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Title: The Case of Edith Cavell

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Release date: January 11, 2007 [eBook #20335]

Language: English

Credits: Produced by Mark C. Orton, Tamise Totterdell, Linda McKeown
and the Online Distributed Proofreading Team at
<http://www.pgdp.net>

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Case of Edith Cavell.

A Study of the Rights of Non-Combatants.

BY

JAMES M. BECK,

Former Assistant Attorney-General of the United States, and Author of "The Evidence in the Case."

(Reprinted from "New York Times.")

G. P. PUTNAM'S SONS, NEW YORK AND LONDON.

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THE CASE OF EDITH CAVELL.

A Reply to Dr. Albert Zimmermann, Germany's
Under Secretary for Foreign Affairs.

By JAMES M. BECK,

Former Assistant Attorney-General of the United States, and Author of "The Dual Alliance v. The Triple Entente," and "The Evidence in the Case."

Mr. Beck, who is one of the leaders of the New York Bar, is the author of the most widely read article written since the war began, entitled: "The Dual Alliance v. The Triple Entente," which was subsequently expanded into a book, called "The Evidence in the Case," pronounced by a distinguished publicist to be "the classic of the war." After its publication in THE NEW YORK TIMES this article was reprinted in nearly every language of the civilized nations and over a million copies of it were published.

Those who have regarded the Supreme Court of Civilization—meaning thereby the moral sentiment of the world—as a mere rhetorical phrase or an idle illusion should take note how swiftly that court—sitting now as one of criminal assize—has pronounced sentence upon the murderers of Edith Cavell. The swift vengeance of the world's opinion has called to the bar General Baron von Bissing, and in executing him with the lightning of universal execration has forever degraded him.

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Baron von der Lancken may possibly escape general obloquy, for his part in the crime was no greater than that of Pilate, who sought to wash his hands of innocent blood; but von Bissing will enjoy "until the last syllable of recorded time" the unenviable fame of Judge Jeffreys. He, too, was an able Judge and probably believed that he was executing justice, but because he did not execute it in mercy, but with a ferocity that has made his name a synonym for judicial tyranny, the world has condemned him to lasting infamy, and this notwithstanding the fact that he was made Chief Justice of the King's Bench, Lord High Chancellor of England, and a peer of the realm. All these titles are forgotten. Only that of "Bloody Jeffreys" remains.

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Similarly, if his master shall be pleased to honor General Baron von Bissing with the iron cross for his action in the case of Miss Cavell, as the Kaiser honored the Captain of the submarine which destroyed the Lusitania—and what order could be more appropriate in both cases than the cross, which recalls how another innocent victim of judicial tyranny was sacrificed?—then even the Order of the Iron Cross will not save von Bissing from lasting obloquy. I do not question that he acted according to his lights and shared with Dr. Albert Zimmermann great "surprise" that the world should make such a sensation about the murder of one woman. Trajan once said that the possession of absolute power had a tendency to transform even the most humane man into a wild beast, and Judge Black in his great argument in the case of *ex parte* Milligan recalled the fact that Robespierre in his early life resigned his commission as Judge rather than pronounce the sentence of death, and that Caligula passed as a very amiable young man before he assumed the imperial purple. The story is as old as humanity that the appetite for blood, or at least the habit of murder, "grows by what it feeds upon."

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The murder of Miss Cavell was one of exceptional brutality and stupidity. It never occurred to her judges that her murder would add an army corps to the forces of the Allies and that every English soldier will fight more bravely because of her shining example. So little was this appreciated either in Brussels or Berlin that the German Foreign Office, in its official apology for the crime, issued over the signature of Herr Doctor Albert Zimmermann, Under Secretary of Foreign Affairs, expresses its surprise

that the shooting of an Englishwoman and the condemnation of several women in Brussels for treason have caused a sensation.

What extraordinary moral naïveté! How could they appreciate that after the firing squad had done its work and the body of the woman had been given hasty burial the victim's virtues would

"plead like angels, trumpet-tongued, against
The deep damnation of her taking off;
And pity, like a naked new-born babe,
Striding the blast, or Heaven's cherubim, horsed
Upon the sightless couriers of the air,
Shall blow the horrid deed in every eye,
That tears shall drown the wind."

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This happened with incredible rapidity, and the Kaiser made haste to respite the eight other intended victims—two of them being also women—and the Berlin Foreign Office also issued to the world its defense of its action.

It began with an expression of "pity that Miss Cavell had to be executed," but the sincerity of this pity can be measured by the fact that concurrently with Dr. Zimmermann's official apology there came from Berlin an "inspired" supplemental explanation, which sought to depreciate the character and services of the dead nurse by stating "that she earned a living by nursing, *charging fees within the means of the wealthy only.*"

The world has an abundant refutation of this cruel and cowardly slur upon the memory of a dead woman, for one who first hazarded her life and then gave it freely to save the lives of others—for such was the charge for which she died—is not a woman to restrict her gracious ministrations of mercy for mercenary motives.

The Kaiser has been swift to see the deadly injury to his cause of this latest evidence of military tyranny. Not only has he respited Miss Cavell's alleged accomplices—as if to say with Macbeth, "thou canst not say I did it"—but it is said that he has summoned von Bissing and von der Lancken to explain their actions in the matter, but as the Kaiser is responsible for the invasion of Belgium and has hitherto condoned its attendant horrors, he can no more absolve himself from some share of responsibility than could Macbeth disavow his responsibility for the deeds of his two hirelings.

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The stain of this murder rests upon Prussian militarism and not upon the German people, for it should not be forgotten that possibly the most chivalrous act which has happened since the beginning of the war, was the erection by a German community, where a detention camp was maintained, of a statue to the French and English soldiers who had died in captivity, with the beautiful inscription:

"To our Comrades, who here died for their dear Fatherland."

What could be more chivalrous or present a greater contrast to the assassination of Miss Cavell? [Pg 9]

We are advised by Dr. Zimmermann that Miss Cavell was given a fair trial and was justly convicted, but as the proceedings of the trial were not public and as Miss Cavell was denied knowledge in advance of the trial of the nature of the charges against her, *and as we know little of the circumstances of her alleged offense except the reports of her judges and executioners*, the world will be somewhat incredulous as to whether the trial was as just to the accused as Dr. Zimmermann would have us believe.

The difficulty with this assurance is that the German conception of what is a fair trial differs from that which prevails in Anglo-Saxon countries, just as the German word "Gerechtigkeit" does not convey the same mental or moral conception as the English word "justice." "Gerechtigkeit" means little more to the Teutonic mind than the exercise of the power of the State, and claims no further sanction than its authority. In England, France, and the United States the idea of justice is that an individual has certain fundamental and inalienable rights which even the State cannot override, and none of these fundamental rights have been more highly valued in the evolution of English liberty than the rights of a defendant who is charged with crime. Whether guilty or not guilty, he cannot be arrested without a judicial warrant on proof of probable cause; he may not be compelled to testify against himself; he is entitled to a speedy trial and shall be informed in advance thereof of the exact nature of the accusation; his trial shall be public and open, and he shall be confronted with the witnesses against him and have compulsory process for his own defense; in advance of trial he shall have permission to select his own counsel, and shall have the opportunity to confer freely with him. [Pg 10]

Most of these fundamental rights were denied to Miss Cavell.

