

PORTLAND, OREGON, SUNDAY MORNING, NOVEMBER 22, 1914.

THE SUPREME COURT OF CIVILIZATION
THE CASE OF
The Double Alliance vs. The Triple Entente

Argued By JAMES M. BECK,
Former Assistant Attorney General of the United States.

IF THE evidence submitted by the official "White," "Orange" and "Gray Books" of the warring nations were analyzed as a lawyer analyzes the evidence in his cases, who would be found responsible for the European war? This evidence was submitted to James M. Beck, formerly assistant attorney general of the United States and a leader of the New York bar, who has argued many of the most important cases before the supreme court, notably the Northern Securities case, the Lotteries case, the Danbury Hatters' case and the Paper Trust case.

Mr. Beck's argument of this, the greatest of the world's cases, that of the Double Alliance vs. the Triple Entente before the Supreme Court of Civilization, is presented here, and is one of the most interesting articles written about this widely discussed question of the responsibility for the European conflict.

By James M. Beck.

LET us suppose that in this year of dis-Grace, Nineteen Hundred and Fourteen, there had existed, as let us pray will one day exist, a supreme court of civilization, before which the sovereign nations could litigate their differences without resort to the iniquitous and less effective appeal to the arbitration of arms.

Let us further suppose that each of the contending nations had a sufficient leaven of Christianity to have its grievances adjudged not by the ethics of the cannon or the rifle, but by the eternal criterion of justice.

What would be the judgment of that august tribunal? Any discussion of the ethical merits of this great controversy must start with the assumption that there is such a thing as international morality.

This fundamental axiom, upon which the entire basis of civilization necessarily rests, is challenged by a small class of intellectual perverts.

Some of these hold that moral considerations are subordinate either to military necessity or so-called manifest destiny. This is the Bernhardt doctrine.

Others teach that war is a beneficent quality, and that all nations engaged in it are therefore equally justified. On this theory, all of the now contending nations are but victims of an irresistible current of events, and the highest duty of the state is to prepare itself for the systematic extermination when necessary of its neighbors.

Notwithstanding the clever platitudes under which both these doctrines are veiled, all morally sane minds are agreed that this war is a great crime against civilization, and the only open question is, which of the contending groups of powers is morally responsible for that crime? Was Austria justified in declaring war against Serbia? Was Germany justified in declaring war against Russia? Was England justified in declaring war against Germany? As the last of these questions is the most easily disposed of it may be considered first.

England's Justification.

England's justification rests upon the solemn treaty of 1839, whereby Prussia, France, England, Austria and Russia "became the guarantors" of the "perpetual neutrality" of Belgium, as reaffirmed by Count Bismarck, then chancellor of the German empire, on July 22, 1870, and as even more recently reaffirmed by the striking fact disclosed in the Belgian "Gray Book."

In the spring of 1913, a debate was in progress in the budget committee of the reichstag with reference to the military budget. In the course of the debate the German secretary of state said:

"The neutrality of Belgium is determined by international conventions, and Germany is resolved to respect these conventions."

To confirm this solemn assurance, the minister of war added in the same debate:

"Belgium does not play any part in the justification of the German scheme of military reorganization. The scheme is justified by the position of matters in the east. Germany will not lose sight of the fact that Belgian neutrality is guaranteed by international treaties."

A year later, on July 31, 1914, Herr von Below, the German minister at Brussels, assured the Belgian department of state that he knew of a declaration which the German chancellor had made in 1911, to the effect "that Germany had no intention of violating our neutrality," and "that he was certain that the sentiments to which expression was given at that time had not changed." (See Belgian "Gray Book," Nos. 11 and 12.)

It seems unnecessary to discuss the wanton disregard of these solemn obligations and protestations, when the present chancellor of the German empire, in his speech to the reichstag and to the world on August 4, 1914, frankly admitted that the German military machine in invading Belgium was a wrong. He said:

"We are now in a state of necessity, and necessity knows no law. Our troops have occupied Belgium 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, but we endeavor to make it clear that we are not bound by that declaration. We knew, however, that France stood ready for 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 Luxembourg and Belgian governments. The wrong I speak openly—that we are committing we 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 good, can only have one thought—how he is to hack his way through."

This confession is not even a plea of confession and avoidance. It is a plea of "guilty" at the bar of the world. It has one merit, that it does not add to the crime the aggravation of hypocrisy. It virtually rests the case of Germany upon the gospel of Treitschke

and Bernhardt, that each nation is justified in exerting its physical power to the utmost in defense of its self-interests. There is no novelty in this gospel. Its only surprising feature is its revival in the twentieth century. It was taught far more effectively by Machiavelli in his treatise, "The Prince," wherein he glorified the policy of Cesare Borgia in tramping the weaker states of Italy under foot by ruthless terrorism, unbridled ferocity, and the basest deception. Indeed, the wanton destruction of Belgium is simply Bernhardt amplified a hundredfold by the mechanical resources of modern war.

