

HANDBOOKS PREPARED UNDER THE DIRECTION OF THE
HISTORICAL SECTION OF THE FOREIGN OFFICE.—No. 29

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NEUTRALITY OF BELGIUM

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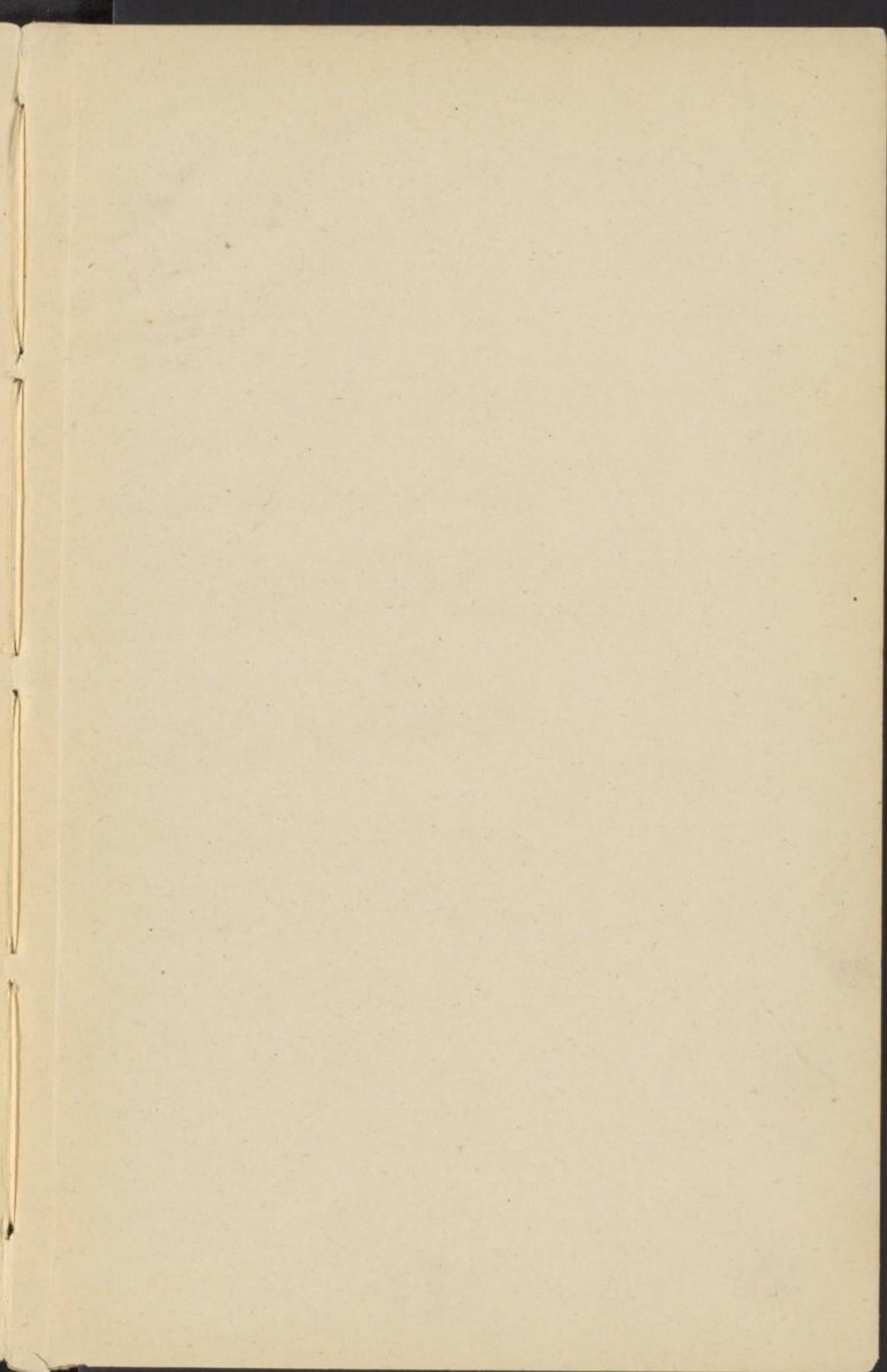
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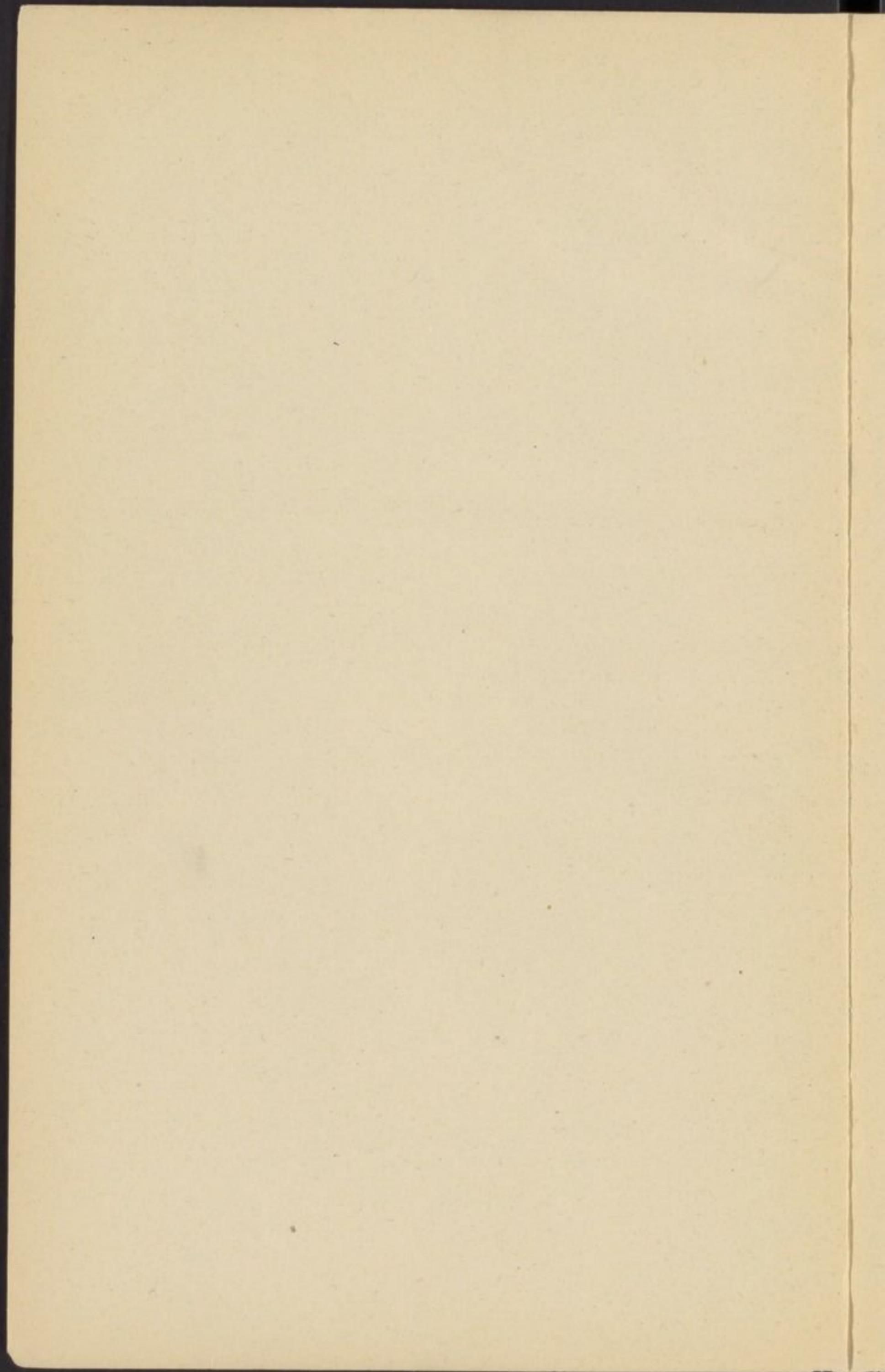