It is difficult to understand why, in view of the policy of terrorism, which has prevailed in Belgium from the time that the invader first crossed its frontier, the justice from the standpoint of military law should be referred to in Herr Zimmermann's defense. In the official textbook of the General Staff of the German Army the definite policy of terrorizing a conquered country is proclaimed as a military theory. Its leading axiom is that [Pg 11]

"a war conducted with energy cannot be directed merely against the combatants of the enemy State and the positions they occupy, *but it will and must in like manner seek to destroy the total intellectual and material resources of the latter*. Humanitarian claims, such as the protection of men and their goods, can only be taken into consideration in so far as the nature and object of the war permit. Consequently the argument of war permits every belligerent State *to have recourse to all means which enable it to obtain the object of the war.*"

Miss Cavell's fate only differs from that of hundreds of Belgium women and children in that she had the pretense of a trial and presumably had trespassed against military law, while other victims of the rape of Belgium were ruthlessly killed in order to effect a speedy subjugation of the territory. The question of the guilt or innocence of each individual was a matter of no importance. Hostages were taken and not for the alleged wrongs of others. [Pg 12]

Did not General von Bülow on August 22nd announce to the inhabitants of Liège that

"it is with my consent that the General in command has burned down the place [Andenne] and shot about 100 inhabitants."

It was the same chivalrous and humane General who posted a proclamation at Namur on August 25th as follows:

"Before 4 o'clock all Belgian and French soldiers are to be delivered up as prisoners of war. Citizens who do not obey this will be condemned to hard labor for life in Germany. At 4 o'clock a rigorous inspection of all houses will be made. *Every soldier found will be shot. * * * The streets will be held by German guards, who will hold ten hostages for each street. These hostages will be shot if there is any trouble in that street. * * ** A crime against the German Army will compromise the existence of the whole town of Namur *and every one in it.*"

Did not Field Marshal von der Goltz issue a proclamation in Brussels, on October 5th, stating that, if any individual disturbed the telegraphic or railway communications, all the inhabitants would be "*punished without pity, the innocent suffering with the guilty*"? [Pg 13]

Individual guilt being thus a matter of minor importance, Dr. Zimmermann had no occasion on the accepted theory of Prussian militarism to justify the secret trial and midnight execution of Edith Cavell. Indeed, he freely intimates that his Government will not spare women, no matter how high and noble the motive may have been which inspires any infraction of military law, and to this sweeping statement he makes but one exception, namely, that women "in a delicate condition may not be executed." But why the exception? If it be permitted to destroy one life for the welfare of the military administration of Belgium, why stop at two? If the innocent living are

to be sacrificed, why spare the unborn? The exception itself shows that the rigor of military law must have some limitation, and that its iron rigor must be softened by a discretion dictated by such considerations of chivalry and magnanimity as have hitherto been observed by all civilized nations. If the victim of yesterday had been an "expectant mother," Dr. Zimmermann suggests that her judges and executioners would have spared her, but no such exception can be found in the Prussian military code. "It is not so nominated in the bond," and the Under Secretary's recognition of one exception, based upon considerations of humanity and not the letter of the military code, destroys the whole fabric of his case, *for it clearly shows that there was a power of discretion which von Bissing could have exercised, if he had so elected.*

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That her case had its claims not only to magnanimity, but even to military justice, is shown by the haste with which, in the teeth of every protest, the unfortunate woman was hurried to her end. Sentenced at 5 o'clock in the afternoon, she was executed nine hours later. Of what was General Baron von Bissing afraid? She was in his custody. Her power to help her country—save by dying—was forever at an end. The hot haste of her execution and the duplicity and secrecy which attended it betray an unmistakable fear that if her life had been spared until the world could have known of her death sentence, public opinion would have prevented this cruel and cowardly deed. The labored apology of Dr. Zimmermann and the swift action of the Kaiser in pardoning those who were condemned with Miss Cavell indicate that the Prussian officials have heard the beating of the wings of those avenging angels of history who, like the Eumenides of classic mythology, are the avengers of the innocent and the oppressed.

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"Greatness," wrote Aeschylus, "is no defense from utter destruction when a man insolently spurns the mighty altar of justice."

This is as true to-day as when it was written more than two thousand years ago. It is but a classic echo of the old Hebraic moral axiom that "the Lord God of recompenses shall surely requite."

The most powerful and self-willed ruler of modern times learned this lesson to his cost. Probably no two instances contributed so powerfully to the ultimate downfall of Napoleon as his ruthless assassination under the forms of military law of the Duke d'Enghien and the equally brutal murder of the German bookseller, Palm. The one aroused the undying enmity of Russia, and the blood that was shed in the moat of Vincennes was washed out in the icy waters of the Beresina. The fate of the poor German bookseller, whom Napoleon caused to be shot because his writing menaced the security of French occupation, developed as no other event the dormant spirit of German nationality, and the Nuremberg bookseller, shot precisely as was Miss Cavell, was finally avenged when Blücher gave Napoleon the *coup de grâce* at Waterloo. No one more clearly felt the invisible presence of his Nemesis than did Napoleon. All his life, and even in his confinement at St. Helena, he was ceaselessly attempting to justify to the moral conscience of the world his ruthless assassination of the last Prince of the house of Condé. The terrible judgment of history was never better expressed than by Lamartine in the following language:

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"A cold curiosity carries the visitor to the battlefields of Marengo, Austerlitz, Wagram, Leipsic, Waterloo; he wanders over them with dry eyes, but one is shown at a corner of the wall near the foundations of Vincennes, at the bottom of a ditch, a spot covered with nettles and weeds. He says, 'There it is!' He utters a cry and carries away with him undying pity for the victim and an implacable resentment against the assassin. This resentment is vengeance for the past and a lesson for the future. *Let the ambitious, whether soldiers, tribunes, or kings, remember that if they have hirelings to do their will, and flatterers to excuse them while they reign, there yet comes afterward a human conscience to judge them and pity to hate them. The murderer has but one hour; the victim has eternity.*"

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At the outbreak of the war Miss Cavell was living with her aged mother in England. Constrained by a noble and imperious sense of duty, she exchanged the security of her native country for her post of danger in Brussels. "My duty is there," she said simply.

She reached Brussels in August, 1914, and at once commenced her humanitarian work. When the German army entered the gates of Brussels, she called upon Governor von Luttwitz and placed her staff of nurses at the services of the wounded under whatever flag they had fought. The services which she and her staff of nurses rendered many a wounded and dying German should have earned for her the generous consideration of the invader.

But early in these ministrations of mercy she was obliged by the noblest of humanitarian motives to antagonize the German invaders. Governor von Luttwitz demanded of her that all nurses should give formal undertakings, when treating wounded French or Belgian soldiers, to act as jailers to their patients, but Miss Cavell answered this unreasonable demand by simply saying: "We are prepared to do all that we can to help wounded soldiers to recover, but to be their jailers—never."

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On another occasion, when appealing to a German Brigadier-General on behalf of some homeless women and children, the Prussian martinet—half pedant and half poltroon—answered her with a quotation from Nietzsche to the effect that "Pity is a waste of feeling—a moral parasite injurious to the health." She early felt the cruel and iron will of the invader, but, nothing daunted, she proceeded in the arduous work, supervised the work of three hospitals, gave six lectures on nursing a week and responded to many urgent appeals of individuals who were in need of

immediate relief. "Others she saved, herself she could not save."

