military matters was nothing but a vassal state of England. The indignation which England today is putting up before the world because of Germany's so-called breach of neutrality is made altogether meaningless and unjust by those documents.

When on account of our operations at the coast the English and French press remarked sneeringly that we were not sufficiently instructed about the dangers of the inundation district in the so-called "Polderland" they were right in so far as before the beginning of the war we did not know Belgian territorial conditions any better than may be learned from sources obtainable in the book market.

The English reconnoitering reports and the excellent maps, therefore, were very valuable booty for us. We were able to make immediate use of this remarkable material and thus could fight England with her own weapons. That should be the best indication of the importance of our enemies' painstaking labor.

H

HOW ENGLAND PLAYED WITH BELGIAN
NEUTRALITY

(From the North German Gazette of December 15, 1914)

New and convincing evidence with reference to the Anglo-Belgian complicity has been found. Some time ago there was detained in Brussels the British Secretary of Legation, Grant-Watson, who had remained in the British Legation after the office had been transferred to Antwerp and later on to Havre. This Grant-Watson has been caught in the act of disposing of a number of documents which he at the time of his detention had taken with him from the Legation.

An investigation of these documents showed that they were of the most intimate kind, containing exact information, of the years 1913 and 1914, about the Belgian mobilization plans and about the defense of Antwerp. Among them were also found circular decrees directed to the higher Belgian commands, with fac-simile signatures of the Belgian Minister of War and the Belgian General Staff. Furthermore, a report of a session of the "commission for the provisions base at Antwerp" of May 27, 1913, was found.

The fact that these documents had been at the British Legation sufficiently proves that the Belgian Government in military matters had no secrets from the British Government and that those two governments had a continuous and most intimate understanding in military matters.

Of especial interest is also a handwritten note which was found with the papers and for the destruction of which the British Secretary was very anxious. It was of the following tenor:

RENSEIGNEMENTS

(1) Les officiers français ont reçu ordre de rejoindre dès le 27, après-midi.

(2) Le même jour le chef de Gare de Feignies a reçu ordre de concentrer vers Maubeuge tous les wagons fermés disponibles en vue de transport de troupes.

Communiqué par la Brigade de gendarmerie de Frameries.

INFORMATION

(1) The French officers have received order to join on the 27th in the afternoon.

(2) The same day the station master at Feignies has received order to concentrate toward Maubeuge all available closed railway cars in view of transport of troops.

Communicated by the brigade de gendarmerie at Frameries.

It is of interest to note that Feignies is a railway station on the Maubeuge-Mons line, about three kilometers from the Franco-Belgian boundary.

From this note we learn that France as early as July 27 had taken her first mobilization measures and that the English Legation received notice of this fact immediately from the Belgian Government.

If there were any need for further proof of the relations which existed between England and Belgium the material found would be a valuable supplement in that respect.

It shows again that Belgium had abandoned her neutrality in favor of the entente and that she had become an active member of that coalition, which was formed for the purpose of fighting Germany. For England, however, Belgian neutrality meant nothing more than a "scrap of paper," which she appealed to if it were advantageous to her interests and which she ignored if this were more to her purposes. It is plain that the English Government used the violation of Belgian neutrality by Germany as a pretext only in order to make the world and the English people believe that her cause for the war was a just one.

I

EXTRACT FROM THE SPEECH OF THE
IMPERIAL CHANCELLOR

MADE IN THE GERMAN REICHSTAG, ON DECEMBER 2, 1914.

(From the North German Gazette of Dec. 3, 1914)

Belgium's neutrality which England pretended to be shielding is nothing but a mask.

On August 2, at 7 p. m., we informed Brussels that France's plan of campaign, known to us, compelled us, for reasons of self-preservation, to march through Belgium. But the same afternoon already, that is to say before anything of that *démarche* was known and could be known at London, the British Government had pledged its support to France, pledged it unconditionally in case the German fleet attacked the French coast. Not one word was then said of Belgium's neutrality. This fact is established by the declaration of Sir Edward Grey in the House of Commons on August 3, which, owing to the difficulties in the transmission of telegrams prevailing at that time, was not

known to me in full on August 4—and it is confirmed by the Blue Book, issued by the British Government.

How then can England pretend that she drew the sword because we violated Belgium's neutrality?

How could British statesmen, who accurately knew the past, talk of Belgian neutrality at all?