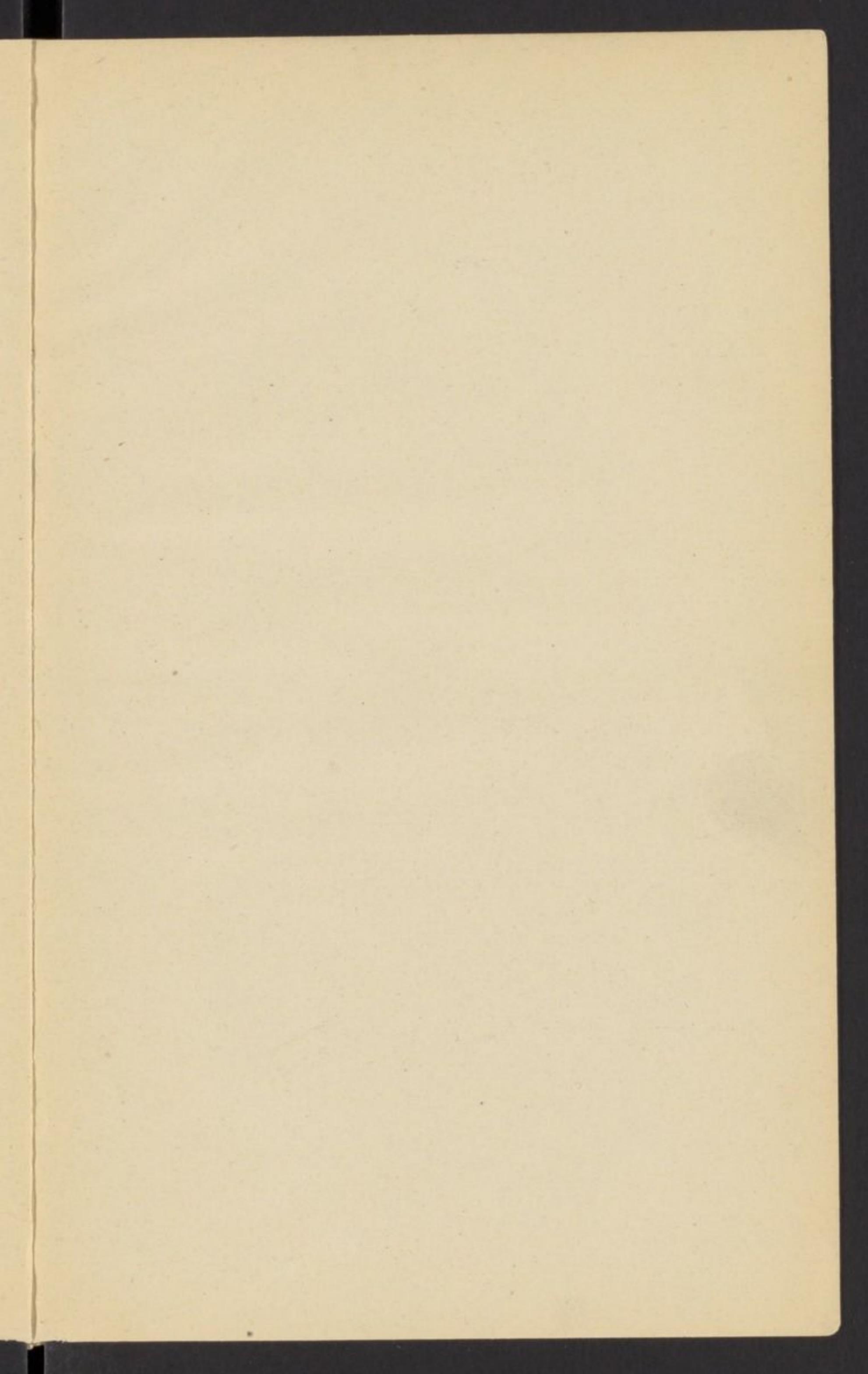


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Editorial Note.

IN the spring of 1917 the Foreign Office, in connection with the preparation which they were making for the work of the Peace Conference, established a special section whose duty it should be to provide the British Delegates to the Peace Conference with information in the most convenient form—geographical, economic, historical, social, religious and political—respecting the different countries, districts, islands, &c., with which they might have to deal. In addition, volumes were prepared on certain general subjects, mostly of an historical nature, concerning which it appeared that a special study would be useful.

The historical information was compiled by trained writers on historical subjects, who (in most cases) gave their services without any remuneration. For the geographical sections valuable assistance was given by the Intelligence Division (Naval Staff) of the Admiralty; and for the economic sections, by the War Trade Intelligence Department, which had been established by the Foreign Office. Of the maps accompanying the series, some were prepared by the above-mentioned department of the Admiralty, but the bulk of them were the work of the Geographical Section of the General Staff (Military Intelligence Division) of the War Office.

Now that the Conference has nearly completed its task, the Foreign Office, in response to numerous enquiries and requests, has decided to issue the books for public use, believing that they will be useful to students of history, politics, economics and foreign affairs, to publicists generally and to business men and travellers. It is hardly necessary to say that some of the subjects dealt with in the series have not in fact come under discussion at the Peace Conference; but, as the books treating of them contain valuable information, it has been thought advisable to include them.

It must be understood that, although the series of volumes was prepared under the authority, and is now issued with the sanction, of the Foreign Office, that Office is not to be regarded as guaranteeing the accuracy of every statement which they contain or as identifying itself with all the opinions expressed in the several volumes; the books were not prepared in the Foreign Office itself, but are in the nature of information provided for the Foreign Office and the British Delegation.

The books are now published, with a few exceptions, substantially as they were issued for the use of the Delegates. No attempt has been made to bring them up to date, for, in the first place, such a process would have entailed a great loss of time and a prohibitive expense; and, in the second, the political and other conditions of a great part of Europe and of the Nearer and Middle East are still unsettled and in such a state of flux that any attempt to describe them would have been incorrect or misleading. The books are therefore to be taken as describing, in general, *ante-bellum* conditions, though in a few cases, where it seemed specially desirable, the account has been brought down to a later date.

G. W. PROTHERO,

General Editor and formerly

Director of the Historical Section.

January 1920.

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NEUTRALITY OF BELGIUM

THE LONDON CONFERENCE, 1830-39, AND THE GUARANTEE OF BELGIAN NEUTRALITY

(i) *Introductory*

GERMAN historians and lawyers have tried to excuse or even to justify the violation of Belgian neutrality by publishing the theory that, in its origin and in its character, Belgian neutrality differs from that of Switzerland.¹ With this object, they refer to the text of the diplomatic documents and to the authority of a distinguished Belgian lawyer, E. Nys, the author of interesting works on the history of International Law. The Germans appear to have adopted his views without criticism and without any independent investigation of the meaning of the texts on which those views are based. They have, moreover, interpreted the statements of fact of this learned Belgian lawyer so as to support a theory of neutrality which he would probably be the first to repudiate.

In 1901 Nys drew the attention of statesmen in his country to the circumstance that the treaty of November 15, 1831, determining the international status of Belgium, did not contain the words "integrity and inviolability of territory," which occurred in the peace preliminaries agreed on some months previously. The one conclusion which he drew from this was that the guarantee given by the Powers was weakened, and that "the scope of this guarantee was reduced"—so, at

¹ A. Schulte, *Von der Neutralität Belgiens*; Bonn, 1915; p. 66. J. Kohler, *Not kennt kein Gebot*; Berlin and Leipzig, 1915; p. 37. H. Wittmaack, *Die Neutralität Belgiens*, in *Deutsche Revue*, February 1915. A. J. Rosenberg, *Der deutsche Krieg und der Katholizismus*; Berlin, 1915; p. 37. F. Norden, *La Belgique neutre et l'Allemagne d'après les hommes d'État et les juristes belges*; Bruxelles, 1915.

least, we translate the words used by him in his treatise on International Law.¹

German writers read this as meaning that Belgian neutrality might, therefore, be violated;² for Nys declares in the same passage: "Belgium obtained the guarantee of its neutrality, but the Five Powers did not allow her the guarantee of the integrity and inviolability of her territory." This interpretation of neutrality, founded on a mere comparison of diplomatic texts, seems hardly compatible with the application of the principle of neutrality;³ we shall try, however, from the purely historical point of view, to examine whether it harmonises with the circumstances in which those texts were drafted, and with the principles and aims pursued by the members of the London Conference; whether, in short, by the treaty of November 15, 1831, the Powers did actually restrict the scope of Belgian neutrality, and protect it by guarantees less valid than those by which Swiss neutrality had already been secured. We shall, at the same time, try to throw light on the texts from the context, and from other contemporaneous documents.