Unless our boasted civilization is the thinnest veneering of barbarism; unless the law of the world is in fact only the ethics of the rifle and the conscience of the cannon; unless mankind after uncounted centuries has made no real advance in political morality beyond that of the cave dweller, then this answer of Germany cannot satisfy a "decent respect to the opinions of mankind." Germany's contention that a treaty of peace is "a scrap of paper," to be disregarded at will when required by the selfish interests of one contracting party, is the negation of all that civilization stands for.

Belgium has been crucified in the face of the world. Its innocence of any offense, until it was attacked, is too clear for argument. Its voluntary implication to preserve its solemn guarantee of neutrality will "please like angels, trumpet-tongued, against the deep damnation of its taking off." On that issue the supreme court could have no ground for doubt or hesitation. Its judgment would be speedy and inexorable.

A War of Diplomats.

The remaining two issues, above referred to, are not so simple. Primarily and perhaps exclusively, the ethical question turns upon the issues raised by the communications which passed between the various chancelleries of Europe in the last week of July. It is the amazing feature of this greatest of all wars that it was precipitated by diplomats and assuming that all the diplomats sincerely desired a peaceful solution of the questions raised by the Austrian ultimatum (which is by no means clear), it was the result of ineffective diplomacy and clumsy diplomacy at that.

I quite appreciate the distinction between the immediate causes of a war and the anterior and more fundamental causes; nevertheless, with the world in a state of summer peace on July 28, 1914, an issue, gravely affecting the integrity of nations and the peace of Europe, is raised by the refusal of Austria to accept the proposition of Sir Edward Grey to treat the Serbian reply "as a basis for further conversations."

"Germany" continued our mediatory efforts to the utmost and advised Vienna to make any possible compromise consistent with the dignity of the monarchy. (German "White Paper.") This would be more convincing if the German foreign office in giving other diplomatic documents had only added the text of the advice which it thus gave Vienna.

The same significant omission will be found when the same official defense states that on July 23 the German government advised Austria "to begin the conversations with Mr. Sazonov." But here again the text is not found among the documents which the German foreign office has given to the world. The communications, which passed between that office and its ambassadors in St. Petersburg, Paris, and London, are given in extenso, but among the 27 communications appended to the German official defense it is most significant that not a single communication is given of the many which passed from Berlin to Vienna and only one that passed from Vienna to Berlin. This cannot be an accident. Germany has seen fit to throw the veil of secrecy over the text of its communications to Vienna, although professing to give the purport of a few of them.

The Suppression by Germany and Austria of Vitally Important Documents.

Primarily such a court would be deeply impressed not only by what the record as thus made up discloses, but also by the significant omissions of documents known to be in existence. The official defense of England and Russia does not apparently show any failure on the part of either to submit all of the documents in their possession, but the German "White Paper" on its face discloses the suppression of documents of vitally importance, while Austria has as yet failed to submit any of the documentary evidence in its possession.

We know from the German "White Paper"—even if we did not conclude as a matter of irrefragable inference—that many important communications passed in this crisis between Germany and Austria, and it is probable that some communications must also have passed between those two countries and Italy. Italy, despite its embarrassing position, owes to the world the duty of a full disclosure. What such disclosure would probably show is indicated by her deliberate concealment that her allies had commenced an aggressive war, which released her from any obligation under the triple alliance.

The fact that communications passed between Berlin and Vienna, the text of which has never been disclosed, is not a matter of conjecture. Germany admits and asserts as part of her defense that she faithfully exercised her duty in disclosing to the world the communications which she has not disclosed, but which she has not disclosed by any practical results of such mediation, but the text of these vital communications is still



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kept in the secret archives of Berlin and Vienna.

The Secrecy of the Plan of the Double Alliance.

On June 28, 1914, the Austrian crown prince was murdered at Sarajevo. For nearly a month there was no action by Austria, and no public statement whatever of its intentions. The world profoundly sympathized with Austria in its new trouble, and especially with its aged monarch, who like King Lear was "as full of grief as years and wretched in both."

The Serbian government had formally disclaimed any complicity with the assassination and had pledged itself to punish any Serbian citizen implicated therein. From time to time, from June 28 to July 22, there came semi-cooled intimations from Vienna that that country intended to act with great self-restraint and in the most pacific manner. Never was it even hinted that Germany and Austria were about to apply in a time of profound peace a match to the powder magazine of Europe.