When on August 4, I referred to the wrong we were doing in marching through Belgium it was not yet known for certain whether in the hour of affliction the Brussels Government would not decide after all to spare the country and to retire to Antwerp under protest. Remembering that, after the occupation of Liège, I addressed renewed offers in that sense to the Belgian Government, at the request of our Army Administration, you will understand that, on August 4, for military reasons, the possibility for such a development had to be kept open under all circumstances.

Even then the guilt of the Belgian Government was apparent from many a sign. I had not yet any positive documentary proofs thereof at my disposal, but the British statesmen were perfectly familiar with those proofs.

The documents which, in the meantime, have been found at Brussels, and which have been given publicity by me, prove and establish in what way and to what degree Belgium had surrendered her neutrality to England.

The whole world is now acquainted with two outstanding facts—first, when, in the night from the 3d to the 4th of August, our troops entered Belgium, they were not on neutral soil, but on the soil of a state that had long abandoned its neutrality; second, England has declared war on us, not for the sake of Belgium's neutrality, which she herself had helped to undermine, but because she believed that, with the co-operation of two great military Powers of the Continent, she could overcome and master us.

Ever since August 2, when she promised armed support

to France, England was no longer neutral but actually in a state of war with us. Her pointing at our violation of Belgium's neutrality, when she declared war on us on August 4, was nothing but a spectacular trick, intended to deceive the English people and foreign neutral countries about her true war motives.

The war plans which England and Belgium had worked out together to the minutest details now being unveiled, the policy of British statesmen is branded in world history, for all time to come!

AFFIDAVITS CONCERNING THE PRESENCE OF FRENCH TROOPS ON BELGIAN SOIL PRIOR TO THE GERMAN INVASION ¹

I.

Julian *Requet*—wrongly called Louis Bellard—sub-corporal in the 8th regiment of Hussars in the French Army, states:

“Together with two other hussars I was out on patrol. While these two probably fell, I, losing my horse, succeeded in getting away, hurried to the next village, where I changed my clothes in a house. Thus I was captured alone and can give no information as to the whereabouts of other comrades.

“Upon being asked, the aforementioned stated that his regiment was mobilized on July 30, 1914. The regiment left its garrison on July 31st and was detained at midnight in Hirson. In the same night the regiment rode to Laneuville-aux-Tourneurs, where it remained two days. From there it then proceeded to Donchery, and on August 2nd from there to Bouillon. At Bouillon they united with

¹ Taken from Dr. Richard Grasshof's *Belgiens Schuld*, where the author expressly states that he has selected these sworn testimonials from a large number of depositions made before the German authorities, concerning this matter.

the dragoon regiments 23 and 27, also with the 3d regiment of Hussars. These regiments are said to have crossed the frontier simultaneously."

2.

Being duly sworn, Gaston Omar Eugène *Sailly*, in civil life hairdresser at St. Omer, since March, 1913, active soldier in the 21st French regiment of dragoons, states:

"The 21st French regiment of dragoons was transported by rail from Noyon, its garrison, to Hirson in one day, and on the same day the regiment took quarters in villages in the vicinity of Hirson; the second squadron, to which I belong, at Bossus. The second squadron remained several days at Bossus. On the evening of the latter day, about between six and seven o'clock, I was in Bossus in the place of a hairdresser, who sold tobacco and had a tap-room. In the room in which I sat during this time a bell rang. The hairdresser stepped to the telephone; someone spoke to him. When he hung up the receiver he called out to me that he had received per telephone, just now, the news that just then in France the mobilization had been ordered. I know positively that the second squadron left Bossus early the next morning and soon thereafter joined the other squadrons. The regiment made a day's march to the Belgian city Bouillon, near which the Belgian-French border was crossed. Simultaneously with the 21st also the 5th French regiment of dragoons, and also one or several French regiments of cuirassiers which I saw, but the number of which I do not know, together with artillery, the regimental number of which I also do not know, crossed the Franco-Belgian frontier in the direction of Bouillon. Bouillon, therefore, was reached on the same day on the morning of which the 21st regiment of dragoons

had ridden out of Bossus and the villages in the vicinity. The 21st regiment of dragoons rode through Bouillon and spent the night in the immediate vicinity, the second squadron in a small church village, a few kilometers distant. On the next morning the 21st and 5th regiments of dragoons, forming a brigade, rode northward deeper into Belgium. There also were French cavalry regiments, especially cuirassiers and artillery, which I am not able to specify more minutely."