When one of her associates, Miss Mary Boyle O'Reilly, who has recently contributed a moving account of Miss Cavell's work, was expelled from Belgium, she begged Miss Cavell to take the opportunity, while it presented itself, to leave that land of horror, and Miss Cavell, with characteristic bravery, replied smilingly: "Impossible, my friend, my duty is here."

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It was undoubtedly in connection with this humanitarian work that she violated the German military law by giving refuge to fugitive French and Belgian soldiers until such time as they could escape across the frontier to Holland. For this she suffered the penalty of death, and the validity of this sentence, even under Prussian military law, I will discuss later. It is enough to say that no instinct is so natural in every man and woman, and especially in woman with the maternal instinct characteristic of her sex, than to give a harbor of refuge to the helpless. All nations have respected this instinctive feeling as one of the redeeming traits of human nature and the history of war, at least in modern times, can be searched in vain for any instance in which anyone, especially a woman, has been condemned to death for yielding to the humanitarian impulse of giving temporary refuge to a fugitive soldier. Such an act is neither espionage nor treason, as those terms have been ordinarily understood in civilized countries.

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It is true, as suggested by a few in America who sought to excuse the Cavell crime, that Mrs. Surratt was tried, condemned and executed because she had permitted the band of assassins, whose conspiracy resulted in the assassination of Lincoln and the attempted murder of Secretary Seward, to hold their meetings in her house; but the difference between this conscious participation in the assassination of the head of the State, in a period of civil war, and the humanitarian aid which Miss Cavell gave to fugitive soldiers to save them from capture is manifest. I am assuming that Miss Cavell did give such protection to her compatriots, for all accessible information supports this view, and if so, however commendable her motive and heroic her conduct, she certainly was guilty of an infraction of military law, which justified some punishment and possibly her forcible detention during the period of the war.

To regard her execution as an ordinary incident of war is an affront to civilization, and as it is symptomatic of the Prussian occupation of Belgium and not a sporadic incident, it acquires a significance which justifies a full recital of this black chapter of Prussianism. It illustrates the reign of terror which has existed in Belgium since the German occupation.

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When the German Chancellor made his famous speech in the Reichstag on August 4th, 1914, and admitted at the bar of the world the crime which was then being initiated, he said:

"The wrong—I speak openly—that we are committing we will endeavor to make good as soon as our military goal has been reached."

Within a few weeks the military goal was reached by the seizure of practically all of Belgium and by the voluntary surrender of Brussels to the invader, and since then, for a period of fourteen months, the Belgian people have been subjected to a state of tyranny for which it would be difficult to find a parallel, unless we turned to the history of the Netherlands in the Sixteenth Century and recalled its occupation by the Duke of Alva. It must be said in candor that the Prussian occupation of Belgium has not yet caused as many victims as the "Bloody Council" of the Duke of Alva, for the estimated number of non-combatants, who have been shot in Belgium during the last fourteen months, is only 6,000 as against the 18,000 whom it is estimated the Duke of Alva mercilessly put to death.

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It may also be the fact that the present oppression of Belgium is marked by some approach to the forms of law; but it may be doubted whether the difference is not more in appearance than in reality, for the administration of law in Belgium has been a mockery. Of this there can be no more striking or detailed proof than the protest which was presented to the German authorities on February 17th, 1915, by M. Léon Théodor, the head of the Brussels bar. The truth of this formal accusation may be fairly measured by the strong probability that the brave leader of the Brussels bar would never have ventured to have made the statements hereinafter referred to to the German Military Governor unless he was reasonably sure of his facts. What he said on behalf of the bar of Brussels was said in the shadow of possible death, and if he had consciously or deliberately maligned the Prussian administration of justice in this open and specific manner, he assuredly took his life into his hands. This brave and noble document will forever remain one of the gravest indictments of German misrule, and as it states, on the authority of one who was in a position to know, the details of the savage tyranny which masqueraded under the forms of law, it is appended, with some condensation, to this article.

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After stating the fact "that everything about the German judicial organisation in Belgium is contrary to the principles of law," and after showing that Belgian civilians were punished for the violations of law which had never been proclaimed and of which, therefore, they knew nothing, the distinguished President of the Order of Advocates says:

"This absence of certainty is not only the negation of all the principles of law; it weighs on the mind and on the conscience; it bewilders one, it seems to be a permanent menace for all, and the danger is all the more real, because these courts permit neither public nor defensive procedure, nor do they permit the

accused to receive any communication regarding his case, nor is any right of defense assured him.

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"This is arbitrary injustice; the Judge left to himself, that is, to his impressions, his prejudices, and his surroundings. This is abandoning the accused in his distress, to grapple alone with his all-powerful adversary.

"This justice uncontrolled, and consequently without guarantee, constitutes for us the most dangerous and oppressive of illegalities. *We cannot conceive justice as a judicial or moral possibility without free defense.*

"Free defense, that is, light thrown on all the elements of the suit; public sentiment being heard in the bosom of the judgment hall, the right to say everything in the most respectful manner, and also the courage to dare everything, these must be put at the service of the unfortunate one, of justice and law.

"It is one of the greatest conquests of our history. It is the keystone of our individual liberty.

"*What are your sources of information?*

"Besides the judges, the men of the Secret Service and the denouncers (in French: 'délateurs').

"The Secret Service men in civilian clothes, not bearing any insignia, mixing with the crowds in the street, in the cafés, on the platforms of street cars, listen to the conversations carried on around them, ready to grasp any secret, on the watch not only for acts but for intentions.

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"These denouncers of our nation are ever multiplying. *What confidence can be placed in their declarations, inspired by hate, spite, or low cupidity?* Such assistants can bring to the cause of justice no useful collaboration.

"If we add to this total absence of control and of defense, these preventive arrests, the long detentions, the searches in the private domiciles, *we shall have an almost complete idea of the moral tortures to which our aspirations, our convictions, and our liberties are subjected at the present time.* * * *

"Will it be said that we are living under martial law: that we are submitting to the hard necessities of war: that all should give way before the superior interests of your armies?

"*I can understand martial law for armies in the field. It is the immediate reply to an aggression against the troops, repression without words, the summary justice of the commander of the army responsible for his soldiers.*

"*But our armies are far away; we are no longer in the zone of military operations. Nothing here menaces your troops, the inhabitants are calm.*

"The people have taken up work again. You have bidden them do it. Each one devotes himself, Magistrates, Judges, officials of the provinces and cities, the clergy, all are at their post, united in one outburst of national interest and brotherhood.

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"However, this calm does not mean that they have forgotten.

"The Belgian people lived happily in their corner of the earth, confident in their dream of independence. They saw this dream dispelled, they saw their country ruined and devastated, its ancient hospitable soil has been sown with thousands of tombs where our own sleep; the war has made tears flow which no hand can dry. *No, the murdered soul of Belgium will never forget.*

"But this nation has a profound respect for its duty. It will always respect it.

"Has not the hour come to consider as closed the period of invasion and to substitute for the measures of exception the rules of occupation as defined by international law and the treaty of The Hague, which sets a limit to the occupying power and imposes obligations on the country occupied?

"Has not the hour arrived to restore the Court House to the judiciary corps? The military occupation of the Court House is a violation of the treaty of The Hague.

"Among the moral forces does one exist that is superior to justice? Justice dominates them all. *As ancient as humanity itself, eternal as the need of man and nations to be and to feel protected, it is the basis of all civilization.* The arts and sciences are its tributaries. Religious creeds live and prosper in its shadow. Is it not a religion in itself?

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"Belgium raised a magnificent temple to Justice in its capital.

