

its members, and receiving their approval, has worked admirably and shows that co-operation between the Senate Committee and the Secretary of State is both possible and profitable, if only the Secretary of State takes the members of the Committee into his confidence.

Mr. Bryan, however, has not been content to negotiate treaties with some of the nations. He wishes, on the contrary, to secure agreements of a similar, if not an identical, kind with all the nations that believe in arbitration. On September 15th he had the very good pleasure to sign treaties of this kind with China, Spain, France, and Great Britain. After the signing of these treaties, which will undoubtedly be advised and consented to by the Senate, Mr. Bryan prepared the following statement, which the JOURNAL is able to print through his courtesy:

The signing of the four treaties with Great Britain, France, Spain and China bring under treaty obligations more than nine hundred millions of people. These, when added to the population of the United States and the population of the twenty-two countries with which similar treaties have heretofore been signed, brings under the influence of these treaties considerably more than two-thirds of the inhabitants of the globe. As these treaties all provide for investigation of all matters in dispute before any declaration of war or commencement of hostilities, it is believed that they will make armed conflict between the contracting nations almost, if not entirely, impossible. This government is gratified to take this long step in the direction of peace and is not only willing, but anxious to make similar treaties with all other nations, large and small. Immediately upon the signing of these treaties, telegrams were sent to the government's representatives in Germany, Russia, Austria and Belgium, communicating the fact of the signing of these treaties and expressing a desire to sign similar treaties with these countries, all of which have endorsed the principle embodied in the plan.

GERMANY AND THE NEUTRALITY OF BELGIUM

The war, it would seem, has barely begun, and yet there are charges and countercharges of the violation of international agreements and of the unwritten laws of humanity. People in an excited state of mind readily believe charges without weighing, as in a balance, the elements of proof, upon which the truth or falsehood of the charges rests, and for the sake of our common humanity it is to be hoped that the proofs will not be forthcoming. The JOURNAL believes it unwise either to enumerate the charges or to attempt to comment upon them, reserving the right at some future time to consider them when the facts are known upon which judgment should be based. It is, however, proper to advert to one charge: namely, the violation of the neutrality of Belgium and of Luxemburg, of which Germany is accused.

There are several documents which should be considered in this connection: (1) the London conventions of 1831 and 1839 concerning the independence and neutrality of Belgium; (2) the accession of the German Confederation to the London convention of 1839; (3) the London convention of 1867 concerning the neutrality of Luxemburg; (4) the treaties of 1870 concerning the neutrality of Belgium between Great Britain and Prussia, and Great Britain and France; (5) the convention respecting the rights and duties of neutral Powers and persons in case of war on land adopted by the Second Hague Peace Conference of 1907.

In 1830, Belgium, which had been united with Holland by the Congress of Vienna, to form the Kingdom of the Netherlands, revolted; and, on November 15, 1831, Great Britain, Austria, France, Prussia and Russia, on the one hand, and Belgium, on the other, entered into a treaty of which the provisions relating to neutrality are as follows:

Belgium, within the limits specified * * * shall form an independent and perpetually neutral state. It shall be bound to observe such neutrality towards all other states. (Art. VII.)

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. (Art. XXV.)

The King of the Netherlands was unwilling at this time to recognize the independence of Belgium, but he finally did so by a treaty signed with Belgium on April 19, 1839; and in a series of treaties of the same date, to which Holland and Belgium were parties, the independence of Belgium was recognized, its neutrality likewise recognized, and the execution of the provisions of the treaties placed under the guaranty of the great Powers. Thus to the treaty of April 19, 1839, the articles of the treaty between Belgium and the Netherlands are annexed, and "are considered as having the same force and validity as if they were textually inserted in the present Act," and "they are thus placed under the guarantee of their said Majesties." Article VII of the treaty of 1831 reappears as Article VII of the new treaty, and is thus guaranteed. Articles I to VII, inclusive, of the treaty of April 19, 1839, were on the same day adhered to by the German Confederation, and this adherence was formally accepted by Great Britain, Austria, Belgium, France, the Netherlands, Prussia and Russia. Article VII guaranteeing the independence and neutrality of Belgium was thus confirmed, not only by the five great Powers, but by all of the German States.

The attempt of Napoleon III, Emperor of the French, to obtain the

Grand Duchy of Luxemburg as the price of his neutrality in the war of 1866 between Prussia and Austria, led to the convention of London between Great Britain, Austria, Belgium, France, Italy, Netherlands, Prussia and Russia, by which the Powers in question engaged to respect the neutrality of Luxemburg, and, with the exception of Belgium, to guarantee its neutrality. The material portion of this important treaty follows:

Article II. The Grand Duchy of Luxemburg, within the limits determined by the act annexed to the treaties of the 19th of April, 1839, under the guarantee of the courts of Great Britain, Austria, France, Prussia, and Russia, shall henceforth form a perpetually neutral state. It shall be bound to observe the same neutrality toward all other states. The high contracting parties engage to respect the principle of neutrality stipulated by the present article. That principle is and remains placed under the sanction of the collective guarantee of the Powers signing the present treaty, with the exception of Belgium, which is itself a neutral state.

The outbreak of the war of 1870 between Prussia and the German States, on the one hand, and France on the other, raised doubts in the minds of the British statesmen as to the preservation of Belgian neutrality, for Belgium was then, as now, a highway between the two belligerents. Great Britain, therefore, entered into a treaty with Prussia of August 9, 1870, and on the 11th of August, 1870, with France, which, without affecting the guaranty of 1839, specified that each of the belligerents would observe Belgian neutrality during the war, and Great Britain pledged itself to preserve by force of arms the neutrality of Belgium, if it were violated by one or the other of the belligerents.