3.

Gustave *Cochard*, from Rimogne, since the fall of 1913 active soldier in the 28th French regiment of dragoons, states under oath:

"On July 31, 1914, at 10 a. m., the two regiments of dragoons, the 28th and the 30th, garrisoned at Sedan, proceeded into the field. At first they rode together in France, along the State Street to Mouzon, where they arrived about noon. In the hours of the afternoon, about between 2 and 2:30, there arrived from a different direction, in the village of Mouzon, four cannon of the 40th French artillery regiment, garrisoned in Meziers-Charleville, together with munition wagons, whereupon the two regiments of dragoons, the 28th in the lead, then the guns, and following them the 30th regiment of dragoons, started out, at first again in the direction towards Sedan.

"The dragoons rode four abreast, without guards; the 3d troop of the 3d squadron, to which I belonged, rode furthest in advance. I rode in the fourth file, and therefore was able to see everything that transpired at the head of the detachment.

"When the detachment had arrived near the French village of Bazeilles, on the State highroad Mouzon-Sedan, it suddenly turned towards the North and proceeded via La

Chapelle to the Belgian frontier. The Belgian-French frontier was crossed on July 31, 1914, at about 9 o'clock in the evening, or a few quarters of an hour thereafter, on the highroad La Chapelle-Bouillon, by the two French regiments of dragoons and the French battery. Lieutenant Malespieux, commanding my troop, rode at the head. On the spot where the highroad La Chapelle-Bouillon crosses the French border, a Belgian brigadier and four gendarmes on horse, who as such were without difficulty recognizable by their uniforms, reported to him. The brigadier and the four gendarmes were waiting already at this point when we arrived there. These five members of the gendarmerie then proceeded at the head and thus led the detachment to the city of Bouillon, located three miles from the French border on Belgian soil. A short distance before Bouillon, the 30th regiment of dragoons, separated from the detachment in order to take quarters on Belgian territory, so that only the 28th regiment of dragoons and the battery entered Bouillon on July 31, 1914, about 10 o'clock in the evening. The head of the regiment stopped in the city before the office of the burgomaster. Captain Lainez, commanding my squadron, entered the building. After some time—it may have been an hour—a municipal functionary brought from the burgomaster's office the quarter notices for the 28th regiment of dragoons and the battery, which was still standing in the street before the burgomaster's office. I then proceeded with about thirty other dragoons to my quarters, a barn within the city.

"The night from July 31, 1914, to August 1, 1914, therefore was spent by the 28th French regiment of dragoons and the French battery in the Belgian city of Bouillon, while the 30th regiment of dragoons also was lying in quarters on Belgian soil nearby. The reception on the part of the Belgian population was in no way antagonistic, but on the contrary, very friendly.

"After the morning inspection, Lieutenant Malespieux, together with twenty-five dragoons, I among them, left, as a patrol, in an easterly direction, before six o'clock in the morning, alternately walking the horses, then in a trot, we proceeded along the highroad from Bouillon to Arlon, towards the east, constantly on Belgian soil. The ride of this patrol led from Bouillon on this road through the Belgian municipalities: St. Cécile, Chassepierre, Florenville, Pin, Vincent, Belle Fontaine, St. Marie to St. Laurent, which lies toward Arlon and is more than forty kilometers distant from Bouillon. Therefore, on August 1, 1914, more than forty kilometers were covered in an easterly direction, exclusively on Belgian soil. The officers' patrol, twenty-five men, arrived at St. Laurent after nine o'clock in the evening. Lieutenant Malespieux rode according to the map; on the way he did not send out any smaller patrols. About an hour later, the entire regiment of the 28th dragoons and the French battery arrived in St. Laurent. The men stated that they had followed on the same road along which the patrol had proceeded. They had ridden together with the 30th regiment of dragoons and the French battery up to within a short distance of St. Laurent, in the neighborhood of which the 30th regiment of dragoons separated from the rest of the column and proceeded to a Belgian village situated a few kilometers distant from St. Laurent. The two regiments of dragoons and the battery therefore proceeded on August 1, 1914, more than forty kilometers, advancing into Belgian territory.