This is strikingly shown by the first letter in the English "White Paper" from Sir Edward Grey to Sir H. Rumford, dated July 23, 1914, which is one of the most significant documents in the entire correspondence. At the time this letter was written it is altogether probable that Austria's arrogant and most unreasonable ultimatum had already been framed and approved in Vienna, and possibly in Berlin and yet Sir Edward Grey, the foreign minister of a great and friendly country, had no little knowledge of Austria's policy that he "asked the German ambassador today (July 29) if he had any news of what was going on in Vienna with regard to the ultimatum to the public. He replied that he had not, but Austria was certainly going to take some action."

Sir Edward Grey adds that he told the German ambassador that he had learned that Count Berchtold, the Austrian foreign minister to Sir H. Rumford, had spoken to the Italian ambassador in Vienna, had deprecated the suggestion that the situation was grave, but had said that it should be cleared up. The German minister then replied that it would be desirable "if Russia could act as a mediator with regard to Serbia," so that the first suggestion of Russia playing the part of the peacemaker came from the German ambassador in London. Sir Edward Grey then adds that he told the German ambassador that he "assumed that the Austrian government would not do anything until they had first disclosed to the public their case against Serbia, founded presumably upon what they had discovered at the trial."

The question for decision would then be not whether Austria had a just grievance against Serbia, but whether having regard to the obligations which Austria, as well as every other country, owes to civilization, she proceeded

ed in the right manner to redress her grievance.

Did Germany Know Of or Inspire the Ultimatum?

The interesting and important question here suggests itself whether Germany had knowledge of and approved in advance the Austrian ultimatum. If it did, it was guilty of duplicity, for the German ambassador at St. Petersburg gave the Russian minister of foreign affairs an express assurance that "the German government had no knowledge of the text of the Austrian ultimatum and that it had not exercised any influence on its contents. It is a mistake to attribute to Germany a knowledge of the ultimatum."

[Russian "Orange Paper," No. 18.] This statement is inherently improbable. Austria is the weaker of the two allies, and it was Germany's saber that was rattling in the face of Europe. Obviously Austria could not have proceeded to extreme measures, which it was recognized from the first would antagonize Russia, unless she had the support of Germany, and there is a probability, amounting to a moral certainty, that she would not have committed herself and Germany to the possibility of a European war without first consulting Germany.

Moreover, we have the testimony of Sir M. de Bunsen, the English ambassador in Vienna, who advised Sir Edward Grey that he had "private information that the German ambassador at Vienna knew the text of the Austrian ultimatum to Serbia before it was dispatched and telegraphed it to the German emperor, and that the German ambassador himself 'indorses every line of it.'" (English "White Paper," No. 95.) As he does not disclose the source of his "private information," this testimony would not be itself as convincing, but when we examine Germany's official defense in the German "White Paper,"

we find that the German foreign office admits that it was consulted by Austria previous to the ultimatum and not only approved of Austria's course but literally gave her a carte blanche to proceed. This point seems so important in determining the sincerity of Germany's attitude and pacific protestations that we quote in extenso. After referring to the previous friction between Austria and Serbia, the German "White Paper" says:

"In view of these circumstances Austria had to admit that it would not be consistent either with the dignity or self preservation of the monarchy to look on longer at the operations of the other side of the border without taking action. The Austro-Hungarian government advised us of this view of the situation and asked our opinion in the matter. We were able to assure Austria most heartily of our agreement with her view of the situation and to assure her that any action that she might consider it necessary to take in order to put an end to the movement in Serbia directed against the throne of the Austro-Hungarian monarchy would receive our approval. We were fully aware in this connection that warlike moves on the part of Austro-Hungary against Serbia would bring Russia into the question and might draw us into a conflict in accordance with our duties as an ally."

Sir M. de Bunsen's credible testimony is further confirmed by the fact that the British ambassador at Berlin in his letter of July 23, to Sir Edward Grey states that on the previous evening (July 21) he had met the German secretary of state for foreign affairs, and an allusion was made to a possible action by Austria. This excellency was evidently of opinion that this step on Austria's part would have been made ere this. He insisted that the question at issue was not the independent behavior of Austria and Austria alone, and that there should be no interference from outside in the discussions between those two countries. He adds that while he had regarded it as advisable that his country should approach Austria-Hungary in the matter, he had on several occasions in conversation with the Serbian minister emphasized the extreme importance that Austria-Serbian relations should be put on a proper footing. (English "White Paper," No. 2.)