(ii) *Aims of the London Conference*

At first sight, the work of the London Conference, which led to the recognition by the Powers of Belgian independence, appears to be a breach in the work of the Congress of Vienna. It did, indeed, split up the Kingdom of the Netherlands, one of the essential creations of the Congress; but we should not therefore ignore the principal aim of the Conference—the wish

¹ E. Nys, *La Belgique et la garantie des cinq Puissances* (in *Revue de Droit international et de Législation comparée*, 1901; p. 44). E. Nys, *Le Droit international*, I, pp. 389-392.

² A. Schulte, *Von der Neutralität Belgiens*; p. 68. P. Ehlers, *England, Antwerpen und die Belgische Barriere*; Hamburg, 2nd edition, 1916; p. 27.

³ The fifth Convention at The Hague in 1907 expressly declares neutral territory inviolable. This was done on the motion of Belgium, presumably to meet Nys' point.

to preserve the balance of Europe as settled in 1815. Far from attempting to recast the map, the Conference was extremely conservative, and strove to maintain the foundations of the international system established by the Congress of Vienna. At the very time when the principle of Belgian independence was settled (protocol of December 20, 1830), the Conference was careful to declare that its foremost task would be

“to combine the future independence of Belgium with the stipulations of the treaties, with the interests and safety of other Powers, and with the maintenance of the balance of Europe.”

And, in order to give still better evidence of its respect for the treaties of 1815, it added:—

“These arrangements must in no way affect the rights of the King of the Netherlands and of the German Confederacy over the Grand Duchy of Luxemburg.”¹

The principle of the independence of Belgium, which was settled even before the frontiers of the new State had been fixed, had been advocated chiefly by Palmerston. Talleyrand, who worked loyally with Palmerston throughout, hastened to agree; but the representatives of the autocratic Courts only yielded under the pressure of circumstances, and from a belief that this independence would henceforth prevent any extension of France towards the north. Lieven, the principal Russian representative, only consented to affix his signature to the protocol of December 20 in the conviction that Belgium would continue under the House of Nassau in the person of the Prince of Orange; such were the express orders of his master, Nicholas I.²

¹ Martens, *Nouveau Recueil de Traités*, X, pp. 125-6.

² Princess Lieven wrote to her brother Alexander, December 22, 1830:—

“This . . . is what he has been brought to by force of circumstances; it was imperative to move with them, or to see Belgium lost to Europe. He has moved—but he was the last to do so; the union of the five [Powers] subsists, and the union of four is assured, and now, unless we do not care to have her on our side (which is not likely), we have England with us.”

(iii) *Neutralisation Proposed*

Lieven's colleague Matuszewic, indeed, had already drafted a proposal by which it would be wholly impossible for France to annex any part of the Belgian territory, and for Belgium to resume the war against Holland. This was the neutralisation of Belgium under the guarantee of the Powers. So early as November 15, 1830, he had laid this scheme before Nesselrode, the Russian Chancellor, and insisted that it was the only means of "preserving Belgium from France and Holland from Belgium." While dwelling on the necessity of raising the Prince of Orange to the throne of Belgium, he suggested that

"the Five Powers should jointly, and by protocol or treaty, guarantee the existence of the Belgian Kingdom, and declare that no one of them might in any case invade or occupy it without the consent of the other four; moreover, they should also guarantee Holland from any invasion by Belgium."¹

This amounted to applying to Belgium the system of Switzerland, as Falck, the Dutch Minister in London, informed one of his friends on January 24, 1831.²

Swiss neutrality had been set up as a protection against France in 1815. Therefore it is not surprising that the representatives of the autocratic Courts should have willingly embraced Matuszewic's suggestion. They were thus remaining faithful to the line of conduct followed by the Congress of Vienna, in which several of the members of the Conference had taken an active part. One of the warmest advocates of the neutralisation of Belgium was the Prussian delegate at the Conference, Baron Heinrich von Bülow. He was the first to propose its adoption officially, at the meeting of the Conference held on January 20, 1831.³ He also⁴ supplied the elements for the memorandum or explana-

¹ Martens, *Recueil des Traités conclus par la Russie*, XI, p. 442.

² Falck, *Brievens*, p. 297. Letter to van Lennep.

³ A. Stern, *Geschichte Europas*, IV, p. 225.

⁴ J. B. Nothomb, *Essai historique sur la révolution belge*, I, p. 139.

tory protocol (February 19) in justification of certain clauses contained in the protocol dated January 20—a memorandum which, as we shall see, starts from the principle that the sacredness of treaties, the maintenance of the “rights of Europe,” must be the “maxim of all civilised peoples.”¹ Bülow was anxious to put a stop to any attempt on the part of France to secure special advantages, especially of a territorial kind, in Belgium or through Belgium.

The “party of movement” in France was clamouring for the total or partial annexation of Belgium, and kept alive an agitation in that country, thus causing great alarm in England and at the autocratic Courts. In order to check these manœuvres, and to secure peace and the balance of Europe, the Conference adopted the system suggested by Matuszewic and Bülow. The latter, therefore, made his formal proposal at the meeting of January 20. Talleyrand’s account of this meeting is incorrect, or at least incomplete.² He dwells on the heated argument which he had with Bülow; but that argument bore on the extension of neutrality to Luxemburg, which Talleyrand desired. He even threatened to leave the protocol unsigned if this neutrality were not granted, and, to quote Palmerston’s phrase, he fought like a dragon. Talleyrand regarded the neutralisation of Belgium as a success for his diplomacy, and informed his Government of the agreement between him and Palmerston on the subject. So early as January 16 he had communicated the plan of neutralisation to his Government as an idea of his own, or at least as part of a combination imagined by him, and as tending to turn Belgium into a Confederacy similar to Switzerland, “with recognised neutrality.”³ When forwarding the protocol of January 20 to his

¹ Martens, *Nouveau Recueil*, X, p. 199.

² Talleyrand to Sebastiani, January 21, 1831 (G. Pallain, *Ambassade de Talleyrand à Londres*, I, p. 181; *Mémoires de Talleyrand*, IV, p. 488).

³ Talleyrand to Sebastiani, January 16, 1831 (G. Pallain, *op. cit.*, I, p. 173).

Government, he dwelt on the advantages procured for France by the neutralisation of Belgium:—

“The recognised neutrality of Belgium puts that country in the same position as Switzerland, and consequently reverses the political system adopted by the Powers in 1815 through hatred of France. The thirteen fortresses of Belgium, by means of which our northern frontier was constantly threatened, may be said to fall as a result of this resolution, and we are henceforth freed from troublesome fetters.”¹

The next and essential advantage discovered by him in Belgian neutrality was, as he said in his memoirs, that

“it put an end to the hopes of the revolutionary party in Belgium and in France, no less than to the reactionary tendencies of King William.”²

His views, therefore, did not differ so much as might be imagined from those of his colleagues at the Conference. He was in agreement with them in “isolating” the Belgians, and in preventing them from “disturbing Europe” by joining the French “party of movement” (called “ardent” by Princess Adélaïde), which wanted to “drag France into war by causing reunion to be demanded from Belgium and the French tricolour cockade to be displayed there.”