"When I, on August 1st, together with the officers' patrol of twenty-five men, riding along the State highroad Bouillon-Arlon, this patrol, in the section Bouillon-Florenville, passed a country road which crosses the highroad Bouillon-Florenville and the open field. According to my recollection, about 500 meters behind this crossing, there is a village through which we rode, situated about three

kilometers from Florenville. To the right of the highroad, three French cavalry regiments were standing as we were passing this crossing point of the two roads. The men called out to us that they were the Third and Sixth Cuirassiers, and the French 4th regiment of hussars. As we passed, the three French cavalry regiments set also in motion and followed the patrol for several hours. A considerable number of kilometers, it may have been ten, after riding through Florenville, the three cavalry regiments, which we had met in probably the earlier hours of the afternoon of August 1, 1914, at the road-crossing on Belgian soil, and which had followed us for several hours, turned to the left, and therefore entered still more deeply into Belgium.

"Any mistake concerning the fact that the two regiments of dragoons and the battery crossed the Belgian frontier on the evening of July 31, 1914, and remained at least the entire following week uninterrupted on Belgian territory, is excluded if only for the following reason:

"On about July 20, 1914, I had entered a request for a fourteen days' furlough to my home, Rimonge, and this had been granted and was to begin on August 1, 1914. Even in the evening of July 30, 1914, nothing was known of the mobilization, and I was of the opinion that on August 1, 1914, I would be able to go home for a fortnight. The physical inspection, to which every French soldier must submit before he goes on furlough, had been ordered for me the morning of July 31, 1914. Instead of meeting the physician on July 31, 1914, and going on furlough on August 1, I was obliged on July 31, 1914, to suddenly proceed to the field. That has impressed itself on my memory indelibly. I repeat that every error as to my mentioning of time and dates is out of the question."

L

THE ENGLISH PRESS OF 1887 ON
BELGIUM'S NEUTRALITY

I

THE BETRAYAL OF BELGIUM
WHAT THE ENGLISH TORIES ONCE SAID

(The Labour Leader, February 4, 1915)

In the records of political hypocrisy we doubt if there is anything more complete or more dishonest than that of the British Tory Party, regarding Belgium, and we give today a proof which must make honest men stand aghast and fill decent citizens with disgust. On February 4, 1887, The Standard published a letter and leading article, both of which we reproduce below. At that time The Standard was the official organ of the Tory Government; its editor was a bosom friend of Lord Salisbury, and every pronouncement of this character which appeared in it was to all intents and purposes a Government statement. It will be noted that in the leading article "Diplomaticus" is described as being a person of high authority, and his letter has been regarded as official by writers on diplomatic history like M. Milovanovitch (*Traité de Garantie au XIX^e Siècle*, Paris (1888), p. 465).

Standard, Friday, February 4, 1887

To the Editor of The Standard:

Sir:—Military experts are of the opinion that France has spent so much money, and spent it so well during the last sixteen years in providing herself with a fresh military frontier, that a direct advance by the German armies into France, past the new fortresses and forts that have been erected and linked together, would be, even if possible, a very hazardous undertaking.

But if Germany was, or considered itself to be, provoked into a struggle of life and death with France would Prince Bismarck, with the mighty forces he can set in motion, consent to be baffled by the artificial obstacles to which I have alluded, so long as there existed a natural and undefended road by which he could escape from his embarrassment?

Such a road or way out does exist. It lies on Belgian territory. But the neutrality of Belgium is protected by European guarantee and England is one of the guarantors.

In 1870 Earl Granville, then at the head of the English Foreign Office, alive to this danger, promptly and wisely bound England to side with France if Prussia violated Belgian territory and with Prussia if France did so.

Would Lord Salisbury act prudently to take upon himself a similar engagement in the event of a fresh conflict between these two countries? It is for Englishmen to answer the question. But it seems to me, as one not indifferent to the interests and greatness of England, that such a course at the present moment would be unwise to the last degree. However much England might regret the invasion of Belgian territory by either party to the struggle, she could not take part with France against Germany (even if Germany were to seek to turn the French flank by putting its armies through the Belgian Ardennes) without utterly vitiating and destroying the main purpose of English policy all over the world.

But, it will be asked, must not England honor its signature and be faithful to its public pledges? I reply that your Foreign Minister ought to be equal to the task of meeting this objection without committing England to war. The temporary use of a right of way is something different from a permanent and wrongful possession of territory; and surely England would be easily able to obtain from Prince Bismarck ample and adequate guarantees that, at the close of the conflict, the territory of Belgium should remain intact as before?