"This temple, which is our pride, has been converted into barracks for the German soldiers. A small part of it, becoming smaller every day, is reserved for the courts.

The Magistrates and lawyers have access to it by a small private staircase.

"Sad as are the conditions under which they are called to administer justice, the Judges have decided, nevertheless, to sit. The Bar has co-operated with them. Accustomed to live in an atmosphere of deference and of dignity, they do not recognize themselves in this sort of guard-room, and, in fact, justice surrounded with so little respect, is it still justice?"

As this dignified and noble protest did not lead to any amelioration of the harsh conditions, a month later the same brave jurist, M. Léon Théodor, appeared in Brussels before the so-called "German Court of Justice" and, in behalf of the entire Magistracy of Belgium, addressed to the Prussian Military Judges the following poignantly pathetic and nobly dignified address, which met with the same reception as the preceding communication.

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The address reads as follows:

"I present myself at the Bar, escorted by the Counsel of the Order, surrounded by the sympathy and the confidence of all my colleagues of Brussels, and I might add of all the Bars of the country. The Bars of Liège, Ghent, Charleroi, Mons, Louvain, Antwerp have sent to that of Brussels the expression of their professional solidarity and have declared that they adhere to the resolutions taken by the Counsel of the Order of Brussels. * * *

"We are not annexed. We are not conquered. We are not even vanquished. Our army is fighting. Our colors float alongside those of France, England and Russia. The country subsists. She is simply unfortunate. More than ever, then, we now owe ourselves to her body and soul. To defend her rights is also to fight for her.

"We are living hours now as tragic as any country has ever known. All is destruction and ruin around us. Everywhere we see mourning. Our army has lost half of its effective force. Its percentage in dead and wounded will never be obtained by any of the belligerents. There remains to us only a corner of ground over there by the sea. The waters of the Yser flow through an immense plain peopled by the dead. It is called the Belgian Cemetery. There sleep our children by the thousands. There they are sleeping their last sleep. The struggle goes on bitterly and without mercy.

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"Your sons, Mr. President, are at the front; mine as well. For months we have been living in anxiety regarding the morrow.

"Why these sacrifices, why this sorrow? *Belgium could have avoided these disasters, saved her existence, her treasures, and the life of her children, but she preferred her honor.*"

Not long after this second protest, M. Léon Théodor was arrested, deported to Germany and if now living, is suffering imprisonment for the offense of defending the oppressed civilian population from a system of espionage, drumhead courts-martial and secret executions, which in their malignity should excite the professional jealousy of Danton, Marat and Robespierre. It was in this manner that the lofty promise of the German Chancellor that his country would make good the wrong done to Belgium has been kept.

Such was the condition of affairs in Belgium when Edith Cavell was arrested on August 5th, 1915.

About the same time some thirty-five other prisoners were similarly arrested by the military authorities, *two-thirds of whom were women.*

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The arrest was evidently a secret one for it is obvious that for a time Miss Cavell's friends knew nothing of her whereabouts. Even the American Legation, which had assumed the care of British citizens in Belgium, apparently knew nothing of Miss Cavell's whereabouts until it learned after a second inquiry the fact of her arrest and the place of her imprisonment from the German Civil Governor of Belgium on September 12th, 1915.

As Miss Cavell was a well-known personage in Brussels, it is altogether unlikely that the fact of her arrest and imprisonment would have been unknown to the American Legation in Brussels if the fact of her arrest had been a matter of public information on August 5th or shortly thereafter. In other words, if the arrest had been an open and notorious one, it seems to me unlikely that the American Embassy would have been wholly without information on the subject and when the friends of Miss Cavell found an opportunity to send some information as to her disappearance to the British Foreign Office, it seems unlikely that they would not have given more specific details.

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Evidently some information had reached the Foreign Office as to Miss Cavell's disappearance, for on August 26th Sir Edward Grey requested the American Ambassador in London to ascertain through the American Legation in Brussels whether it was true that Miss Cavell had been arrested, and it seems clear from the diplomatic correspondence that the American Legation at Brussels knew nothing of the matter until it received this inquiry from the American Ambassador in London. The fact of her arrest by the German military authorities must have been known, but

the place of her imprisonment and the nature of the charges against her were apparently withheld.

This feature of the case and the manner in which Mr. Brand Whitlock, the American Minister, was prevented from rendering any effective aid to Miss Cavell, presents one aspect of the tragedy which especially concerns the honor and dignity of the United States and should receive its swift and effectual recognition.

Her secret trial and hurried execution was a studied affront to the American Minister at Brussels, and therefore to the American nation. It is true that in all he did to save her life he was acting in behalf of and for the benefit of Great Britain, whose interests the United States Government has taken over in Belgium; but this cannot affect the fact that when Brand Whitlock intervened in behalf of the prisoner, sought to secure her a fair trial, and prevent her execution, and especially when he asked her life as a favor in return for the services our country had rendered Germany and German subjects in the earlier days of the war, *he spoke as an American and as the diplomatic representative of the United States.*

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So secret was Miss Cavell's arrest and so sinister the methods whereby her end was compassed, that the American Minister in Belgium was obliged to write on August 31st to Baron von der Lancken, the German Civil Governor of Belgium, and ask whether it was true that she was under arrest. *To this the German Military Governor did not even deign to make a reply, although it was clearly a matter of life and death.*

The discourtesy of such silence to a great and friendly nation needs no comment, and will simply serve to remind the American people that Germany has never yet replied to another request of the United States that Germany disavows the massacre of nearly 200 American men, women, and children on the Lusitania.

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Not hearing from Baron von der Lancken, our Minister on September 10th again wrote to him and again asked for a reply. He asked for the opportunity "*to take up the defense of Miss Cavell with the least possible delay.*" To this, Baron Lancken deigned to reply by an ex parte statement that Miss Cavell had admitted

"having concealed in her house various English and French soldiers, as well as Belgians of military age, all anxious to proceed to the front. She also acknowledged having supplied these soldiers with the funds necessary to proceed to the front and having facilitated their departure from Belgium by finding guides to assist them in clandestinely crossing the frontier."

The Baron further answered that her defense had been intrusted to an advocate by the name of Braun, "*who is already in touch with the proper German authorities,*" and added:

"In view of the fact that the Department of the Governor General *as a matter of principle* does not allow accused persons to have any interviews whatever, I much regret my inability to procure for M. de Leval permission to visit Miss Cavell as long as she is in solitary confinement."

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It will thus be seen and will hereafter appear more fully that in advance of her trial Miss Cavell was kept in solitary confinement and was denied any opportunity to confer with counsel in order to prepare her defense. Her communication with the outside world was wholly cut off, with the exception of a few letters, which she was permitted to write under censorship to her assistants in the school for nurses, and it is probable that in this way the fact of her imprisonment first became known to her friends.

The fact remains that the desire of the American Minister to have counsel see her with a view to the selection of such counsel as Miss Cavell might desire, was refused, and even the counsel whom the German Military Court permitted to act, was denied any opportunity to see his client until the trial. The counsel in question was a M. Braun, a Belgian advocate of recognised standing, but for some reason, which does not appear, he was unable or declined to act for Miss Cavell and he secured for her defense another Belgian lawyer, whose name was Kirschen. According to credible information, Kirschen was a German by birth, although a naturalized Belgian subject and a member of the Brussels bar, but it will hereafter appear that the steps which he took to keep the American Legation—the one possible salvation for Miss Cavell—advised as to the progress of events, were to say the least peculiar.