With regard to the neutralisation of Belgium, however, Talleyrand acted largely on his own initiative; indeed, Louis Philippe complained that such a decision ought not to have been taken without previous consultation with him. On February 11 the King wrote to Sebastiani:—

“We should never have thought that the Conference would have believed itself empowered . . . to decide upon the future neutrality of Belgium, about which not a single word had been said to us [the King means officially], and which was a question of such great importance, that M. de Talleyrand should have reserved it *ad referendum*, for consultation with us.”³

¹ Talleyrand to Sebastiani, January 21, 1831 (G. Pallain, *op. cit.*, I, p. 181).

² *Mémoires de Talleyrand*, IV, p. 17.

³ *Revue des Deux Mondes*, January 15, 1910, p. 305.

One of Talleyrand's reasons for representing Belgian neutrality in the light most favourable to France was his anticipation of the discontent which that measure would raise in the "party of movement" at home. That party saw quite well what was the aim of the Conference—to keep Belgium quiet in order to preserve peace and the international settlement arranged by the Congress of Vienna.

Palmerston and other English statesmen looked upon Belgian neutrality as

"the best barrier that existing circumstances afforded against France, and one that united the other four Powers against her if she crossed it."¹

If Lieven is to be believed, Palmerston recommended the keeping of Belgium quiet through neutrality by alleging that "the Belgians had ever been a restless and turbulent nation," and remarked that it

"seemed necessary to condemn them, in a way, to a peaceful existence, and to compel them to turn their whole attention to trade and industry, which would every day increase their rivalry with France and their friendship towards Holland."²

(iv) *Neutralisation Accepted*

The neutralisation of Belgium, then, was essentially, in the opinion of all the members of the Conference except Talleyrand, a means of "repressing French lust of conquest," to use the phrase of Wessenberg, one of the Austrian representatives.³ One of these representatives (perhaps Wessenberg himself) objected that "by this measure the points from which attack might be directed against France were removed to a distance from her frontier"; this was an advantage pointed out by Talleyrand in one of his letters. But it was

¹ Grey to Princess Lieven, January 30, 1831 (*Correspondence of Princess Lieven and Earl Grey*, edited by G. Le Strange, II, p. 150). Palmerston to Granville (Bulwer, *Life of Palmerston*, II, pp. 29-30).

² Lieven to his Government, January 22, 1831 (Martens, *Recueil des Traités conclus par la Russie*, XI, p. 451).

³ A. von Arneth, *Johann Freiherr von Wessenberg*, II, p. 105.

answered that "the very position of the fortresses reduced them to a merely defensive action."¹ Therefore the Conference was unanimous in its approval of the principle proposed by Bülow; and by the protocol of January 20 it settled, on its own authority, the "bases of separation," declared them to be final and irrevocable, and added the declaration of neutrality, which it prefaced with a short preamble in the following terms:—

"The plenipotentiaries . . . are unanimously of opinion that the Five Powers owe it to their real interests, to their common friendship, to the tranquillity of Europe, and to the fulfilment of the views laid down in their protocol of December 20, to issue a solemn testimony, an undeniable proof of their firm resolve to seek no increase of territory, no exclusive influence, no single advantage from the arrangements regarding Belgium or from any circumstances that may supervene, and to afford to that country itself and to all the States surrounding it the best guarantees of tranquillity and safety. . . ."²

It will be observed that the principal aim pursued by the Conference in the arrangements that followed is the safeguarding of Belgian territory. It is also significant that the principle of neutrality should be stated in the very deed in which the frontiers of the new State were settled. The two Articles bearing on neutrality are here translated:—

"*Art. V.*—Belgium, within the limits which will be settled and drawn up in agreement with the bases laid down in Articles I, II, and IV of the present protocol, will be a perpetually neutral State. The Five Powers guarantee this perpetual neutrality and the integrity and inviolability of its territory within the above limits.

"*Art. VI.*—By a just reciprocity Belgium will be bound to observe this neutrality towards all other States, and in every way to respect their internal and external tranquillity."³

(v) *Neutrality and Territorial Integrity*

It is self-evident that the principle of neutrality applies in the first place to that which is the very

¹ Letter of Lieven quoted in Note on previous page.

² Martens, *Nouveau Recueil*, X, pp. 159-160.

³ *Ibid.*

foundation of the State, viz., its territory. The documents of the time sometimes speak of "neutrality of territory" to stress the absolutely inviolable character of the latter. The most decisive in that respect is the declaration made on January 16, 1815, by the Committee appointed by the Congress of Vienna for the settlement of Swiss affairs, which runs as follows:—

"The Allied Powers have bound themselves to recognise the perpetual neutrality of the Helvetic body, . . . but to consider these undertakings as obligatory only in so far as Switzerland . . . will offer to Europe . . . a sufficient guarantee . . . that it will ensure respect for the neutrality of its territory."¹

It is thus evident that, even before the principle of Belgian neutrality was formally recognised by the Governments of the Great Powers (this recognition only took place through their adherence to the Treaty of November 15, 1831),² their representatives at the Conference proclaimed that Belgian neutrality was placed under the guarantee of the Powers, with the inviolability of its territory as a consequence. The wording of this protocol did not greatly differ from that of the "Act of Swiss neutrality" (November 20, 1815), and from the other Acts of the Congress of Vienna preparatory to it. The declaration of this Congress, dated March 20, 1815, is as follows:—

"An Act will be passed containing the recognition and guarantee by all the Powers of the perpetual neutrality of Switzerland within its new frontiers."³

The Act of Neutrality itself is headed: "Act bearing the recognition and guarantee of the perpetual neutrality of Switzerland and of the inviolability of its territory." Its preamble also mentions "recognition and guarantee of neutrality," without adding

¹ P. Schweizer, *Geschichte der schweizerischen Neutralität*, p. 552.

² William IV and Lord Grey use the words "future neutrality" on January 24 (*Correspondence of Earl Grey with King William IV*, I, pp. 80, 82).

³ P. Schweizer, *op. cit.*, p. 554.

territorial inviolability. The two words "recognition" and "guarantee" are, therefore, regularly connected and applied, now to neutrality alone, now to neutrality and inviolability of territory. It is true that the *dispositif* (or enacting clause) of the Act of Swiss neutrality separates the two words in declaring that the Powers grant

" a formal and authentic recognition of the perpetual neutrality of Switzerland, and . . . guarantee the integrity and inviolability of its territory within its new frontiers."

But the same *dispositif* unites the words again, and adds :

" The Powers also recognise and guarantee the neutrality of those parts of Savoy which are incorporated in Switzerland."¹

The fact that only the word "guarantee" occurs in the protocol by which the principle of Belgian neutrality is decreed is due to the fact that the London Conference acted wholly on its own initiative in the name of the Powers, without Belgium's request. It has been maintained² that the promises of the Powers to Belgium are all the more sacred. A guarantee can only come after the recognition, as clearly appears from the following extract from the Convention of April 17, 1831, regarding the Belgian fortresses :—

" The plenipotentiaries of the four Courts (Austria, Great Britain, Prussia, and Russia) have agreed unanimously that the new situation in which Belgium would be placed and its neutrality recognised and guaranteed by France must change the system of military defence adopted by the Kingdom of the Netherlands."³

It is interesting to notice that Talleyrand from the first uses the phrase "recognised neutrality."⁴

¹ P. Schweizer, *op. cit.*, p. 593.

² Ch. De Visscher, *Belgium's Case: a juridical Enquiry*, pp. 78-79.

³ Martens, *Nouveau Recueil*, X, 243.

⁴ Talleyrand to Sebastiani, January 25, 1831: "La neutralité reconnue . . . m'a permis de reprendre avec avantage la question du Prince de Naples" (G. Pallain, *op. cit.*, I, p. 186).