You will see, sir, that I raise, in a very few words, an exceedingly important question. It is for the English people to perpend and pronounce. But it is high time they reflected on it.

I am, sir, your obedient servant,

“DIPLOMATICUS.”

Upon this, *The Standard*, in a leading article, wrote as follows:

Standard Leading Article, February 4, 1887

We are reminded this morning, by a correspondent who speaks with high authority, that while we are all wondering how long it will be before a fresh conflict breaks out between France and Germany, Englishmen are shutting their eyes to a question closely, and perhaps inevitably, allied with that contingent event, and affecting the interests of this country more vitally than they could be affected even by any probable result from the struggle between those two powerful States. In the event of war between Germany and France, and in case either Germany or France were to disregard the neutrality of Belgian territory, what ought England to do? That is the question and he indicates pretty plainly a reply with which, we may at once say, we do not believe the English people will be disposed to

quarrel. In order, however, to enable them to respond to the inquiry with full knowledge and deliberate judgment, it is necessary to lay before them the facts and the contingencies of the situation somewhat more amply and more in extenso than is done by "Diplomaticus." On the declaration of war by France against Prussia in 1870, Earl Granville, as we all know, with more promptness and decision than he usually displayed, sought to secure respect for Belgian territory by notifying that, should either combatant ignore the neutrality secured to it by public treaty, England would side actively with the other combatant. It may be said, why cannot the same course be pursued once more in the event of a similar condition of affairs coming into play? The answer is that a similar condition of affairs no longer exists. In the first place, in 1870 neither of the combatants had any pressing necessity to resort to a violation of Belgian territory in the execution of their military designs. The territory of Germany was avowedly vulnerable in several places, and France was so assured of her military superiority—that no precautions had been taken against the possibility of France being invaded. . . . Metz and Strassburg are now German fortresses; and no one requires to be told that Germany has neglected no precautions or expedients to render the invasion of the territory of the Fatherland a difficult if not an impracticable undertaking. Armed to the head for offense, Germany is likewise armed to the heel for defense. She is more invulnerable than Achilles, for there is no point uncovered.

How stands it with France as regards defense against invasion? . . . Not only does France possess a first line of fortresses, contiguous to German territory, in Belfort, Epinal, Toul, and Verdun, but all four are linked with each other in succession by another line of detached forts . . . a direct advance by the German armies into France by the new fortresses and forts that have been

erected and linked together would be, even if possible, a very hazardous undertaking. There are, however, two other ways of entering France from Germany. One is through Switzerland, the other is through Belgium. Both are what is understood by "neutral territory," but the mountainous character of Switzerland renders access to France through its passes more arduous and less accessible than through the territory of Belgium. In case the German armies found themselves practically prevented from engaging in offensive military operations against France by the admirable line of defense with which she has provided herself, would Prince Bismarck and the great soldiers whom he would inspire consent to be thwarted by the inviolability of Belgium as guaranteed by European treaty? "Diplomaticus" puts the question with undiplomatic bluntness. He forbears from answering it, and so must we. But it will be obvious to everybody that there is a possibility, a danger, of Germany not being willing to be debarred from invading France by an obstacle that has grown up since the treaty guaranteeing the neutrality of Belgium was signed. Our readers will at once perceive that the situation is absolutely different from the one that existed in 1870 when Earl Granville quickly and cheerfully imposed on England the obligation to take part against either combatant that violated Belgian soil. Neither combatant was much tempted to do so, and thus, the engagement assumed by England—a very proper one at the time—was not very serious or onerous and saved appearances rather than created responsibility. Now the situation is entirely changed. If England, with a view to securing respect for Belgian territory, were to bind itself, as in 1870, to throw its weight into the balance against either France or Germany, should either France or Germany violate Belgian ground, we might, and probably should, find ourselves involved in a war of giants on our own account.