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Except for the explanations made by the German Civil Governor, we know very little as to what defense, if any, Miss Cavell made. From one of the inspired sources comes the statement that she freely admitted her guilt, and from her last interview with the English clergyman it would appear that she probably did admit some infraction of military law. But from another German source we learn the following:

"During the trial in the Senate Chamber the accused, almost without exception, gave the impression of persons *cleverly simulating naïve innocence.* It was not a mere coincidence that two-thirds of the accused were women.

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"The Englishwoman, Edith Cavell, who has already been executed, declared that she had believed as an Englishwoman that she ought to do her country service *by giving lodgings in her house to soldiers and recruits who were in peril*. She naturally denied that she had drawn other people into destruction by inducing them to harbor refugees when her own institute was overtaxed."

From this meagre information we can only infer that Miss Cavell did admit that she had sheltered some soldiers and recruits who were in peril, and while this undoubtedly constituted a grave infraction of military law, yet it does not present in a locality far removed from the actual war zone a case either of espionage or high treason, and is of that class of offenses which have always been punished on the highest considerations of humanity and chivalry and with great moderation.

The difficulty is that the world is not yet fully informed what defense, if any, Miss Cavell made, or whether an adequate opportunity was given her to make any. The whole proceeding savours of the darkness of the mediaeval Inquisition.

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We have already seen that even if Miss Cavell's counsel, M. Kirschen, endeavored in good faith to make an adequate defense in her behalf, it was impossible for him to see her in advance of the trial, and M. Kirschen admitted this when he explained to the legal counsel of the American Embassy that

"lawyers defending prisoners before a German Military Court were not allowed to see their clients before trial and were not permitted to see any document of the prosecution."

It is true that M. Kirschen so far defends the trial accorded to Miss Cavell as to say

"that the hearing of the trial of such cases is carried out very carefully and that in his opinion, although it was not possible to see the client before the trial, in fact the trial itself developed itself so carefully and so slowly that it was generally possible to have a fair knowledge of all the facts and to present a good defense for the prisoner. This would especially be the case of Miss Cavell, because the trial would be rather long, *as she was prosecuted with 34 other prisoners*."

This explanation of M. Kirschen is amazing to any lawyer who is familiar with the defense of men who are charged with a crime. Here was a case of life and death and the counsel for the defense intimates that he can adequately defend the prisoner at the bar without being previously advised as to the nature of the charges or obtaining an opportunity to confer with his client before the testimony begins.

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Still more remarkable is his explanation that as his client was to be tried with 34 others, the opportunity for a defense would be especially ample. As the writer had the honor for some years to be a prosecuting attorney for the United States Government and therefore has some familiarity with the trial of criminal causes, his opinion may possibly have some value in suggesting that the complexity of different issues when tried together, and the difficulty of distinguishing between various testimony, naturally increases with the simultaneous trial of a large number of defendants. Where each defendant is tried separately, the full force of the testimony for or against him can be weighed to some advantage, but where such evidence is intermingled and confused by the simultaneous trial of 34 separate issues, it is obvious, with the fallibility of human memory, that the separate testimony against each particular defendant cannot be fully weighed.

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The trial was apparently a secret one in the sense that it was a closed and not an open Court. Otherwise how can we account for the poverty of information as to what actually took place on the trial? The court sat for two days in the trial of the 35 cases in question, and the American Legation had been most anxious, in view of the nature of the case and the urgency of the inquiries, to ascertain something about the trial. The outside world apparently knew little or nothing of this wholesale trial of non-combatants, most of them being women, until some days thereafter, and the only intimation that the American Legation previously had was a letter of "a few lines" from M. Kirschen, stating that the trial would take place on October 7th. Notwithstanding the assurance of M. Kirschen that he would keep the American Legation fully advised and would even disclose to it in advance of the trial "the exact charges that were brought against Miss Cavell and the facts concerning her that would be disclosed at the trial," yet no further information reached the American Legation from Miss Cavell's counsel, who for some reason did not advise the American Legation that the trial had commenced on the 7th and had been concluded on the 8th. The American Legation only learned the fact of the trial from "an outsider," and it at once proceeded to look for M. Kirschen. Unfortunately he could not be located, and thereupon the counsel for the American Legation wrote him on Sunday, October 10th, and asked him to send his report to the Legation or to call on the following day.

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Having no word from M. Kirschen as late as October 11th (his last communication with the American Legation being on October 3rd), the counsel for the Legation twice called at his house

and again failed to find him in or to receive any message from him. It is clear that if M. Kirschen had advised the American Legation as to the developments of the trial on October 7th and 8th and had further advised the Legation promptly as to the conclusion of the trial and its probable outcome, there is a reasonable possibility that Miss Cavell's life might have been saved; but for some reason, as to which M. Kirschen certainly owes an explanation to the civilized world, he failed to keep his positive promise to keep the American Legation fully advised, and in view of this fact his assurance to the American Legation "that the Military Court of Brussels was always perfectly fair, and that there was not the slightest danger of any miscarriage of justice," must be taken with a very large "grain of salt."

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The significant fact remains that the American Legation never heard that the trial had taken place until the day after, and then only learned it from "an outsider." Had the American Legation sent a representative to the trial, the world would then have a much clearer knowledge upon which to base its judgment; but when M. Deleval suggested his intention to attend the trial, as a representative of the Legation, he was advised by M. Kirschen that such an act "would cause great prejudice to the prisoner because the German judges would resent it."

What an indictment of the court! Even to see a representative of the American Government at the trial, in the interests of fair play, would prejudice the minds of the Judges against the unfortunate woman who was being tried for a capital offense without any previous opportunity to confer with counsel. There may be a satisfactory explanation for M. Kirschen's conduct in the matter, but it has not yet appeared. It should, however, be added, in fairness to him, that the anonymous "outsider," from whom the American Legation got its only information as to the developments of the trial, stated that Kirschen "made a very good plea for Miss Cavell, using all arguments that could be brought in her favor before the court."

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This does not give the lover of fair play a great deal of comfort, for if the anonymous informant was not a lawyer, the value to be attached to his or her estimate of Kirschen's plea must be regarded as doubtful.

The same unknown informant told the American Legation that Miss Cavell was prosecuted "for having helped English and French soldiers as well as Belgian young men to cross the frontier and to go over to England." It is stated on the same anonymous authority that Miss Cavell acknowledged the assistance thus given and admitted that some of them had "thanked her in writing when arriving in England."

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From the same source the world gets its only information as to the exact law which Miss Cavell was accused of violating. Paragraph 58 of the German Military Code inflicts a sentence of death upon

"any person who, with the intention of helping the hostile power, or of causing harm to the German or allied troops, is guilty of one of the crimes of paragraph 90 of the German Penal Code,"

and the only pertinent section of paragraph 90, according to the same informant, is the specific offence of

"guiding soldiers to the enemy" (in German—"Dem Feinde Mannschaften zuführt").

I affirm with confidence that under this law Miss Cavell was innocent, and that the true meaning of the law was perverted in order to inflict the death sentence upon her.

I admit that a general and strained construction of the language above quoted might be applicable to a defendant who gave refuge to hostile soldiers in Brussels and thus enabled them to escape across the frontier into Holland and thence into a belligerent country, but every penal law must receive a construction that is favorable to the defendant and agreeable to the dictates of humanity. Every civilized country construes its penal laws in favour of the liberty of the subject, and no punishment, especially one of death, is ever imposed unless the offence charged comes indubitably within a rigid construction of the law.