As for the guarantee of the Powers, it protects Belgium in the same way as Switzerland. It results from the neutrality applied to either country. It has sometimes been argued from the fact that neutrality was *demandé* by Switzerland, while it was *imposed* on Belgium, that their international status is different. This is a mistake. Neither in the case of Switzerland nor in that of Belgium is neutrality the result of a convention between the neutralised country and the guaranteeing Powers. It is the act of the Powers, based on their claim to maintain the "law of Europe." They officially hold the initiative, and act on behalf of Europe's common interest. This is clearly stated in the Preamble to the Treaty of 1831. Their guardianship of Switzerland has been stricter than in the case of Belgium; and they have interfered in the internal government of that country instead of merely settling its international status. The Committee appointed by the Congress of Vienna to settle the affairs of Switzerland declared (January 16, 1815) that the Allied Powers would only grant neutrality if Switzerland

"in return for the advantages allowed to it, would, both by its cantonal institutions and by the character of its federal system, offer to Europe a sufficient guarantee of the ability of the new Confederation to preserve its internal peace, and by those means to ensure respect for the neutrality of its territory."¹

Moreover, the Powers for some time claimed a kind of protectorate over Switzerland; so much so that Schweizer devotes a whole chapter of his book to showing that between 1815 and 1848 they interfered in Swiss affairs through a false interpretation of the Act of Neutrality; while another chapter deals with "the struggle against the protectorate of the Powers."²

In conclusion, the neutralisation of Belgium was identical in method with that of Switzerland, except for some formal differences due to the fact that in Switzerland's case the recognition of neutrality came with the

¹ P. Schweizer, *op. cit.*, p. 552. (As we have pointed out before, neutrality here applies to the territory.)

² P. Schweizer, *op. cit.*, pp. 621-702, 703-805.

guarantee, while in that of Belgium the guarantee had been decided upon from the first, without any mention of the recognition; and the latter was fully carried out only by the adhesion of the Governments of the Powers to the treaty of November 15, 1831.

(vi) *The XVIII Articles*

The drafting of the preliminaries of June 26, 1831 (the XVIII Articles) was preceded by laborious negotiations, the outcome of which was that the bases of separation were modified in favour of Belgium. The note handed to the Conference on June 15 by Prince Leopold contained certain proposals regarding neutrality put forward by the Belgian negotiators. Neutrality would give the Five Powers "neither right nor claim to interfere in the internal affairs of the country." The Conference agreed to this wish by inserting in the first of the two Articles referring to neutrality the statement that the Five Powers had no desire "to interfere in the internal affairs of Belgium."¹

(vii) *The XXIV Articles*

Articles V and VI of the bases of separation, therefore, passed without material change into the preliminaries of the XVIII Articles, where they are numbered IX and X. The King of Holland refused his assent to those preliminaries; but, as he had accepted the bases of separation, he was thereby bound to respect the decision of the Powers on Belgian neutrality. He nevertheless declared himself freed from this obligation by the fact that the Conference had altered those bases; indeed, he let it be known that he would treat as an enemy any prince who should accept the Belgian Crown without having previously assented to the original bases of separation, and subsequently announced that he would support his diplomatic action by force of arms. Early in August he attacked Belgium, and thus

¹ Th. Juste, *Histoire du Congrès*, II, p. 251.

alienated all the members of the Conference, including those who were most favourably inclined.

The Belgian Government at once directed its representative in London to request, first, the English Cabinet, and afterwards the Five Powers which had signed the preliminaries, to act upon "the guarantee of Belgian neutrality agreed to in those preliminaries, whereby the Five Powers had become sureties of that neutrality."¹ Only France and England had, so far, recognised King Leopold; application was therefore made, in the first instance, to those Powers. The French Government immediately informed the Cabinet of Berlin that its intervention in Belgium might perhaps be painful to the "magnanimous soul of the King of Prussia," but that it proceeded "from the wish, cherished in Berlin as well as in Paris, of securing "the neutrality of Belgium and the peace of Europe." Palmerston put forward the same argument in favour of French intervention; the French, he said to the British Minister in Paris,

"came in at the invitation of an Allied Sovereign, whose neutrality and independence they have agreed to guarantee; and their action was directed to the accomplishment of the objects at which the Five Powers have all been aiming."

The results of the ten days' campaign, however, restored the prestige of the King of Holland, and even made him hope for a partition of Belgium, in which he might gain most of its northern provinces.

But the Conference set aside all thoughts of a partition, and drew up in XXIV Articles new preliminaries, which were declared to be final and irrevocable. They were drawn up in the form of a treaty to be concluded between Holland and Belgium, together with a treaty between the latter and the Great Powers.

In this treaty the two Articles referring to Belgian neutrality were compressed and united into one; and the clause on the guarantee was transferred into an additional Article for the treaties to be concluded

¹ *Ibid.*, p. 63.

between Belgium and the Five Powers. This clause naturally was not intended to stand in the principal treaty which the Conference arranged between Belgium and Holland. The necessity of transferring the clause of guarantee to an additional Article accounts for the famous change in the drafting of the formula on neutrality. The two texts are as follows:—

*Preliminaries of the XVIII Treaty of November 15, 1831
Articles*

“*Art. IX.*—Belgium, within its limits, as they will be fixed in agreement with the principles laid down in the present preliminaries, will form a perpetually neutral State. The Five Powers, which have no wish to interfere in the internal administration of Belgium, guarantee to it this perpetual neutrality, and also the integrity and inviolability of its territory, within the limits mentioned in the present Article.

“*Art. X.*—By a just reciprocity Belgium will be bound to observe this neutrality towards all the other States, and in no way to endanger their interior and exterior tranquillity.”¹

“*Art. VII.*—Belgium, within the limits mentioned in Articles I, II, and IV, will form an independent and perpetually neutral State. It will be bound to observe this same neutrality towards all the other States.

“*Art. XXV.*—The Courts of Austria, France, Great Britain, Prussia, and Russia guarantee to His Majesty the King of the Belgians the execution of all the Articles that precede.”²

The words in the preliminaries, “which have no wish to interfere in the internal administration of Belgium,” are replaced in the treaty by the single word “independent,” which means the same thing. As to the words “integrity and inviolability of its territory,” they were perhaps regarded as redundant; they served only to explain “neutrality” and to deduce its consequences, as was done by the second phrase of Article X of the first preliminaries (XVIII Articles) regarding the duties of Belgium towards other States.

If it is maintained that the disappearance of the words “integrity and inviolability of its territory”

¹ Martens, *Nouveau Recueil*, X, p. 289.

² *Ibid.*, XI, pp. 394 and 404.

reduces the obligations of the Five Powers towards Belgian neutrality, it ought at the same time to be acknowledged that Belgium is relieved of part of its duties as a neutral in consequence of a similar omission in the agreement defining these duties; for the Article of the final treaty (XXIV Articles) no longer contains the provision contained in the XVIII Articles for securing that Belgium should not become a danger to "the internal or external tranquillity" of other States.

Did the authors of the XXIV Articles compress the references to neutrality that had been included in the preliminaries with any intention of modifying the meaning of the text? Banning, who used the notes of Van de Weyer, the Belgian plenipotentiary, was under that impression; but he by no means concluded that the guarantee or the principle of neutrality was restricted.¹ He merely inferred from the compression of the two Articles regarding the latter that the Powers wanted to regulate their intervention for the defence of the neutralised State according to the manner in which that State itself performed the duties of neutrality. What the Powers expected of Belgium was that it should give up the military occupation of the part of Luxemburg included in the German Confederation; in other words, that this territorial question should be settled in agreement with the obligations contracted by a neutralised State. Respect for the territory of a neutralised State is so necessary a consequence, and so essential a condition, of neutrality, that on September 28, when the Conference handed the first Articles of the draft treaty to the plenipotentiaries of Belgium and Holland, Van de Weyer asked only for an additional provision regarding "the independence and neutrality of Belgium." "Although its recognition has already been effected," he said, "it should be placed at the beginning of the treaty."² It will be

¹ Van de Weyer [and Banning], *Histoire des relations extérieures depuis 1830*, in *Patria belgica*, II, p. 334.