We think that "Diplomaticus" understands the English people when he hints his suspicion that such a result would be utterly alien alike to their wishes and to their interests. For over and above the fact that, as we have seen, the temptation to violate Belgian territory by either side is much greater than it was in 1870, the relations of England with European Powers have necessarily and naturally undergone considerable modification during that period. We concur with our correspondent in the opinion he expresses that for England and Germany to quarrel, it matters not upon what subject, would be highly injurious to the interests of both. Indeed, he is right when he says that the main outlines of our policy would be blurred and its main purposes embarrassed, if not defeated, were we suddenly to find ourselves in a state of hostility to Germany instead of one of friendliness and sympathy. No doubt if Germany were to outrage the honor or disregard the interests of England we should be ready enough to accept the challenge thrown down to us. But would the violation of Belgian territory, whether by Germany or France, be such an injury to our honor and such a blow to our interests? It might be so in certain circumstances and it would assuredly be so if it involved a permanent violation of the independence of Belgium. But, as "Diplomaticus" ingeniously suggests, there is all the difference in the world between the momentary use of a "right of way," even if the use of the right of way be, in a sense, wrongful, and the appropriation of the ground covered by the right of way. We trust that both Germany and France would refrain even from this minor trespass. But if they did not? If one or the other were to say to England, "All the military approaches to France and Germany have been closed, and only neutral approaches lie open to us. This state of things is not only detrimental but fatal to our military success, and it has arisen since the treaty guaranteed the sacredness of

the only roads of which we can now avail ourselves. We will, as a fact, respect the independence of Belgium, and we will give you the most solemn and binding guarantees that at the end of the conflict Belgium shall be as free and independent as before," if Germany (and of course our hypothesis applies also to France) were to use this language—though we trust there will be no occasion for it—we cannot doubt what would be the wise and proper course for England to pursue, and what would be the answer of the English Government. England does not wish to shirk its true responsibilities. But it would be madness for us to incur or to assume responsibilities unnecessarily when to do so would manifestly involve our participation in a tremendous war.

That week *The Spectator*, the organ of the respectable classes, commented upon these pronouncements as follows:

Spectator, Saturday, February 5, 1887
News of the Week

. . . the general idea is that England will be kept out of this war. . . . That she will try to do so we do not doubt, but there is the Belgian difficulty ahead. Our guarantee for her is not a solitary one, and would not bind us to fight alone; but there are general interests to be considered. The probability is that we shall insist on her not becoming a theatre of war but shall not bar—as indeed we cannot bar—the traversing of her soil.

We think that these documents prove the grave statements by which we introduced them.

2.

THE BETRAYAL OF BELGIUM

WHAT THE ENGLISH LIBERALS ONCE SAID

(The Labour Leader, February 11, 1915)

The article we published recently from The Standard appeared in its issue of February 4, 1887. That afternoon the Pall Mall Gazette, then edited by Mr. Stead, whose aggressive Liberalism on the subject of small nationalities and sacredness of treaties is well known, published the following article:

"Pall Mall Gazette," February 4, 1887

England and Belgium.

Are we bound to intervene?

There is no guarantee.

The Standard this morning gives special prominence to a letter signed "Diplomaticus" on the neutrality of Belgium. It also devotes its first leading article to the subject. The gist of these utterances may be summed up in two propositions: (1) England is under a treaty of obligation to defend the neutrality of Belgium; (2) But circumstances have altered since the contraction of the said obligation, and as against Germany, at any rate, England must pocket its pledges, and allow France to be invaded through Belgium without protesting or interfering.

Considerable importance is likely to be attributed to these conclusions abroad owing to its being understood that The Standard is at present the Governmental Salisburian organ. Each of the propositions laid down by our contemporary is, it will be seen, likely to be taken hold of. Germany might read the second as an invitation to invade France through

Belgium; France might read the first as an admission of our obligation to prevent, or rather to punish, such an infringement of neutral territory, if we dared.

It becomes important, therefore, to point out that The Standard's argument rests on a false assumption. We do not for the present argue whether in the contingencies contemplated it would be England's interest to intervene by declaring war against whichever belligerent might violate the neutrality of Belgium; we confine ourselves to the preliminary statement essential for clearing up the case—that it is not England's obligation to do so.

The origin of the mistaken views prevailing on the question is undoubtedly a confusion between the Special Treaty of 1831 and 1839 which it temporarily superseded. By the treaty of 1870 the obligation of England was, of course, clear and specific. Here is the pledge which was given in the identical treaties concluded *mutatis mutandis* with both France and Prussia:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland declares that if during the said hostilities the armies of France (or Prussia) should violate the neutrality of Belgium, she will be prepared to co-operate with his Prussian Majesty (or the Emperor of the French) for the defense of the same in such a manner as may be mutually agreed upon, employing for that purpose her naval and military forces to ensure its observance."

There could be no doubt about that pledge; but then it expired twelve months after the conclusion of peace. At the expiration of that period, so the treaty continued:

"The independence and neutrality of Belgium will, so far as the High Contracting Parties are respectively concerned, continue to rest as heretofore on the first article of the Quintuple Treaty of the 19th of April, 1839."