The matter, however, does not rest here. The Hague Convention, to which reference has been made, provides in its first article that "the territory of neutral Powers is inviolable;" Article 2, that "belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power;" Article 5, that "a neutral Power must not allow any of the acts referred to in Articles 2 to 4 to occur on its territory;" and Article 10, that "the fact of a neutral Power resisting, even by force, attempts to violate its neutrality can not be regarded as a hostile act." The official report of the Conference says that Articles 1 to 11 were unanimously adopted (*Deuxième Conférence Internationale de la Paix, Actes et Documents*, Vol. 1, p. 125), and the convention was signed and ratified by Germany, and the ratification thereof deposited at The Hague November 27, 1909. It should be said, however, that this convention contains the clause in Article XX, that

"its provisions do not apply except between contracting Powers, and then only if all the belligerents are parties to the convention." It appears, however, that Servia has not ratified this convention.

On August 4, 1914, Dr. von Bethmann Hollweg, Chancellor of the German Empire, said, in a speech to the Reichstag, as quoted in the London *Times* of August 11, 1914:

Gentlemen, we are now in a state of necessity, and necessity knows no law! Our troops have occupied Luxemburg, and perhaps are already on Belgian soil. Gentlemen, that is contrary to the dictates of international law. It is true that the French Government has declared at Brussels that France is willing to respect the neutrality of Belgium as long as her opponent respects it. We knew, however, that France stood ready for the invasion. France could wait, but we could not wait. A French movement upon our flank upon the lower Rhine might have been disastrous. So we were compelled to override the just protest of the Luxemburg and Belgian Governments. The wrong—I speak openly—that we are committing we will endeavor to make good as soon as our military goal has been reached. Anybody who is threatened, as we are threatened, and is fighting for his highest possessions can have only one thought—how he is to hack his way through (*wie er sich durchhaut*)!

It therefore appears that the Chancellor knew and admitted that the occupation of Belgium and Luxemburg was contrary to international law, but he justified the act by the statement that the German Empire was "in a state of necessity" and that "necessity knows no law."

Some light is thrown on the reasons which may have moved Germany to violate the neutrality of Luxemburg and Belgium by the following passage from General von Bernhardt's *War of Today*, published in 1911:

* * * An example—of course a mere theoretical one—will illustrate the idea in the simplest manner.

Leaving all political conditions alone, we can very well imagine a German offensive against France being conducted by the northern wing of the German army, with its extreme right along the sea-coast, advancing with the armies echeloned forward through Holland and Belgium, while the German forces in the south evade the blow of the enemy, retiring through Alsace and Lorraine in a north-easterly direction, and leaving South Germany open to their opponent. The advance in echelon of the German attacking wing would force the left wing of the opposing army into making a great change of front, bringing it by this means alone into an unfavorable situation; but in the south the French would likewise be obliged to carry out a strategic left wheel, thereby getting into an unfavorable position as to their base. Strategically would here be attained what Frederic the Great achieved by his attack in echelon at Leuthen tactically.

A German success in the north would lead straight on Paris, and touch the vital arteries of the French army much sooner than the latter could gain decisive results in South Germany. In such a case the position of the French army portions which

had penetrated into South Germany would likely become extremely critical, as they would find their line of retreat most seriously threatened from the north.

There is no need at all for any specially intricate and difficult movements of the German army. It would be chiefly a question of properly distributing the forces and regulating the extent of the retrograde movement of the left wing. That must never be allowed to go so far as to expose the lines of communication of the German right wing. The pivot of the movement, which might be fixed somewhere in northern Lorraine and Luxemburg, must be vigorously held, too. People have therefore often thought of turning Trier into an army fortress, and the idea of fortifying Luxemburg is also partly based on similar points of view. These reflections show, at any rate, the prominent importance of the fortress of Mainz. It would be, further, advisable to hold a strategic reserve in a central position, ready for reinforcing, in case of need, either the right or the left wing.¹

GERMANY AND INTERNATIONAL PEACE

The position of Germany at the Second Hague Conference on the subject of arbitration has been much discussed and no little criticized. At a session of the Reichstag held April 28, 1914, the Director of the Foreign Office, Dr. Kriege, German delegate to the Second Hague Peace Conference and to the London Naval Conference, explained and defended the attitude of Germany in 1907, and in the course of his remarks made some very interesting observations, not merely concerning arbitration and the judicial decision of international difficulties, but concerning the meeting and labors of a Third Peace Conference, in which Germany would be represented, and from which he expected great results.

The first paragraph of this address² aims to show that Germany is friendly, not merely to treaties of arbitration, but to the arbitration of concrete difficulties; that it has negotiated two treaties of arbitration—one with Great Britain, which has been twice renewed, and the other with the United States of America, which, however, has not become effective—and that it has inserted the arbitral clause in a series of commercial treaties. Dr. Kriege calls attention also to the fact that Germany proposed the creation of an International Prize Court at the Second Hague Conference, and that at the last Hague Conference on Bills of Exchange, the German delegation advocated the creation of an international court of appeal to decide conflicts of private international law. He further calls attention to the treaties between France and

¹ Von Bernhardt's *War of Today*, authorized translation by Karl von Donat, pp. 328-329.

² The translation of Dr. Kriege's remarks is made from the text as contained in the "Zeitschrift für Völkerrecht," Vol. 8 (1914), pp. 460-462.