² Martens, *Nouveau Recueil*, XI, p. 313; Van de Weyer to the Conference, October 1, 1831.

noticed that Van de Weyer did not think it necessary to add the reference to inviolability of territory.

The guarantee of the territory, no less than that of neutrality, remained unreservedly complete. It was neither restricted nor altered by the disappearance of the two words "integrity" and "inviolability" from the text of the XXIV Articles, which were the bases of the treaty of November 15.

The Conference had substituted the barrier of Belgian neutrality for that created in 1815 by the formation of the Kingdom of the Netherlands; and the three autocratic Powers combined with England, having regard to "the changes which the independence and neutrality of Belgium have produced in the military position of the country," entered into a convention with Belgium (December 14, 1831) for the purpose of dismantling the fortresses, "whose upkeep henceforth was only a useless expense."¹

The dismantling of the fortresses had already been discussed by the Four Powers (Great Britain, Austria, Prussia, and Russia) on April 17, 1831, and, in a protocol of that date, they thus announced their decision:—

"Après avoir mûrement examiné cette question, les plénipotentiaires des quatre cours ont été unanimement d'opinion que la situation nouvelle où la Belgique serait placée et sa neutralité reconnue et garantie par la France devaient changer le système de défense militaire adopté pour le royaume des Pays-Bas; que les forteresses dont il s'agit seraient trop nombreuses pour qu'il ne fût difficile aux Belges de fournir à leur entretien et à leur défense; que d'ailleurs l'inviolabilité unanimement admise du territoire belge offrait une sûreté qui n'existait pas auparavant; qu'enfin une partie des forteresses construites dans des circonstances différentes pourrait désormais être rasée."

The principle here set forth was definitely carried into effect by the Convention of December 14, 1831. The protest of the Dutch Government that "the Barrier System" was abolished by this Convention

¹ Martens, *Nouveau Recueil*, XI, p. 410.

met with the following response from the Conference—

“ La neutralité de la Belgique, garantie par les cinq cours, offre à la Hollande le boulevard que devait lui assurer le ‘ système de barrière,’ avec cette différence que le ‘ système de barrière ’ lui imposait l’obligation coûteuse d’entretenir des garnisons, tandis que la neutralité de la Belgique, placée sous la garantie des principales Puissances de l’Europe, lui laisse le moyen de réduire sans danger son état militaire.”

Lest it be said that this refers rather to the neutrality which Belgium was bound to observe towards other countries than to her own inviolability, it should be added that the Preamble of the Convention of December 14 speaks expressly of “ the perpetual neutrality which has been guaranteed *to her.*”

(viii) *Confirmation by Prussia in 1870*

On August 9, 1870, Prussia renewed her promise to respect Belgian neutrality. Having regard to the interpretation now placed by German writers upon the meaning of this expression, it is important to note that in 1870 Prussia evidently regarded the inviolability of Belgian territory as involved in the terms of the Treaty of November 15, 1831. The whole object of the diplomatic proceedings in 1870 was to confirm and secure that inviolability. In seeking this object, the contracting Powers express themselves, in the Preamble, as “ 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 April, 1839.” (The Article here referred to is identical in language with that of Article VII of the Treaty of 1831, which was merely transferred, without alteration, to the later Treaty.) No other reason is suggested, in the Treaty of August 9, 1870, for preserving Belgian territory inviolate; the pledge of 1831 was evidently regarded as sufficient for the purpose. It may be remarked in this connection that Bismarck, in a protest dated December 3, 1870, considered the alleged passage of French soldiers

through Luxemburg, after the surrender of Metz, "a flagrant violation of the neutrality of the Grand Duchy."¹ The neutrality of Luxemburg was secured by Article II of the treaty of May 11, 1867, in terms identical with those of the Belgian treaty, without any mention of integrity or inviolability of territory.²

(ix) *The Violation in 1914*

So late as April 29, 1914, von Jagow stated in the Reichstag that "Belgian neutrality is provided for by International Conventions, and Germany is determined to respect those Conventions."³ On August 3, 1914, German troops were reported to have entered Belgium,⁴ and by August 4 they had certainly done so. It does not appear to have occurred to any of the responsible statesmen of Germany that any legal justification of this act could be attempted. It was indeed asserted by von Jagow that he had unimpeachable information of an intention on the part of France to attack Germany through Belgium, though, so early as July 31, the French Government had given the most explicit pledge of their intention to respect Belgian neutrality.⁵ He does not seem to have taken the point in his interview with the British Ambassador on August 4, when he said merely that Germany had to advance into France by the quickest and easiest way. Violation of Belgian neutrality by French military aviators was also alleged; but this accusation, which was at once denied, seems to have been used rather as part of the *casus belli* against France than in justification of the German action. The Chancellor, Bethmann-Hollweg, in his speech to the Reichstag on August 4, was perfectly candid as to his view of the invasion of Belgian territory.

"We are now in a state of necessity (*Notwehr*)," he said, "and necessity (*Not*) knows no law. Our troops

¹ Hertslet, *Map of Europe by Treaty*, III, p. 1902.

² See *Luxemburg and Limburg*, No. 27 of this series.

³ Belgian Grey Book, No. 12, enclosure.

⁴ French Yellow Book, No. 151.

⁵ British Blue Book, Nos. 157, 125.

“ have occupied Luxemburg, and perhaps have already entered Belgian territory. *Gentlemen, this is a breach of international law.*” And again, “ The wrong—I speak openly—the wrong we thereby commit we will try to make good as soon as our military aims have been attained.”

(x) *The Brussels Documents*

After the occupation of Brussels, certain documents, said to be the contents of a portfolio bearing the inscription “ Intervention anglaise en Belgique,” fell into German hands. These, which were published in facsimile in the “ Norddeutsche Allgemeine Zeitung ” of November 25, 1914, and subsequently issued as a pamphlet, consist of reports of conversations which took place between representatives of the British and Belgian military authorities on the subject of English assistance to Belgium in the event of a German violation of the neutrality of that country.

The documents were used by Germany not so much in defence of their own action in invading Belgium—for which, indeed, seeing that their existence was not known at the time, they could provide no excuse—as to establish that the violation of Belgian neutrality by England had long been contemplated; that Belgium, disregarding her obligations as a neutral, was a consenting party; and, in fact, that the outcry raised against the German action was a piece of the merest hypocrisy. Do the documents themselves bear out these contentions?

In the first place, they cannot in any case be regarded as embodying a concluded agreement. This point would perhaps be of no great importance if the German contentions were otherwise sound; but it needs emphasizing in view of the fact that Germany has left no stone unturned to represent the documents to the world in the light of an Anglo-Belgian convention. The facsimile of the documents appears to be authentic, but that of the wrapper in which they are said to have been contained is inscribed “ Conventions Anglo-belges ”

in an obviously German handwriting, entirely different from that of the documents themselves. Moreover, in translating a passage which reads "notre *conversation* était absolument confidentielle," the "Norddeutsche Allgemeine Zeitung" did not hesitate to use the expression "unser Abkommen [agreement] absolut vertraulich sein sollte." A glance at the contents is sufficient, however, to prove that the alleged title is a German addition. The non-existence of any such agreement as is alleged does not rest merely upon official denials; it is conclusively proved by a despatch from the Belgian Minister at Berlin, dated December 23, 1911, which was published by the Germans themselves in the "Norddeutsche Allgemeine Zeitung," October 13, 1914.

The first document consists of a report to the Minister of War by General Ducarne, of the Belgian army, with reference to discussions which he had with Colonel Barnardiston, the British Military Attaché, in the early part of 1906. They deal with military arrangements to be made for British assistance in the event of a violation of Belgian neutrality; and, though the first interview merely stated that, "should Belgium be attacked, it was proposed to send about 100,000 men," it is clear from the context that the only aggressor contemplated was Germany. Having regard to the widespread apprehension which prevailed at the time as to the likelihood of an attack by Germany on France through Belgium, it seems natural that some discussion on military possibilities should have taken place; but it is explicitly stated in a marginal note to the document that "the entry of the English into Belgium would only take place after the violation of our neutrality by Germany." It was quite understood, moreover, that the parties to the conversation had no authority to deal with the political aspects of intervention, which were fully recognised to exist. It was merely an informal discussion of military points which might become material in circumstances which at the time were hypothetical.