Now, what some people do is to read this treaty of 1839 by the light of the more specific treaty of 1870, and to deduce from the former the same obligation on the part of England to intervene against any infringement of Belgium's neutrality as was contained in the 1870 treaty.

This, however, is a completely untenable proceeding. The treaty of 1839 must stand on its own legs, and these, it will be seen, are by no means very strong. The following are the terms of its second article:

"His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the King of the French, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the King of Prussia, and His Majesty the Emperor of all the Russias, declare that the articles hereby annexed to the treaty concluded this day between His Majesty the King of the Belgians and His Majesty the King of the Netherlands, Grand Duke of Luxembourg, are considered as having the same force and value as if they were textually inserted in the present act, and that they are thus placed under the guarantee of their Majesties."

Here, then, we are sent off from the treaty between the Great Powers to the treaty between Belgium and the Netherlands. The seventh article of this treaty (which is identical with the same article of the 1831 treaty) runs:

"Belgium will form, within the limits indicated in 1, 2, and 4, an independent and perpetually neutral State. She will be bound to observe this same neutrality toward all other States."

In this treaty it will be seen there is nothing about any guarantee; all that can be elicited from it, and from the one cited as referring to it, is this, that this clause is placed under the guarantee of "their said Majesties," that is, England, Austria, France, Germany and Russia.

But that is not all. This constructive guarantee must be considered in relation to the party to whom it was given—namely to the Netherlands. For the treaty of 1839 was one between the five Powers on the one hand and the Netherlands on the other; and what the five Powers did was to guarantee to the Netherlands the treaty contracted between it and Belgium, one clause of which treaty said that Belgium should form, “an independent and perpetually neutral State” and should “be bound to observe such neutrality toward all other States.”

In the treaty of 1831, it is true, there was a further article guaranteeing the execution of all preceding articles (including, therefore, the one just cited in similar terms from the 1839 treaty) to the King of the Belgians, but in the 1839 treaty, on which the independence of Belgium is now said to rest, Lord Palmerston omitted any such guarantee.

There is, therefore, no English guarantee to Belgium. It is possible, perhaps, to “construct such a guarantee; but the case may be summed up as follows: (1) England is under no guarantee whatever except such as is common to Austria, France, Russia, and Germany; (2) that guarantee is not specifically of the neutrality of Belgium at all; and (3) is given not to Belgium but to the Netherlands.

Pall Mall Gazette, February 5, 1887

OCCASIONAL NOTES.

The attempt of the Morning Post to prove that this country is under a guarantee to Belgium to defend its neutrality is highly unsuccessful. “The treaty of the 15th of November, 1831,” it says, “was cancelled by treaties of the 19th of April, 1839, but the provisions regarding the neutrality of Belgium remained intact.” This, as we pointed out yesterday, is not the case. The treaty of 1831

was with Belgium, and the execution of its articles (including one which provided for the neutrality of Belgium) was guaranteed to the King of the Belgians. But in the treaty of 1839, though the article asserting the neutrality of Belgium remains, the guarantee disappears. It is the more surprising that the Morning Post should be at such pains to prove that there is still a guarantee, since the only action it would in any case recommend being taken on it is a platonic protest. To construe a non-existent guarantee in order to have the privilege of uttering an unavailing protest is surely the very superfluity of futility.