Here we have the first statement of Germany's position in the matter, a position which subsequent events showed to be entirely untenable, but to which Germany tenaciously adhered to the very end, and which did much to precipitate the war. The "forgetfulness" of the solidarity of European civilization, and the fact that by policy and diplomatic intercourse continuing through many centuries a United European States exists, even though its organization be incomplete, is the basis upon which Austria should be permitted to proceed to aggressive measures against Serbia without interference from any other power, even though, as the German "White Paper" states, "the delivery at Belgrade on July 23 of the note to Serbia was preceded by a period of absolute silence at the Ballplatz."

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The German ambassadors in the three capitals were instructed to lay particular stress on the view that the above question is one of settlement of which devolves solely upon Austria-Hungary and Serbia, and one which the powers should earnestly strive to confine to the two countries concerned."

and he added that Germany strongly desired "that the dispute be localized, since any intervention of another power, on account of the various alliance obligations, would bring consequences impossible to measure."

This is one of the most significant documents in the whole correspondence. If Germany were as ignorant as her ambassador at London affected to be of the Austrian policy and ultimatum, and if Germany was not then investigating and supporting Austria in its perilous course, why should the German chancellor have served this threatening notice upon England, France and Russia, that Austria must be left free to make war upon Serbia, and that any attempt to intervene in behalf of the weaker nation would "bring consequences impossible to measure?" (German "White Paper," Annex 1 B.)

A few days later the imperial chancery sent to the confederated governments of Germany a confidential communication in which he recognized the possibility that Russia might feel it a duty "to take the part of Serbia in her dispute with Austria-Hungary." Why, again, Austria's case was so clearly justifiable? The imperial chancellor added that "if Russia feels constrained to take sides with Serbia in this conflict, she will be in a position to do it, but added that if Russia did this it would in effect challenge the integrity of the Austro-Hungarian monarchy, and that Russia would therefore alone

"bear the responsibility if a European war arises from the Austro-Serbian question, which all the rest of the Great European powers wish to localize."

In this significant confidential communication the German chancellor declares the above intention which Germany had in the punishment of Serbia by Austria. He says "our closest interests therefore summon us to the side of Austria-Hungary," and he adds that "if contrary to hope the trouble should spread, owing to the intervention of Russia, then, true to our duty as an ally, we should have to support the neighboring monarchy with the might of the German empire."

(German "White Paper," Annex 2.) It is a rather curious and significant fact that while every other document in the German "White Paper" has a date, this very important document, in which the German chancellor asks the confederated governments of Germany to gird on their swords in preparation for a European war, bears no date. As the documents are arranged chronologically and as this document is the only one in the communication above referred to which is dated, it is the inference to be drawn that it was sent between those dates.

If it staggers ordinary credulity to believe that this portentous warning to the constituents of the German empire to prepare for "the day" should not have been written with full knowledge of the Austrian ultimatum, which had only been issued on July 23 and only reached the other side of Europe on July 24. Nevertheless, the document itself would indicate that it was written after Serbia's reply on the 23d, but as Germany expected on its own ambassador's report to receive from Serbia, it is still possible, although not probable, that this confidential warning was written either on the 23d or the 24th. The probability is, however, that the document was written shortly after July 25, and it certainly discloses no expectation of and possibly no desire for a peaceful solution of the problem. Why should the date of this important document have been omitted?

Effects to Maintain Peace.

If reaching its conclusion our imaginary court would pay little attention to mere professions of a desire for peace. A nation, like an individual, can covertly stab the peace of another while saying, "Art thou in health, my brother?" and even the peace of civilization can be betrayed by a Judas kiss. Professions of peace belong to the cant of diplomacy and have always characterized the most bellicose of nations.

No war in modern times has been begun without the aggressor pretending that his intention was to bring peace, and invoking Divine aid for its murderous policy. To paraphrase the words of Lady Teazle on a noted occasion when Sir Joseph Surface talked, "most 'honorable' it might be as well in such instances to leave the name of God out of the question."

If the Kaiser were sincere, and he may have been, his attitude was not that of his foreign office. Upon the face of the record we have only his own assurance that he was doing everything to preserve peace, but the steps that he took or the communications he made to influence Austria are not found in the formal defenses which the German government has given to the world. The Kaiser can only convince the world of his innocence of the crime of his Potsdam camarilla by giving the world the text of any advice he gave the Austrian officials. He has produced his telegrams to the czar. Where are those he presumably sent to Francis Joseph or Count Berchtold? Where are the instructions he gave his ambassadors or foreign minister?

Mobilization of the Nations.

The excuse of Germany that the mobilization of Russia compelled it to mobilize does not justify the war. Mobilization does not necessarily mean aggression, but simply preparation. If Russia had the right to mobilize because Austria mobilized, Germany equally had the right to mobilize when Russia mobilized, but it does not follow that either of the three nations could justify a war to compel the other parties to demobilize. Mobilization is only a preparation against eventual

(Concluded on Page 10.)