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Keeping in mind this elementary principle, it is obvious that the offence of guiding soldiers to the enemy refers to the physical act of guiding a fugitive soldier back into his lines. A soldier becomes detached from his lines. He finds shelter in a farm house. The farmer, knowing the roads, secretly guides him back into his lines, and this obviously is the offence which paragraph 90 had in mind, for the German word "zuführt" refers to a personal guidance.

Miss Cavell simply gave shelter to soldiers and in some way facilitated their escape to Holland. Holland is a neutral country, and it was its duty to intern any fugitive soldiers who might escape from any one of the belligerent countries. The fact that these soldiers subsequently reached England is a matter that could not increase or diminish the essential nature of Miss Cavell's case. She enabled them to get to a neutral country, and this was not a case of "guiding soldiers to the enemy," for Holland was not an enemy of Germany.

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This fact must have impressed the Military Court, for according to the same informant it did not at once agree upon either the verdict of "Guilty" or the judgment of death, and it is stated that

the Judges would not have sentenced her to death if the fugitive soldiers, who had crossed into Holland, had not subsequently arrived in England. But it will astound any lawyer to learn that the subsequent escape of these same prisoners from Holland to England could be reasonably regarded as a guidance by Miss Cavell of these soldiers *to England*. In all probability Miss Cavell had little or nothing to do with these soldiers after they left Brussels, but even assuming that she provided the means and gave the directions for their escape across the frontier between Belgium and Holland, that was "the head and front of her offending," and it does not come within the law under which she was sentenced to death.

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When she was asked by her Judges as to her reasons for sheltering these fugitives, "she replied that she thought that if she had not done so *they would have been shot by the Germans* and that therefore she thought she only did her duty to her country in saving their lives."

This fairly states what she did, and perhaps this brave and frank reply caused her death. She gave a temporary shelter to men who were in danger of death, and, as previously stated, in so doing yielded to a humanitarian impulse which all civilized nations have recognized as worthy of the most lenient treatment.

When, therefore, Herr Dr. Albert Zimmermann, speaking for the German Foreign Office, expressed its "surprise" that Miss Cavell's execution should "have caused a sensation," it is well to remind Dr. Zimmermann that to offer a refuge to the fugitive is an impulse of humanity. It is likely that these soldiers were her wounded patients; at all events, they had found a refuge in her hospital. They claimed the protection of her roof and she gave it to them.

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In the first act of Walkyrie—which is not overburdened with the atmosphere of morality—even the black-hearted Hunding says to his blood-enemy,

"Heilig ist mein herd;
Heilig sei dir mein haus."
(Holy is my hearth!
Holy will be to them my house!)

It must be remembered that all this did not take place in the zone of actual warfare. A spy caught in the lines of armies is summarily dealt with of necessity. But Brussels was miles away from the scene of actual hostilities. Its civil courts were open and a civil administration ruled its affairs of such reputed beneficence and efficiency as to evoke the ungrudging admiration of a distinguished college professor who bears the honored name of George B. McClellan. There was therefore no possible excuse under international law for a court-martial, as this trial plainly was. In the American civil war a similar military commission once sought to hold a similar trial in Indianapolis over civilians accused of treason, but the United States Supreme Court, in the case of *ex parte Milligan*, sternly repudiated this form of military tyranny.

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In that case the Supreme Court said:

"There are occasions when martial rule can be properly applied. If, in foreign invasion or civil war, *the courts are actually closed*, and it is impossible to administer criminal justice according to law, then, *on the theatre of active military operations, where war really prevails*, there is a necessity to furnish a substitute for the civil authority, thus overthrown, to preserve the safety of the army and society; * * * As necessity creates the rule, so it limits its duration; for, if this government is continued *after* the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction. *It is also confined to the locality of actual war.*"

All civilized countries, including Germany, have always recognized a difference between high treason, punishable with death, and ordinary treason. The German Strafgesetzbuch thus distinguishes between high treason (hochverrat) and the lesser crime of landesverrat. High treason consists in murdering or attempting to murder a sovereign or Prince of Germany or an attempt by violence to overthrow the Imperial Government or any State thereof. This alone is punishable with death.

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While this distinction of the German Civil Code may have no application when military law is being enforced, yet it illustrates a distinction, which all humane nations have recognized, between the treason which seeks to overthrow a State by rebellion and lesser offenses against the authority of a State.

Assuming that Miss Cavell's offense could be regarded in any sense as treasonable, it certainly constituted the lesser offense under the distinction above quoted.

The fact is that Miss Cavell was tried, condemned, and executed for her sympathy with the cause of Belgium and her willingness to save her compatriots from suffering and death. Military necessity—ever the tyrant's plea—demanded a victim further to terrorize the subjugated people. They chose Miss Cavell.

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Notwithstanding the request of the American Legation in its letter of October 5th that it be advised not only as to the charges, but also as to the sentence imposed upon Miss Cavell, and the

express promise of M. Kirschen to inform it of all developments, it was kept in ignorance of the fact that sentence of death had been passed upon her. Minister Whitlock only heard this on October 11th, and he at once addressed a letter to Baron von der Lancken in which, after stating this fact, he appealed "to the sentiment of generosity and humanity in the Governor General in favor of Miss Cavell," with a view to commutation of the death sentence, and at the same time addressed a similar letter to Baron von Bissing, the Military Governor of Belgium, who did not deign to give to the American Government even the cold courtesy of a reply.

On the morning of October 11th our Minister heard—not from the German authorities, but from unofficial sources—that the trial had been completed on the preceding Saturday afternoon, and he at once communicated with the Political Department of the German Military Government, and was expressly assured

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"that no sentence had been pronounced and that there would probably be a delay of a day or two before a decision was reached."

The Director of the Political Department (Herr Conrad) gave a further

"positive assurance that the [American] Legation would be fully informed as to the developments in the case."

Notwithstanding this direct promise and further "repeated inquiries in the course of the day," no further word reached our Legation, and at 6.20 p.m. it again inquired as to Miss Cavell's fate, and the Director of the Political Department again

"stated that sentence had not yet been pronounced,"

and he specifically renewed his assurance. Two hours later our Minister *from unofficial sources* heard that all that had been told him by the Political Department was untrue, and that the sentence had been passed at 5 o'clock p.m.; *before his last conversation with the Director*, and that the execution was to take place that night.

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Accordingly the Secretary of the American Legation proceeded at once to Baron von der Lancken, and again asked as a favor to this Government that clemency be extended. He brought with him a letter from the American Minister, which reads as follows:

"My dear Baron:

"I am too ill to put my request before you in person, but once more I appeal to the generosity of your heart. Stand by and save from death this unfortunate woman. Have pity on her. Your devoted servant, servant,

"BRAND WHITLOCK."

Accompanying this purely personal note were two substantially similar communications, the one directed to Baron von Bissing and the other to Baron von der Lancken. These communications run as follows:

"I have just heard that Miss Cavell, a British subject, and consequently under the protection of my Legation, was this morning condemned to death by court-martial.

"If my information is correct, the sentence in the present case is more severe than all the others that have been passed in similar cases which have been tried by the same Court, and, without going into the reasons for such a drastic sentence, I feel that I have the right to appeal to your Excellency's feelings of humanity and generosity in Miss Cavell's favour, and to ask that the death penalty passed on Miss Cavell may be commuted and that this unfortunate woman shall not be executed.