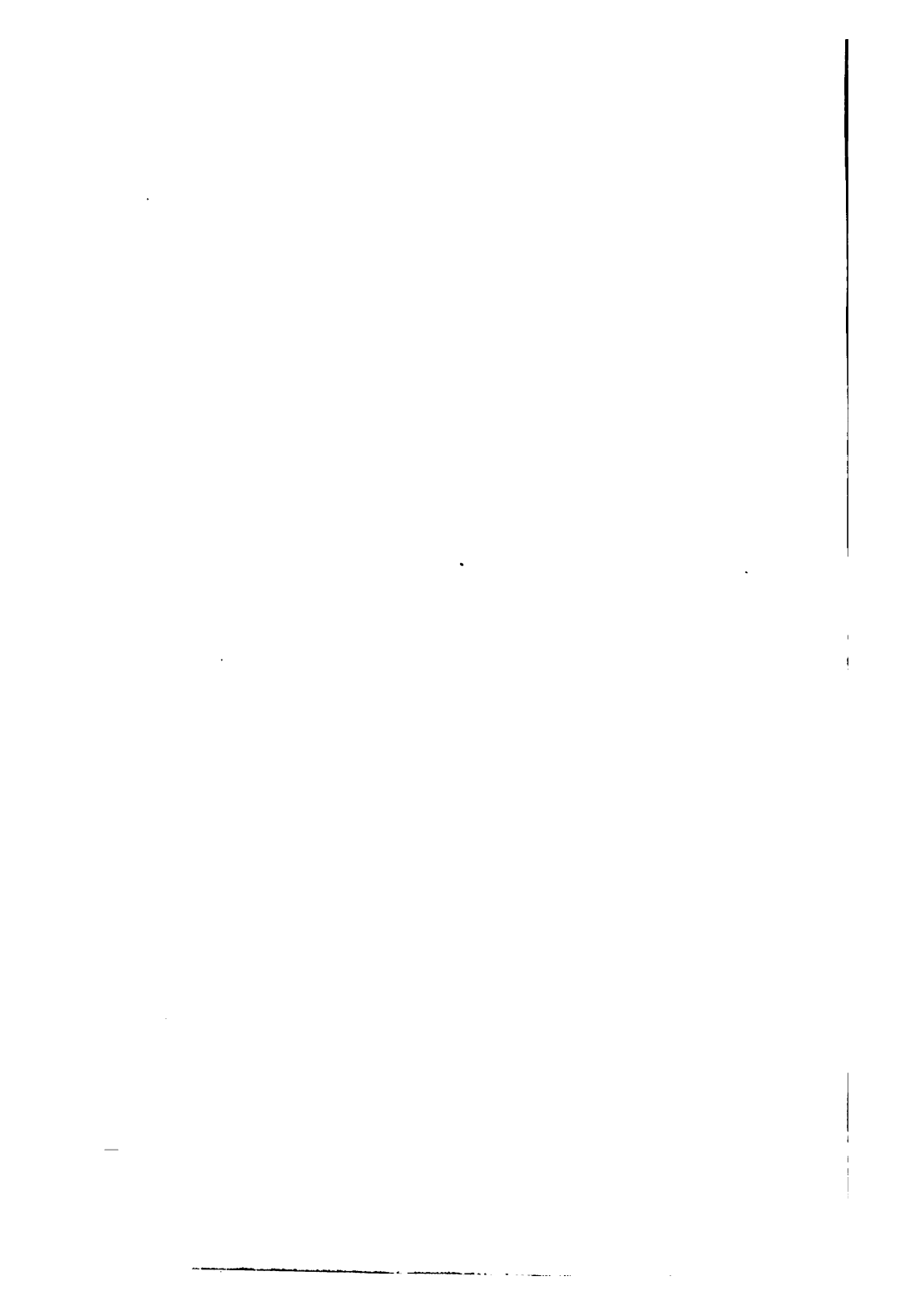
But the line taken by the Morning Post is perhaps not quite so absurd as that which The Standard yesterday suggested, and a correspondent repeats this morning. We are to construct the guarantee and are then to declare our obligation to defend the neutrality of Belgium against all comers. But when any particular comer infringes that neutrality we are to grant him a special dispensation. The Standard and its correspondent speak only of giving this dispensation to Germany; what is to be allowed to Germany could not be denied to France. Our defense of the neutrality of Belgium would thus be never today but always every other day; it would be asserted against anyone in general, but withdrawn against anyone in particular. With such absurdities staring them in the face, it is surprising that our contemporaries do not take the trouble to ascertain that the guarantee which they are so ingeniously but unheroically whittling down does not in fact exist at all.

We wonder if national honour was held in less esteem in 1887 than in 1914. That cannot be the explanation of these articles and of the professions of Liberal and Tory politicians at the present moment. We have a shrewd suspicion that the real

explanation is that in the minds of these politicians national honour is merely an affair of party convenience, that "circumstances" caused our diplomats in 1887 to take one view, whereas in 1914 they caused the same gentlemen to take another view. The unsophisticated man in the street is steady all the time. He has an instinctive sense of what is right and what is wrong, and we shall have neither consistency nor honour in foreign politics until means are adopted which will enable him to control them. He is now a mere victim in the hands of Foreign Offices which muddle their business and the power to involve his life and his honour in whatever they say or do.

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