The second document published is a short memorandum of a discussion between Lieutenant-Colonel Bridges and General Jungbluth, chief of the Belgian General Staff, which took place on April 23.¹ The point emphasised by Germany is a statement by Colonel Bridges that "the British Government, "at the time of the recent events, would have immediately landed troops on our territory, even if "we had not asked for help." At worst, in view of the fact that there is no note of any of these conversations at the British War Office or Foreign Office,² this must be regarded as an informal expression of Colonel Bridges' private opinion as to a past contingency. General Jungbluth, moreover, at once demurred, protesting that Belgian consent was necessary; and he added that Belgium was, after all, perfectly able to prevent the Germans from going through—another expression of a private opinion.

When all is said, there is no suggestion in either document of any action on the part of Great Britain unless and until Belgian neutrality had already been violated. If, as there was ample reason to suspect there was a prospect of the violation of Belgian neutrality, it was the duty of the British military authorities to prepare for the execution of their function as guarantors of that neutrality; and nothing was ever arranged which went beyond the scope of that duty. That Great Britain never intended to violate Belgian neutrality is made plain not only by Sir Edward Grey's letter to the British Minister at Brussels on April 7, 1913, wherein he reiterates the intention of this country to respect her treaty obligations, but by the circumstance that, when violation by Germany became an accomplished fact, it was not until August 5, more than 60 hours after the presentation of the German ultimatum, that Great Britain promised her assistance to Belgium.³

¹ "Vermutlich 1912," according to the German publication.

² Belgian Grey Book, No. 2. No. 102, enclosure.

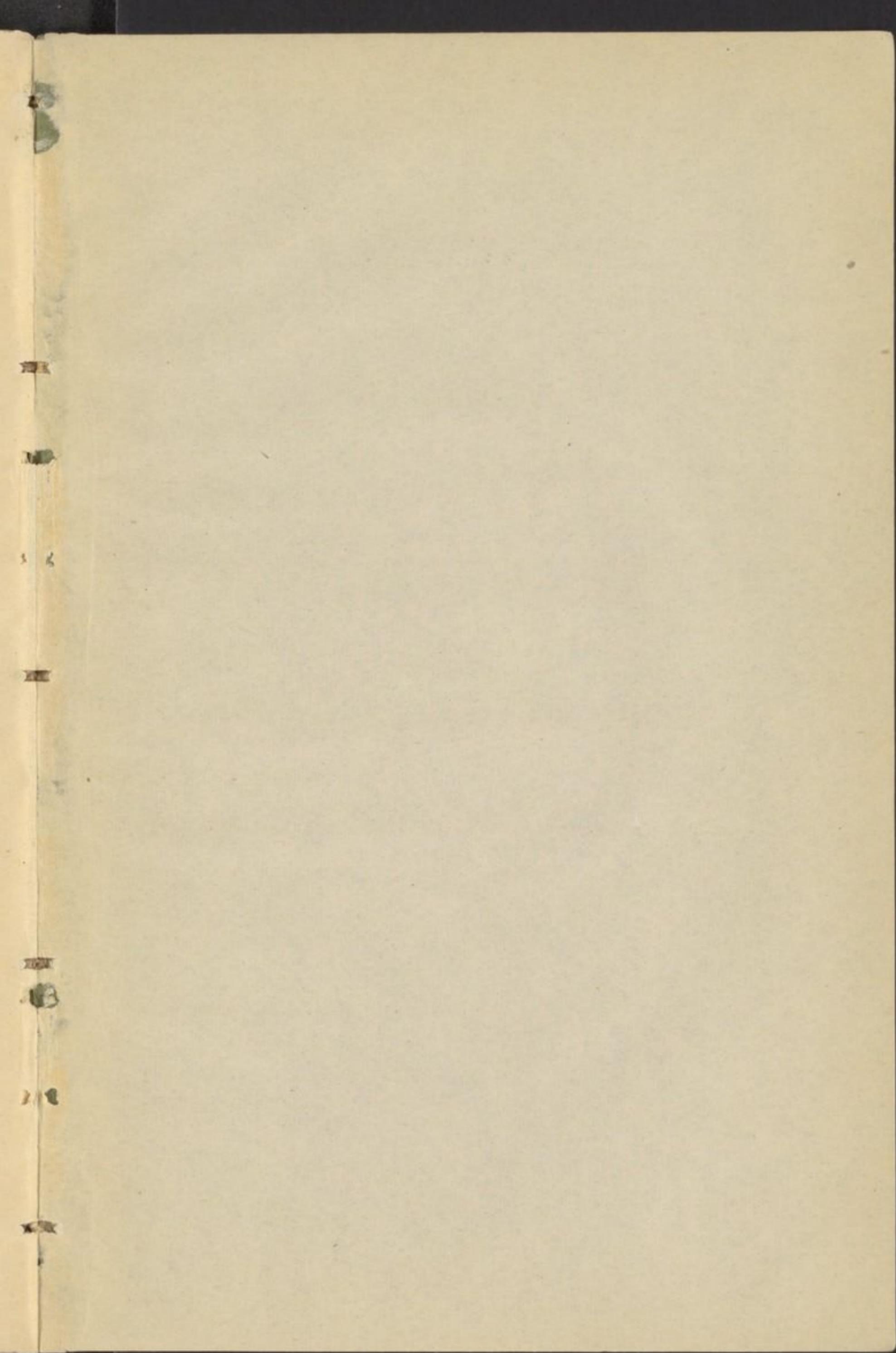
³ Belgian Grey Book, No. 48.