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"Miss Cavell is the head of the Brussels Surgical Institute. She has spent her life in alleviating the sufferings of others, and her school has turned out many nurses who have watched at the bedside of the sick all the world over, in Germany as in Belgium. At the beginning of the war Miss Cavell bestowed her care as freely on the German soldiers as on others. Even in default of all other reasons, her career as a servant of humanity is such as to inspire the greatest sympathy and to call for pardon. If the information in my possession is correct, Miss Cavell, far from shielding herself, has, with commendable straightforwardness, admitted the truth of all the charges against her, and it is the very information which she herself has furnished, and which she alone was in a position to furnish, which has aggravated the severity of the sentence passed on her.

"It is then with confidence, and in the hope of its favourable reception, that I have the honour to present to your Excellency my request for pardon on Miss Cavell's behalf."

This note was read aloud to Baron von der Lancken, the very official who had refused to answer the first communication of the Legation with reference to the matter, and he [Pg 54]

"expressed disbelief in the report that sentence had actually been passed and manifested some surprise that we should give credence to any report not emanating from official sources. He was quite insistent in knowing the exact source of our information, but this I did not feel at liberty to communicate to him."

Baron von der Lancken proceeded to express his belief "that it was quite improbable that sentence had been pronounced," and that in any event no execution would follow. After some hesitation he telephoned to the Presiding Judge of the Court-Martial and then reported that the embassy's unofficial information was only too true.

His attention was further called to the express promise of the German Director of the Political Department to inform the American Legation of the sentence, and he was asked to grant the American Government the courtesy of a "delay in carrying out the sentence."

To this appeal for mercy Baron von der Lancken replied that the Military Governor (von Bissing) was the supreme authority and that he "had discretionary power to accept or to refuse acceptance of an appeal for clemency." He thereupon left the representative of the American Legation and apparently called upon von Bissing, and after half an hour he returned with the statement that not only would von Bissing decline to revoke the sentence of death, but "that in view of the circumstances of this case, he must decline to accept your plea for clemency or any representation in regard to the matter." [Pg 55]

Thereupon Baron von der Lancken insisted that Mr. Brand Whitlock's representative (Mr. Hugh Gibson, Secretary of the Legation) should take back the formal appeal for clemency addressed both to him and to von Bissing, and as both German officials had been fully advised as to the nature of the plea, Mr. Gibson finally consented. Baron von der Lancken assured Mr. Gibson that under the circumstances "even the Emperor himself could not intervene," a statement that was very quickly refuted when the Emperor—aroused by the world-wide condemnation of Miss Cavell's execution—did commute the sentences imposed upon six of the seven persons who were condemned to death with Miss Cavell. [Pg 56]

During the earnest conversation which took place in this last attempt to save Miss Cavell's life, the American representative took occasion to remind Baron von der Lancken's official associates—although it should not have been necessary—of the great services rendered by the United States, and especially by Mr. Brand Whitlock, in the earlier period of the German occupation, and this was urged as a reason why as a matter of courtesy to the United States Government some more courteous consideration should be accorded to its request. At the outbreak of the war, thousands of German residents in Belgium returned to their country in such haste that they left their families behind them. Mr. Whitlock gathered these women and children—numbering, it is said, over 10,000—and provided them with the necessaries of life, and ultimately with safe transportation into Germany, and having thus placed this inestimable service to thousands of German civilians in one scale, the American representative simply asked, as "the only request" made by the United States upon grounds of reciprocal generosity, that some clemency should be given to Miss Cavell. The refusal to give this clemency or even to accept in a formal way the plea for clemency, is one of the blackest cases of ingratitude in the history of diplomacy. [Pg 57]

On October 22nd there was issued from Brussels a "semi-official" but *anonymous* statement, charging that in the reports of the Secretary of the American Embassy, from which the above quoted statements are mainly taken, "most of the important events are inaccurately reproduced."

No specification of any inaccuracy is however made, except the general denial "that the German authorities with empty promises put off the American Minister" and also the equally general statement that no promise was given to our embassy to advise it of developments in the case.

A vague, general, and *anonymous* denial, issued by men who seek to wash their hands of innocent blood, cannot avail against Mr. Gibson's clear, specific, and circumstantial statement. The Secretary of our embassy states that on October 11th "*repeated*" inquiries were made of Herr Conrad, the official in charge of the Political Department of the German Government in Belgium, *the last inquiry being at 6.20 p.m. by the clock* (an hour after the victim had been sentenced to death), and that on each occasion assurance was given to the Legation that "sentence had not been pronounced" and that he (Conrad) would not fail to inform us as soon as there was any news. [Pg 58]

Does Herr Conrad deny this?

The Brussels "semi-official" statement has the hardihood to state to the world that the American Minister (Brand Whitlock) had admitted that "no such promise or assurance was given," and it places the responsibility upon M. Deleval, the Belgian legal counselor of the American Embassy. But this impudent lie is speedily overthrown by the positive statement of our Minister at Belgium

to our Ambassador in London as follows:

"From the date we first learned of Miss Cavell's imprisonment we made frequent inquiries of the German authorities and reminded them of their promise that we should be fully informed as to developments. They were under no misapprehension as to our interest in the matter."

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Will the American people or the people of any nation hesitate to accept the clear, positive, and circumstantial statements of Minister Whitlock, Secretary Gibson, and Counselor Deleval, at least two of whom are wholly disinterested in the matter, as against the self-exculpatory, general, and anonymous denials of a "semi-official" press bureau, especially when it is recalled that from the beginning of the great war, the German Foreign Office, with whom military honor is supposed to be almost a religion, has stooped to the most shameful and barefaced mendacity?

When the world recalls how Austrian Ambassadors in Paris, London, and Petrograd made the most emphatic statements that the forthcoming ultimatum to Serbia would be "peaceful and conciliatory," and assured the Russian Ambassador that he could therefore safely leave Vienna on his vacation on the very eve of the ultimatum, and when the German Ambassadors in the same capitals gave the most solemn and unequivocal assurances that

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"the German Government had no knowledge of the text of the Austrian note before it was handed in and had not exercised any influence on its contents,"

and later admitted, when the lie had served its purpose by lulling the world into a sense of false security, that it had been fully consulted by its ally before the ultimatum was prepared and had given it carte blanche to proceed, when these notable examples of Prussian Machiavellism are recalled, little attention will be given to these futile attempts to wash from the shield of German honor the blood of Edith Cavell.

One can to some extent understand the Berserker fury which caused von Bissing to say in effect to this gentle-faced English nurse, "You are in our way. You menace our security. You must die, as countless thousands have already died, to secure the results of our seizure of Belgium"; but can we understand or in any way palliate the attempt to hide the stains of blood on that prison floor of Brussels with a cobweb of self-evident falsehoods?

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These stains can never be washed out to the eye of imagination.

"Let none these marks efface,
For they appeal from tyranny to God."

In the last interview between our representative and Baron von der Lancken, which took place a few hours before the execution, our representative reminded these Prussian officials

"of our untiring efforts on behalf of German subjects at the outbreak of the war and during the siege of Antwerp. I pointed out that, while our services had been gladly rendered and without any thought of future favors, they should certainly entitle you to some consideration for the only request of this sort you [the American Minister] had made since the beginning of the war."

Even our Minister's appeal to gratitude and to one of the most ordinary and natural courtesies of diplomatic life proved unavailing, and at midnight the Secretary of the American Legation and the Spanish Minister, who was acting with him, left in despair. At 2 o'clock that morning Miss Cavell was secretly executed.

Even the ordinary courtesy accorded to the vilest criminal, of being permitted before dying to have a clergyman of her own selection, was denied her until a few hours before her death, for the legal counselor of the American Legation on October 10th applied in behalf of this country for permission for an English clergyman to see Miss Cavell, and this, too, was refused, as her jailers preferred to assign her the prison chaplains as well as her counsel. Even the final appeal of our Minister for the surrender of her mutilated body was denied, on the ground that only the Minister of War in Berlin could grant it.

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Apart from the brutality of the whole incident there is one circumstance that makes it of peculiar interest to the American people and which gives to it the character of rank ingratitude. Our representative, as above stated, did advise the German officials that a little delay was asked by our Legation *as a slight return for the innumerable acts of kindness which our Legation had done for German soldiers and interned prisoners in the earlier days of the war before the German invasion had swept over the land*. The charge of ingratitude may rest soundly upon far greater and broader grounds.

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This great nation had contributed in money and merchandise a sum estimated at many millions for the relief of the people in Belgium. In so doing it did to the German nation an inestimable service, for when Germany conquered Belgium the duty and burden rested upon it to support its

population to the extent that it might become necessary. The burden of supporting 8,000,000 civilians was no light one, especially as there existed in Germany a scarcity of food. As bread tickets were then being issued in Germany to its people, the supplies would have been substantially less if a portion of its food products had been required for the civilian population of Belgium, for obviously the German nation could not permit a people, whom it had so ruthlessly trampled under foot, to starve to death. Every dollar that was raised in America for the Belgian people, therefore, operated to relieve Germany from a heavy burden.

Moreover, when the war broke out, Germany needed some friendly nation to take over the care of its nationals in the hostile countries, and in England, France, Belgium, and Russia the interests of German citizens were assumed by the American Government as a courtesy to Germany, and no one can question how faithfully in the last fourteen months Page in London, Sharp in Paris, and Whitlock in Brussels have labored to alleviate the inevitable suffering to German prisoners or interned civilians.

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In view of these services, it surely was not much for the American Minister to ask that a little delay should be granted to a woman whose error, if any, had arisen from impulses of humanity and from considerations of patriotism. To spare her life a little longer could not have done the German cause any possible harm, for she was in their custody and beyond the power of rendering any help to her compatriots. To condemn any human being, even if he were the vilest criminal, at 5 o'clock in the afternoon and execute him at 2 a.m., was an act of barbarism for which no possible condemnation is adequate.

Under these circumstances, it would be incredible, if the facts were not beyond dispute, that the request of the United States for a little delay was not only brutally refused, *but that our Legation was deliberately misled and deceived until the death sentence had been inflicted.*

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This makes the fate of Miss Cavell our affair as much as that of the Lusitania. And yet we have the already familiar semi-official assurance from Washington that while our officials "unofficially deplore the act, officially they can do nothing." Concurrently we are told in the President's Thanksgiving proclamation that we should be thankful because we have "been able to assert our rights and the rights of mankind," and that this "has been a year of special blessing for us," for, so the proclamation adds, "we have prospered while other nations were at war."

I venture to say in all reverence that the God of nations will be better pleased on the coming Thanksgiving Day—which also should be one of penitence and humiliation—if we do a little more *in fact* and less in words to safeguard the rights of humanity. Our initial blunder was in turning away the Belgian Commissioners, when they first presented the wrongs of their crucified nation, with icy phrases as to a mysterious day of reckoning in the indefinite future. An act of justice now will be worth a thousand future "accountings" after the long agony of the world is over. "Now is the accepted time, this the day of salvation."

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Let our nation begin with the case of Edith Cavell, and demand of Germany the dismissal of the officers who flouted, deceived, and mocked the representative of the United States. That concerns our honor as a nation.

The final scene of the tragedy is best stated in the simple but poignantly pathetic words of the Chaplain, who was permitted to see the victim a few hours before her death:

"On Monday evening, 11th October, I was admitted by special passport from the German authorities to the prison of St. Gilles, where Miss Edith Cavell had been confined for ten weeks. The final sentence had been given early that afternoon.

"To my astonishment and relief I found my friend perfectly calm and resigned. But this could not lessen the tenderness and intensity of feeling on either part during that last interview of almost an hour.

"Her first words to me were upon a matter concerning herself personally, but the solemn asseveration which accompanied them was made expressedly in the light of God and eternity. She then added that she wished all her friends to know that she willingly gave her life for her country, and said: 'I have no fear nor shrinking; I have seen death so often that it is not strange or fearful to me.' She further said: 'I thank God for this ten weeks' quiet before the end.' 'Life has always been hurried and full of difficulty.' 'This time of rest has been a great mercy.' 'They have all been very kind to me here. But this I would say, standing as I do in view of God and eternity, I realise that patriotism is not enough. I must have no hatred or bitterness towards anyone.'

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"We partook of the Holy Communion together, and she received the Gospel message of consolation with all her heart. At the close of the little service I began to repeat the words 'Abide with me,' and she joined softly in the end.

"We sat quietly talking until it was time for me to go. She gave me parting messages for relations and friends. She spoke of her soul's needs at the moment, and she received the assurance of God's Word as only the Christian can do.

"Then I said 'Good-bye,' and she smiled and said, 'We shall meet again.'

"The German military chaplain was with her at the end and afterwards gave her

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Christian burial.

"He told me: 'She was brave and bright to the last. She professed her Christian faith and that she was glad to die for her country.' 'She died like a heroine.'"

It would be interesting to compare these last hours of one of the noblest women in English history to those of that rare and radiant Greek maiden, whom the genius of Sophocles has glorified in his immortal tragedy. The comparison is altogether in favour of the English heroine, for while Antigone went to her death bravely, yet her final words were those of bitter complaint and almost whining lamentation. Compare with these words the Christlike simplicity of Miss Cavell's last message to the world, and the difference between the noblest Paganism and the best of Christianity is apparent. Truly the light of Calvary illumined her dark cell! Standing "in view of God and eternity," she uttered the deeply pregnant sentence that "patriotism is not enough." Her executioners had illustrated this, for the ruthless killing of Edith Cavell for military purposes was actuated by that perverted spirit of patriotism which believes that any wrong is sanctified if it serves the State.

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No one suggests that General von Bissing had any personal feeling against Miss Cavell. Indeed his conduct would be the more tolerable if it had been actuated by the spirit of anger. He killed her in cold blood and to strengthen the German occupation in Belgium. News of the very recent successes of the Allies in Flanders and in the Champagne districts in the great offensive had reached Belgium and had caused a perceptible ferment in that down-trodden people. It therefore seemed necessary to show the iron hand again and to the Prussian ideal, as already illustrated by official proclamations of Prussian Generals, it was a matter of no consequence whose life was taken or whose right was invaded. It served to terrorize the Belgian people—Such was its real purpose.

And you, women of America and of the World! Will you not honor the memory of this martyr of your sex, who for all time will be mourned as was the noblest Greek maiden, Antigone, who also gave her life that her brother might have the rites of sepulture? Will you not carry on in her name and for her memory those sacred ministrations of mercy which were her lifework?

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Make her cause—the cause of justice and mercy—your own!



Printed in Great Britain.

*** END OF THE PROJECT GUTENBERG EBOOK THE CASE OF EDITH CAVELL ***

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