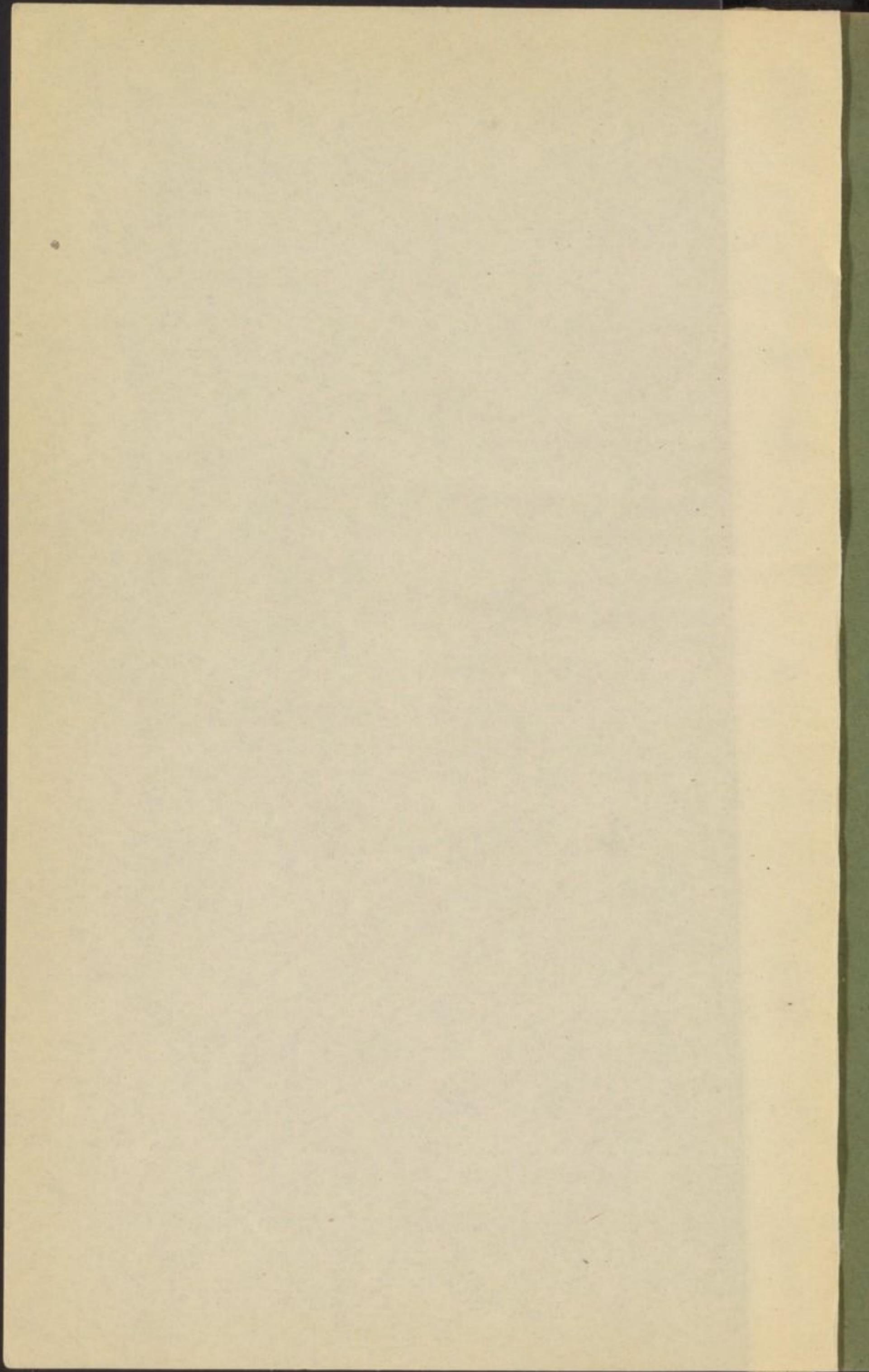
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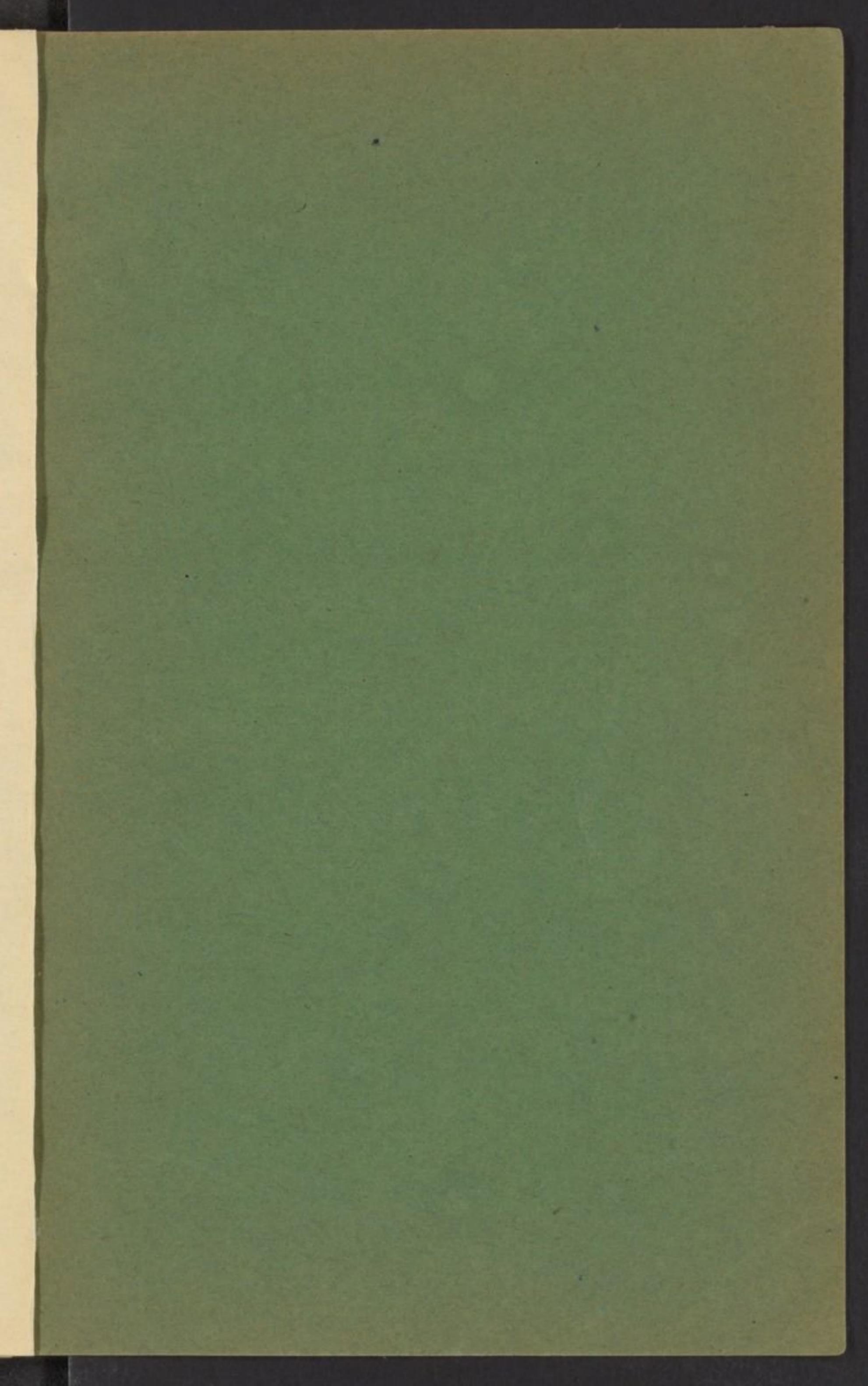
THE question of the guarantee of Belgian neutrality was first exhaustively dealt with by J. B. Nothomb, *Essai historique et politique sur la révolution belge*, 1st edition, Bruxelles, 1833; 4th edition, 1876, 3 vols.; but he did not state the formal differences between the XVIII Articles and the XXIV Articles. These differences were pointed out by Van de Weyer, or rather by Banning, who used the notes of Van de Weyer in the *Histoire des relations extérieures depuis 1830* (in *Patria belgica*, II (1873), p. 334). The author of this article, however, did not infer from these formal differences an alteration of the character of the neutrality. E. Nys took another view; and, although lawyers such as J. Westlake (*Notes on Neutrality*, in *Revue de Droit international et de Législation comparée*, 1901) showed from the beginning the weakness of his view, and maintained that neutrality covers integrity and inviolability of territory, most of the authors who explained the origins of the Belgian Kingdom were struck by Nys' arguments.

In 1902 Ed. Descamps published a volume entitled *La Neutralité de la Belgique* (Bruxelles—Paris). He tried to refute Nys' theory, but he seems to have worked too hastily. His exhaustive book contains, side by side with judicious remarks, rash presumptions; as, for instance, that the words "integrity" and "inviolability" of the XVIII Articles were replaced by the more comprehensive term "independence" in the XXIV Articles. In consequence of this strange statement, Nys believed himself to be right in maintaining his theory in the new edition (1912) of his treatise on International Law. F. de Lannoy, *Les origines diplomatiques de l'indépendance belge* (Louvain, 1903), deals only incidentally with the question, quotes Descamps and Nys, and seems to adopt the view of Banning. The same author wrote a paper in 1913, *La neutralité est-elle encore utile à la Belgique et à l'Europe?* (Lierre). He concludes that this neutrality is no longer useful, as the dangers which were the cause of its creation no longer exist. Charles De Visscher, *Belgium's Case: a juridical Enquiry* (London, 1916), collects a good deal of information, contains many useful remarks, but does not study the question from the historical point of view.

The chief work on Swiss neutrality is still that of Schweizer, *Geschichte der schweizerischen Neutralität* (1893-95). It is based on first-hand study of the sources, and supplies the essential texts. The commentary is sometimes confused and over-subtle.







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